

GREAT LAKES INDIAN FISH & WILDLIFE COMMISSION

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• MEMBER TRIBES •

MICHIGAN

Bay Mills Community
Keweenaw Bay Community
Lac Vieux Desert Band

WISCONSIN

Bad River Band
Lac Courte Oreilles Band
Lac du Flambeau Band
Red Cliff Band
St. Croix Chippewa
Sokaogon Chippewa

MINNESOTA

Fond du Lac Band
Mille Lacs Band

October 31, 2019

The staff of the Great Lakes Indian Fish and Wildlife Commission (“GLIFWC” or “Commission”) are submitting these comments as part of the International Joint Commission’s public outreach for input on the implementation of the Great Lakes Water Quality Agreement (“GLWQA” or “Agreement”) as part of the 2019 Step In and Speak Out initiative. GLIFWC is an intertribal agency exercising delegated authority from 11 federally recognized Ojibwe, or Chippewa, tribes in Wisconsin, Michigan, and Minnesota.¹ Those tribes have reserved hunting, fishing, and gathering rights in territories ceded in various treaties with the United States. GLIFWC’s mission is to assist its member tribes in the conservation and management of natural resources and to protect habitats and ecosystems that support those resources. These comments are provided from an off-reservation, ceded-territory perspective, and should not be construed to preclude comments from each tribe’s sovereign perspective.

Overall, GLIFWC is highly supportive of the spirit and purpose of the GLWQA. Since its initial adoption, the Agreement has gone far in ensuring consideration of all jurisdictions within the Great Lakes basin and to ensure that management actions are taken to address some of the Lakes’ greatest threats. However, GLIFWC staff and leadership have found that the current implementation of the Agreement overlooks some of the most important elements of maintaining and improving the health of the Great Lakes, especially that of Lake Superior.

I. Recognition of Lake Superior as Generally Pristine

The 1990 Fifth Biennial Report on Great Lakes Water Quality Part II recognized Lake Superior as generally pristine and as deserving of a special effort to eliminate point source discharges of persistent toxic substances. Much has happened to advance that effort, although continued focus is needed. In addition, however, recent implementation of the Agreement has focused more on restoration and less on protection. Lake Superior loses out in this scenario; if it is already pristine, what more is necessary? While acknowledging that there remain restoration needs in Lake Superior, special emphasis should be placed on protecting this most pristine watershed, particularly in the face of a changing climate. As we saw with the zero discharge demonstration project, specific recommendations made by the IJC are taken seriously by the governments; they should be encouraged to take protection initiatives at least as seriously as they take restoration projects.

¹ GLIFWC member tribes are: in Wisconsin -- the Bad River Band of the Lake Superior Tribe of Chippewa Indians, Lac du Flambeau Band of Lake Superior Chippewa Indians, Lac Courte Oreilles Band of Lake Superior Chippewa Indians, St. Croix Chippewa Indians of Wisconsin, Sokaogon Chippewa Community of the Mole Lake Band, and Red Cliff Band of Lake Superior Chippewa Indians; in Minnesota -- Fond du Lac Chippewa Tribe, and Mille Lacs Band of Chippewa Indians; and in Michigan -- Bay Mills Indian Community, Keweenaw Bay Indian Community, and Lac Vieux Desert Band of Lake Superior Chippewa Indians.

We have seen repeatedly that the focus on the Great Lakes basin as a whole puts the continued protection of Lake Superior at risk. Whatever metrics of health that are developed or analyzed at a basin-wide scale, they are done so through the prism of the state of the most impacted of the Great Lakes. This risks losing focus and resources on the threats Lake Superior is facing, and the threats the Lake is facing are significant. It has maintained its pristine characterization based partly on its cold temperatures and undeveloped shorelines. The threat of climate change to the continued health of Lake Superior cannot be overstated. Additionally, resource development actions and the continued encroachment of shoreline hardening (the rate of which might only be increased as portions of the Lake Superior basin are named as places of climate refuge) can only lead to the degradation of the Lake if adequate forward-thinking, protective management actions are not undertaken.

II. Necessity of Considering the Watershed

Work being performed under the current implementation of the Agreement is constrained by the Parties at artificial geographic boundaries. While the actual restrictions may differ by issue, the Parties often direct work under the Agreement to occur within 2km inland from the shoreline. Experts from agree that any true efforts to protect or enhance the health of the Lakes requires consideration of the health of the entire watershed. No body of water can be in better condition than its associated watershed.

By definition, a watershed is the land area that drains to one stream, lake or river. The watershed of the Great Lakes drains into the Great Lakes. The health of the ecosystems through which that water drains has a significant impact on the quality of the water and habitat of the Lakes themselves. For example, many of the headwater wetlands at the western end of Lake Superior produce cool water inflow to the lake that provides habitat for cold water species. As forest composition within these wetlands or along the tributaries leading to the Lake change, and the changing climate impacts the number of freezing nights in the region, the contribution of cold water shrinks, allowing the water flowing into the Lake to become warmer, changing the hospitality of the Lake's ecosystems for cold water species. Under the current implementation policies of the Parties, any portion of the wetlands that lie outside of the boundaries set by the Parties will not become a priority for work or analysis pursuant to the Agreement. This makes little scientific sense, and is contrary to the EPA's own view that "[a] watershed...affects the water quality in the water body that it surrounds."²

It is imperative, especially in the face of such a rapidly changing climate, that the entirety of the Great Lakes watershed is considered under the Agreement.

III. Role of the IJC

Under the current Agreement, the Parties' view of the role of the IJC with regard to Agreement implementation seems to have been watered down from its true and historic purpose. Under the Agreement, the IJC's role with regard to the Agreement is to analyze information provided by the governments, assess the effectiveness of the programs in both countries, and report on progress toward meeting the Agreement's objectives. In recent years, this role has seemingly been anesthetized, when historically the IJC has been seen to operate as a conscience of the Parties with regard to upholding the

² EPA Healthy Watersheds Protection site: <https://www.epa.gov/hwp/basic-information-and-answers-frequent-questions>.

true objectives of the Agreement – to protect and enhance the health of the Great Lakes and their ecosystems.

To retain its role as an environmental conscience, to strengthen the objectives of the Agreement, the IJC must not rely on solely on providing analysis of the metrics or indicators when reviewing the progress of the Parties. Instead, the IJC must retain its role to prevent degradation, to think ahead at upcoming threats, and to call attention to where the work under the Agreement is falling short from progressing the larger intentions of the Agreement.

IV. Role of the Public

EPA and Environment and Climate Change Canada made a decision some years ago, to discontinue the Forums that were tasked with providing public input to each Lakewide Action and Management Plan. The Parties committed to continue outreach to the public in other ways, in the hope that would be as effective as the Forums had been. Without commenting on the other Lakes, the Lake Superior Binational Forum was key to engaging a public that cares deeply about Lake Superior. It focused attention on Lake Superior issues and provided an excellent outreach mechanism for the governments to tap into. The outreach of the Parties since the Forums were dissolved has in no way made up for the crucial role they played. The most recent Great Lakes Forum in Milwaukee attracted almost no public participation. The IJC should consider encouraging the Parties to reinstitute the Forums as an effective means of garnering public interest, participation, and support.