

MEMORANDUM OF UNDERSTANDING

Between

**The Red Lake Band of Chippewa Indians,
The Minnesota Department of Natural Resources, And
The United States Department of the Interior,
Bureau of Indian Affairs**

I. PURPOSE.

WHEREAS, the Red Lake Band of Chippewa Indians (hereinafter, "Band"), Minnesota Department of Natural Resources (hereinafter, "Minnesota DNR"), and the United States Department of the Interior, Bureau of Indian Affairs (hereinafter, "BIA") are committed to the recovery of the walleye population in the Red Lakes and to the long term sustainable management of the fisheries resources of these lakes; and,

WHEREAS, the Band, Minnesota DNR, and BIA recognize that recovery of the walleye population is not assured, and that any delay in the implementation of full protection measures may prevent the rehabilitation of walleye in the Red Lakes; and,

WHEREAS, pursuant to the Revised Constitution and Bylaws of the Red Lake Band of Chippewa Indians, the Red Lake Tribal Council is the duly elected governing body of the Band, empowered with the sole right and authority to represent the Band and to negotiate with federal, state, and local governments; and,

WHEREAS, the Minnesota DNR is the wildlife authority for the State of Minnesota (hereinafter, "State") and is vested with the functions, powers, duties, rights, and responsibilities provided in Minnesota Statutes, Chapter 84 and other applicable law, and is charged with the duties for control of lands, parks, timber, waters, minerals, and wild animals of the State and, by its Commissioner, shall do all things deemed necessary to preserve, protect, and propagate desirable species of wild animals; and,

WHEREAS, the BIA is the agency responsible for the administration of Indian trust resources and for the enforcement of treaties, laws, and regulations pertaining to the affairs and welfare of the American Indian, and is the lead agency for the Secretary of Interior in fulfilling ~~Departmental trust responsibilities and Indian self-determination policies; and whereas, the~~ responsibility and authority for coordination and integration of management programs pertaining to Indian trust resources rests at all times with the BIA; and whereas, the authority to enter into this Memorandum of Understanding is in accordance with the Snyder Act, 25 USC, Section 13; and,

WHEREAS, the Band, Minnesota DNR, and BIA have responsibilities under tribal, state, and federal laws and regulations that affect fish;

NOW, THEREFORE, the Band, Minnesota DNR, and BIA hereby enter into a Memorandum of Understanding to provide for joint recovery and management of the fisheries resources in the Red Lakes; and do mutually understand and agree as follows:

II. ESTABLISHMENT OF THE RED LAKES FISHERIES TECHNICAL COMMITTEE.

A. The Band, Minnesota DNR, and BIA hereby establish the Red Lakes Fisheries Technical Committee (hereinafter, "Committee") to review and assess fish stock status and management of the Red Lakes and to recommend to the respective governments, those procedures, regulations, policies, and practices that will rehabilitate and conserve the fishery resources of the Red Lakes.

B. The Committee shall work to rehabilitate the walleye population in the Red Lakes and to determine and recommend management and regulatory steps necessary to ensure that fish stocks of the Red Lakes are conserved for the cultural, recreational, social, and economic benefit of all.

C. The Committee shall be composed of representatives from the Band's Department of Natural Resources; the Band's Fisheries Association; Minnesota DNR's Section of Fisheries; BIA; the United States Fish and Wildlife Service; and the University of Minnesota, Department of Fisheries and Wildlife.

D. The Committee shall meet as needed and at least once per year; the duty of chairing each meeting shall alternate between the Band and Minnesota DNR; and the respective chair will be responsible for all logistical needs for preparation, hosting, and recording the meeting.

E. In order to support the long-term sustainability of the fishery resources of the Red Lakes, the Committee shall make every good faith effort to support, promote, follow, and implement the Recovery Plan for Red Lakes Walleye Stocks (hereinafter, "Recovery Plan") included and incorporated into this Memorandum of Understanding as Attachment A.

F. The Committee may modify the short and long term components of the Recovery Plan based on most current biological information without the need for amendment, but shall keep the signatories to this agreement, or their successors, informed in writing as they occur.

G. The signatories to this Memorandum of Understanding shall make every good faith effort to promote and support the efforts of the Committee, and shall make every good faith effort to assist the Committee in operating under the authority of consensus.

H. The signatories to this Memorandum of Understanding shall make every good faith effort to promote and support the efforts of Band and State conservation officers to enforce the Recovery Plan through implementation of an Enforcement Plan included and incorporated into this Memorandum of Understanding as Attachment B.

III. TERM OF AGREEMENT.

A. The terms of this Memorandum of Understanding shall remain in effect until January 1, 2010 at which time it may be renewed.

B. This Memorandum of Understanding may be amended at any time upon written agreement executed by the signatories below or their successors in office.

SIGNATURES

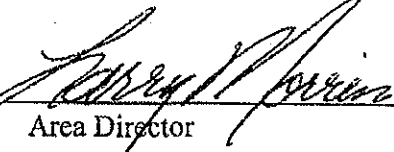
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RED LAKE BAND OF CHIPPEWA INDIANS

By: 
Chairman

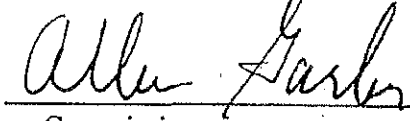
Date: _____

UNITED STATES DEPARTMENT OF THE
INTERIOR, BUREAU OF INDIAN AFFAIRS

By: 
Area Director

Date: 4/9/99

STATE OF MINNESOTA,
DEPARTMENT OF NATURAL RESOURCES

By: 
Commissioner

Attachment A

Recovery Plan for Red Lakes Walleye Stocks

This plan presents a strategy for recovery of walleye stocks of the Red Lakes and their tributaries (hereinafter, "Red Lakes"). It is recognized that walleye are not the only species of interest in the Red Lakes fish community. Nothing in this plan is intended to prevent the sustainable management of any other species. The plan includes two components: a short term (recovery) phase; and a long term (sustainable) phase. The duration of the short term phase is unknown, and will depend on the length of time to bring walleye numbers to a biologically sustainable level. The duration of the long term phase is expected to be a permanent scenario for management of the Red Lakes. The long term phase will be designed to adapt and evolve as additional biological information is acquired.

Phase Components

Short Term (recovery phase)

1. No kill / no possession of walleye.
 2. Harvest by live capture gear (such as trap nets or angling) permitted for species other than walleye.
 3. No commercial fishing with gill nets.
 4. No subsistence fishing with gill nets.
 5. Fall whitefish season with 5 ½ inch gill nets, based on temperature.
 6. Strict enforcement of all components of the Recovery Plan (see Attachment B).
 7. The Band and Minnesota DNR will cooperate to achieve optimal field sampling procedures and the exchange of information.
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8. An aggressive, short term stocking effort will be made to assist recovery of walleye stocks. Minnesota DNR will provide approximately 500 quarts of Lake Vermilion walleye eggs per year. The Red Lake Band, through the BIA, will provide \$40,000 per year, as appropriated, to the Minnesota DNR for the eggs it provides. The BIA agrees to request this ongoing funding and to make every effort to financially support the stocking effort. Fry will be stocked, based on area of littoral zone, into the entire system.

Target levels for total fry production (natural + stocked) should be near 1,000 per littoral acre (79

million fry). Stocking of walleye fry will only occur in years when natural fry production is projected to be less than 500 fry per littoral acre. Stocking will be stopped permanently as a restoration tool if either of the following conditions are met: either projected natural reproduction exceeds 1,000 fry per littoral acre (i.e. restoration has sufficiently progressed and stocking is no longer needed); or after five attempts where stocking fails to produce a strong year class (i.e. restoration is still underway, but stocking is not assisting the rate of natural recovery). A good faith effort will be made to assess the contribution of stocked fry.

Long Term (sustainable phase)

1. Harvest of walleye should not resume until mature female biomass exceeds a predetermined density for three consecutive years. A preliminary estimate of this density is 1.5 pounds per surface acre. However, this estimate will be modified upon further analysis, and additional population goals will also be developed and used to determine when fishing may safely resume.
 2. Once walleye harvest is resumed, a jointly prepared quota on walleye will be developed each year based on an estimated safe exploitation rate, that in turn is adjusted according to indicators of population sustainability.
 3. If the Band's quota is met, the use of gill nets (both commercial and subsistence) shall cease, and the Band shall implement a no kill / no possession rule until the start of the next season.
 4. Non-Band angler walleye harvest will be adjusted by regulation, so that the running three year average harvest does not exceed the allowable quota.
 5. The Band and Minnesota DNR will cooperate to achieve optimal field sampling procedures and the exchange of information.
 6. Strict enforcement of all components of the Recovery Plan shall be maintained (see Attachment B).
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Attachment B

Enforcement Plan

The Red Lake Band of Chippewa Indians (hereinafter, "Band"), the Minnesota Department of Natural Resources (hereinafter, "Minnesota DNR"), and the United States Department of the Interior, Bureau of Indian Affairs (hereinafter, "BIA") are committed to the recovery of the walleye population in the Red Lakes, and to the long term sustainable management of the fisheries resources of these lakes.

One of the components of the Recovery Plan for Red Lakes Walleye Stocks (hereinafter, "Recovery Plan") is strict enforcement of all aspects of the Recovery Plan. This Enforcement Plan describes a collaborative effort and cooperative planning by all parties to ensure the success of the Recovery Plan. It is recognized that the Band and the Minnesota DNR shall be the lead agencies in determining and carrying out enforcement efforts relating to the Recovery Plan.

Geographically, the Red Lakes encompass specific areas of the Red Lake Indian Reservation and State of Minnesota (hereinafter, "State"). Because the State has no jurisdiction on the Red Lake Reservation, and because the Band has no jurisdiction on State property, dual or cross jurisdictional enforcement agreements are not feasible, as they would require extensive statutory change at state and tribal levels. For enforcement purposes, jurisdictional boundaries of the Band and State shall at all times be recognized and respected. Upon mutual agreement of the Red Lake Public Safety Director and Minnesota DNR Region 1 Enforcement Supervisor, crossing of jurisdictional boundaries may occur when warranted, for reasons such as search and rescue, pursuit, and other emergency situations.

This Enforcement Plan represents a working agreement coordinated between the participating governments and agencies, and includes two components: short term enforcement efforts; and, long term enforcement efforts.

Short Term Enforcement Efforts

1. Meetings of Band and Minnesota DNR enforcement personnel shall be held as often as needed, but at a minimum of four times each year, to plan and discuss cooperative work projects, intelligence and equipment exchange, staffing assignments, and jurisdictional issues.
2. Each agency shall identify and inventory financial and physical assets, including dedicated personnel, work hours, and equipment, in preparation to cooperatively deploy these assets to accomplish the goals of the Recovery Plan.
3. Each agency shall develop and maintain a systematic method of tracking the work effort and associated costs for all enforcement efforts related to the Recovery Plan.
4. Band and Minnesota DNR biologists shall notify their respective enforcement agencies of their scheduled assessment activities and locations on the Red Lakes in advance of such activities.

5. The BIA shall provide \$35,000 per annum, as appropriated, to the Band during the recovery period, to be dedicated to the Band's increased enforcement efforts related to the Recovery Plan. The BIA agrees to request this ongoing funding and to make every effort to financially support the enforcement plan.

6. Aerial surveillance during this phase will be highly utilized and provided by both Band and State governments on a shared basis.

Long Term Enforcement Efforts

1. Long term enforcement efforts shall, of necessity, include all of the short term efforts described above.

2. The Red Lake Fisheries Technical Committee shall inform Band and State enforcement agencies of intended resumption of walleye harvest and harvest regulations as far in advance of such resumption as possible.

3. When walleye harvest on the Red Lakes resumes, enforcement demands of the Band and State will further intensify and increased staffing and support will be necessary. The Band estimates a need of two additional wardens at this time, to enforce regulations under increased fishing effort and to prevent black market commercialization of fish. The State anticipates an increase in the illegal hook and line activity known as "tripping" (multiple limits caught during one day without being over limit on the lake by bringing fish to shore multiple times during a day), which has historically been a problem in State waters. Increased staffing and resources of 3,000 to 4,000 State officer hours will be necessary to stem this practice. The Band, State, and BIA shall be called upon when walleye harvest resumes to assist the enforcement effort with financial resources sufficient to accomplish Recovery Plan goals.

Other Issues

Historically, the Red Lakes have provided food, recreation, cultural pursuits, and income to many people throughout the seasons. Fish were taken during the open water season and during winter. Upon recovery of walleye stocks, we must anticipate and prepare for a resumption of year around fishing activity in order to protect walleye stocks into the future.

This will require the support of subsistence and commercial fishers, sport fishers, and resorts and businesses associated with the Red Lakes, as well as government agencies to monitor the harvest and health of the Red Lakes. Community support should be developed during the short term phase of the Recovery Plan, so that support is real and available when walleye stocks recover. Enforcement and fisheries personnel from the Band and State should be leaders in organizing and supporting this social/community effort.

If the Recovery Plan succeeds, it may well be the single most successful natural resource event ever accomplished within the State of Minnesota. Government leadership, cooperation, and coordination will be paramount to this success. All parties must be ready to provide leadership by example to achieve the community support and involvement required to reach the goal of Red Lakes walleye recovery.