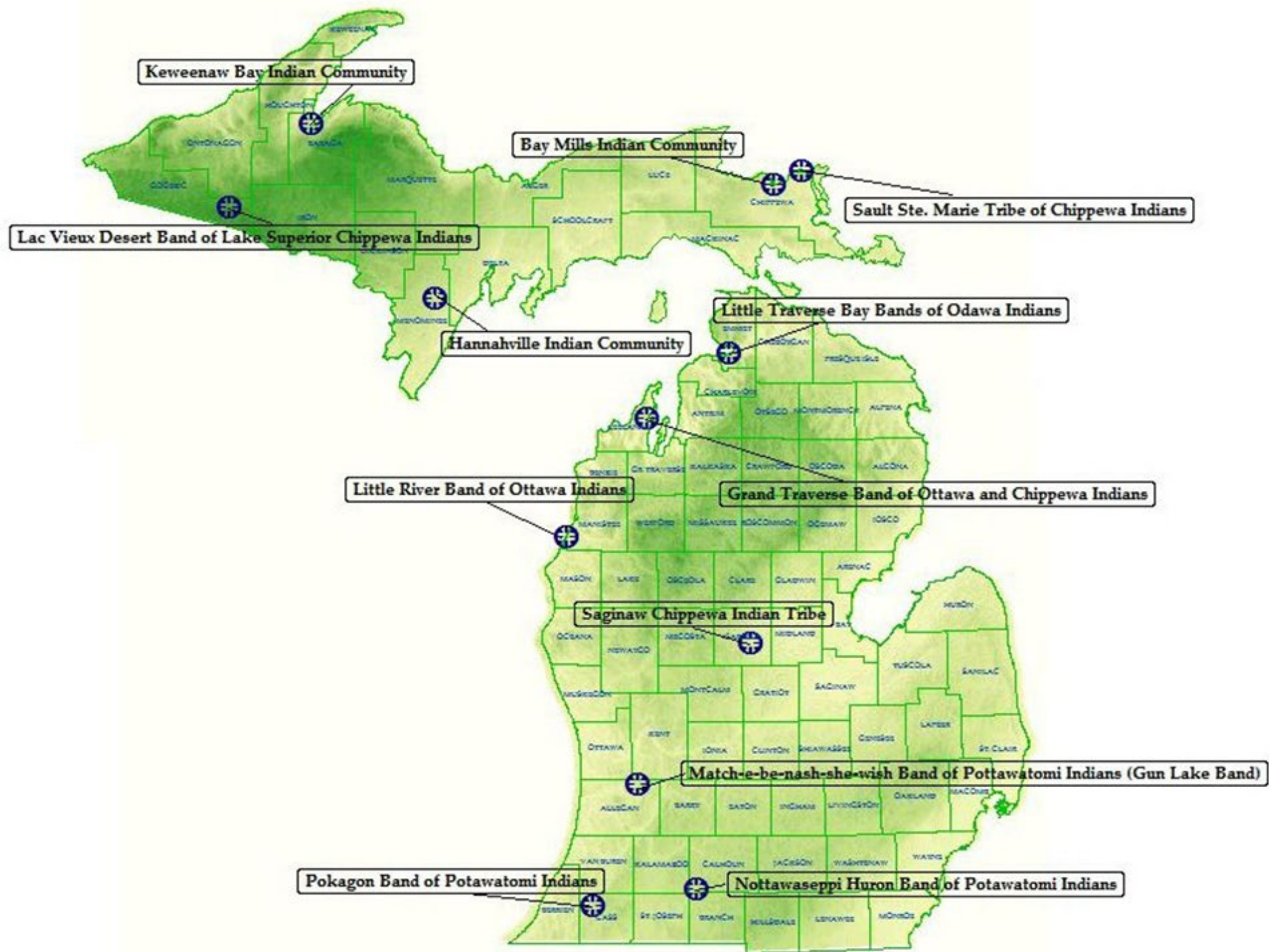


2000 and 2007 Consent Decrees



Fisheries Division, Tribal Coordination Unit





Key Legal Concepts

- Treaties are “supreme” law (U.S. Constitution)
- Tribes are sovereign governments and tribal members are Michigan citizens
- Domestic dependent nations
- All of Michigan was ceded to the U.S. via treaties



Treaty Rights Litigation

(1836 Treaty Area)

- Began with the use of gill nets (1971)
- Federal Court: U.S. v. Michigan, 1973-1981
 - 1979 Fox Decision
 - 1981 Appeals Court Decision
- Negotiation towards a Consent Decree
 - 1985 Enslen Decision



2000 Consent Decree

- Defines fisheries management & allocation
- Overlying premise of lake trout rehabilitation
- Gill net effort retired through buy-outs & conversion
- Allocation approximately equal
- Data sharing and consultation



Committee Structure

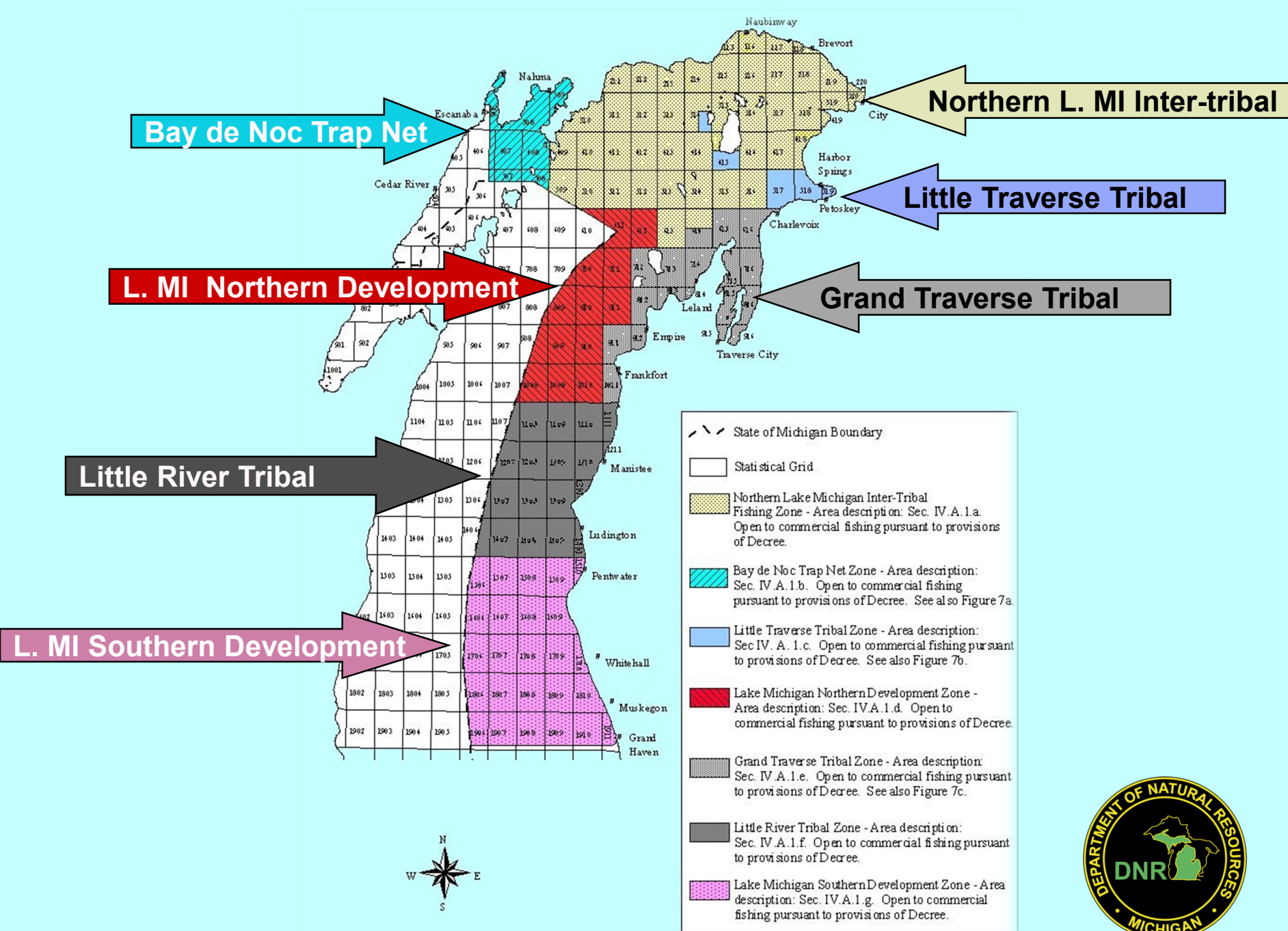
Executive Council

Technical Fisheries Committee

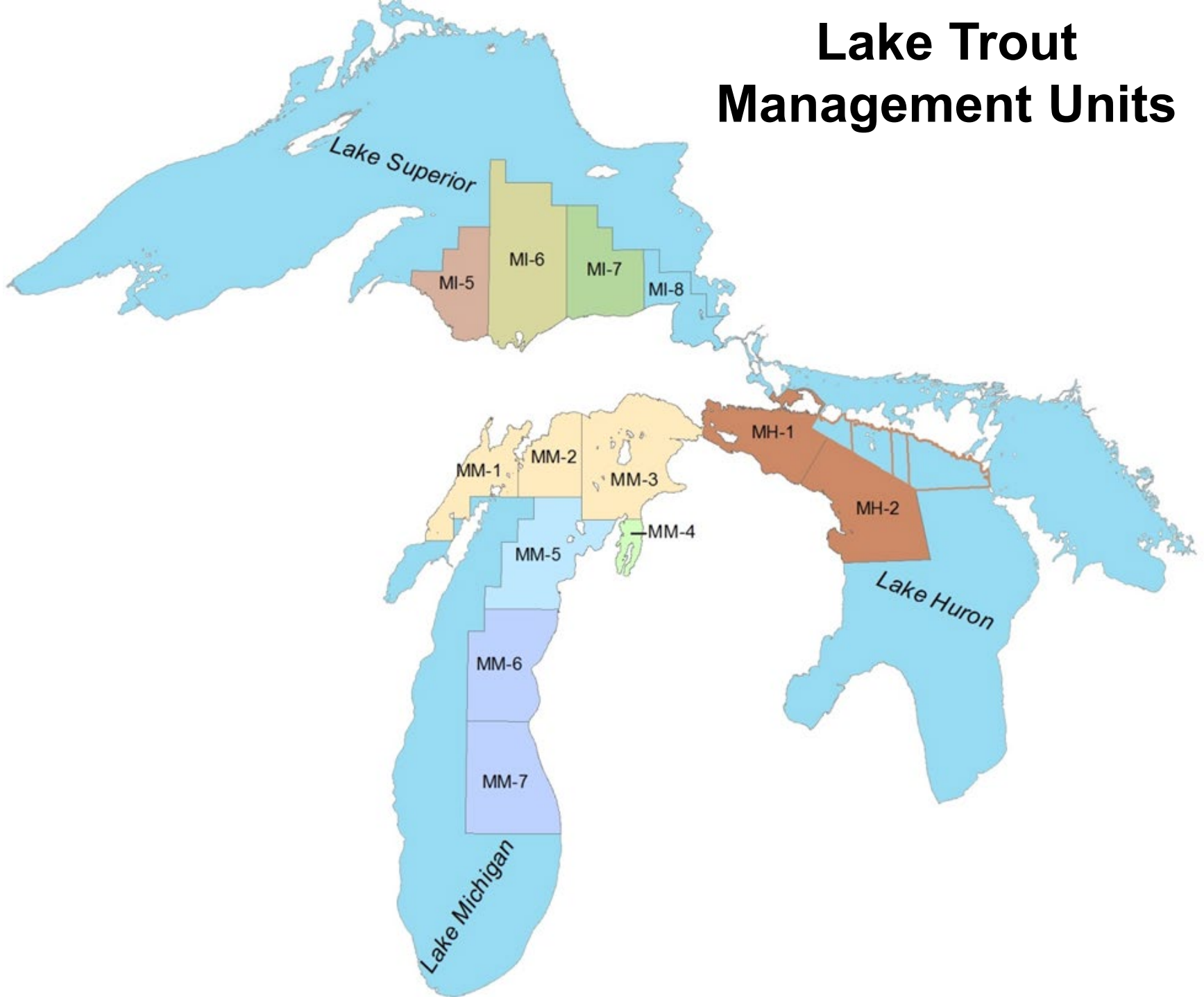
Law Enforcement Committee

Modeling Subcommittee

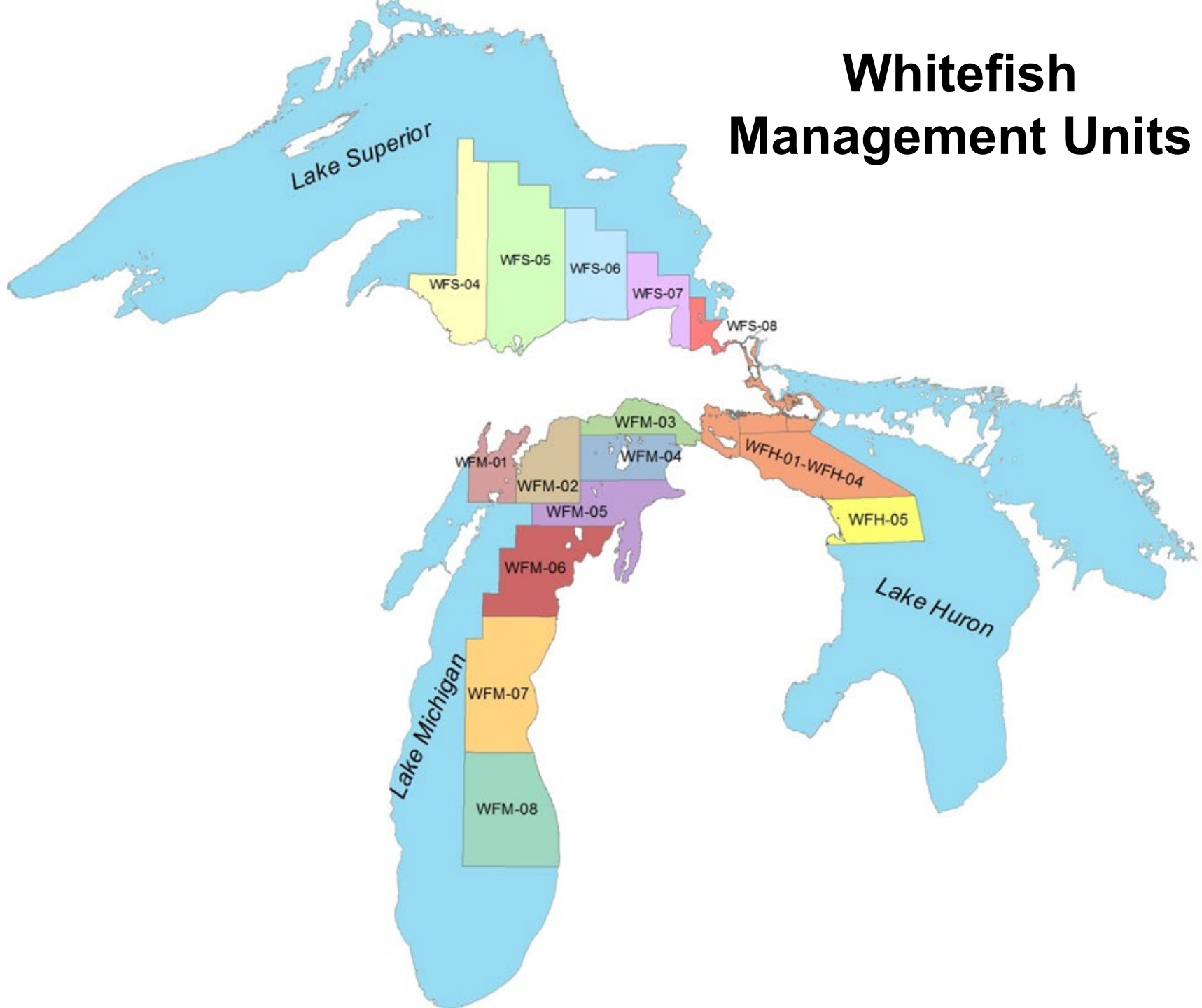




Lake Trout Management Units



Whitefish Management Units



Consultation

- “The State shall not change the management or regulation of its fishery without notice and consultation...”
- Any state law, rule, or administrative action requires 10- to 30-day notice
- Provide copy of action to all parties within 10 days



NRC Role - 2000 Decree

- Sportfishing Regulations
 - Changes must be consistent with provisions of the Decree
- Lake Trout Examples:
 - Refuges
 - Regulations Grand Traverse Bay
- State Commercial Fishing
 - Statute, Admin rule, and FO 243 (Director's authority)



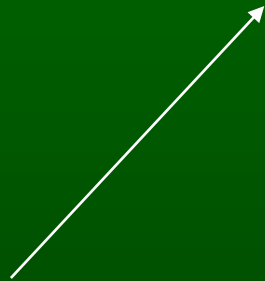
2007 Consent Decree

- Guiding Principles
 - surplus available
 - minimize effect on state users
 - maintain regulatory framework
- Where, when, & how Tribes exercise rights
- Communications, Consultation, & Co-management

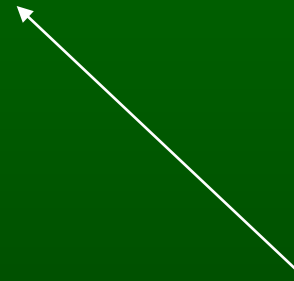


Committee Structure

Executive Council



Inland Fisheries Committee



Wildlife Technical Committee



Law Enforcement

- Michigan Conservation Officers may enforce provisions of the Decree
- Violations by Tribal members heard in a Tribal court
- Tribal officers can check ID, but only enforce state regulations if deputized or MCOLES certified



Forest Resources

- Resources can be collected for personal use (no commercialization)
- No timber harvest or mineral extraction
- Temporary structures allowed
- Communication and cooperation
- Quarantine restrictions



State Parks

- Can exercise rights at State Parks and boat launches
- No fee if exercising subsistence activity
- Must identify as tribal member
- New/expanded State Park, Refuge, or Research Area requires consultation



Wildlife

- Deer
- Turkey
- Elk
- Black Bear
- Migratory Birds
- Moose
- Other species



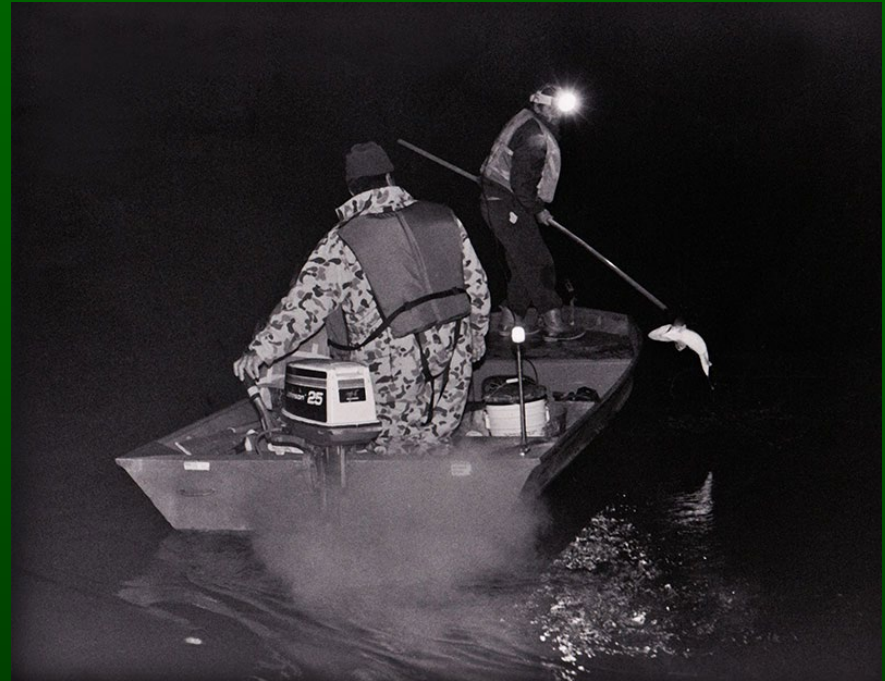
NRC Role - Wildlife

- Limits and quotas set by State process, not a Decree process
 - Contrast to 2000 Decree
- If the State prohibits the following, tribes will also prohibit:
 - Baiting (NRC)
 - Importing live deer and elk
 - Importing carcasses from documented CWD areas
 - Importing live turkeys, mute swans, skunks, or raccoons



Fisheries

- Special uses have limits & require permit, notification, & reporting
- Restrictions in certain areas & species
- No gill nets, snagging, or commercial harvest
- Uniform Code - tribes set own bag & size limits for other species



Walleye Management

- Low-level exploitation is less onerous
- High-level exploitation requires:
 - onsite monitoring
 - population estimates
 - State to potentially reduce harvest through regulation changes



Communication & Data Sharing

- Assessment, restoration, & enhancement activities
- Permit notifications
- Harvest reporting
- Data sharing
- Regulation changes



Consultation

- The State and the Tribes shall notify each other at least annually of proposed regulatory changes (including changes in management units or methodologies for determining the allowable harvest of any species) before they take effect and seek to resolve any concerns arising from such changes before implementing.



Consultation

- Fisheries regulation proposal is made
- Review by Unit, Basin, Public, Statewide Committee, and Chief
- Three notifications to tribes (June, September, and October)



NRC Role - Fisheries

- Fisheries orders could result from tribal declarations related to walleye
- Potential for emergency prohibitions on salmon harvest to ensure adequate egg collection
- Some State regulation changes do not have to be adopted and others can automatically change tribal regulations



Thank You!



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