

Criteria for negotiations for a Consent Decree

The Coalition to Protect Michigan Resources' (Coalition) mission is to "work with the US Government, Tribes and the State of Michigan as an *'amicus curiae'* in the federal court case governing Tribal fishing rights in the 1836 Treaty areas". The negotiations have been marked with animus between each of the parties. There have been seemingly unreconcilable differences between proposals of the respective parties and most proposals appear to be at odds with biological reality and the foundations of sustainability. For these reasons, the Coalition has found it nearly impossible to work proactively with the parties as we had hoped. For clarity, we are delineating here the principal elements of a working starting point for negotiating a sustainable and equitable agreement. These three criteria have always guided the Coalition and will continue so in future negotiations. The Coalition looks forward to helping to craft and advance any proposals that meet these three basic criteria.

1. Science-based harvest limits. Harvest limits must be predicated on recognition of the 20-year decline in whitefish stocks, the tenuous status of lake trout in Lakes Huron and Michigan, and the fact that, for the near future, reasonably accurate estimation of stock sizes based on modeling cannot be accomplished until models are updated with new parameters reflecting effects of foodweb changes caused by recent invasions of the lakes by exotic species. The revised models should be reviewed by quantitatively skilled, third-party stock assessment modelers. Near-term estimates of stock available for harvest will likely require stipulations based on best available current science until models are updated; these stipulated harvest limits should be closely evaluated: the resulting harvest must be reported expeditiously, error checked, and analyzed so that course corrections can be made as needed with minimal delay. Timely and transparent harvest and assessment data sharing are not an end result. Rather, they are essential to the estimation of stock size, fish population responses to harvest levels, and ultimately managing for a sustainable outcome by the parties.
2. Equitable allocation of harvest opportunity. The parties have agreed to the principle of an approximate equal allocation between State and tribal fishers. Thus, proposals under consideration must be demonstrably consistent with this formula, while accommodating the large differences in harvest efficiency (fishing power) between the various types of fishing gear. Efficiency of gillnets far exceeds that of either recreational fishing or commercial trapnet fishing as presently regulated, in terms of catch per unit of investment in labor and gear. Equitable allocation is particularly sensitive to the amount of gillnet effort permitted and where it is fished. Thus, provisions must be made for protecting trapnet and recreational fishers from proximity to gillnets, which is commonly an objective of zonal management. Gillnet efficiency is even more concerning with respect to protection of stocks from overharvest because: a) they can be used to rapidly target changing distributions of fish and focus on seasonal congregations, such as sites used for pre-spawn staging, for spawning, and for productive feeding; and b) most of the catch is dead or moribund when taken aboard and any protected elements (lake sturgeon, undersized fish) of the fish community cannot, realistically, be released and expected to live. To summarize, gillnets affect allocation in two ways: first, they are more efficient than other gear types and can leave in their wakes catch rates too low for other fishing methods to compete and, secondly, they can, without careful monitoring and regulation, rapidly deplete stocks to where none of the fisheries can any longer prosper.

3. Collaborative approach. A collaborative approach is necessary for the efficient collection of fishery assessment data, diagnostics of fish stock health and harvestability, and maintenance of models and other stock assessment tools. Transparent and collaborative sharing of harvest and effort data are essential ingredients to sustainable fishery harvest management. All the parties to these negotiations are signatories to the Great Lakes Fishery Commission's (GLFC) Joint Strategic Plan for Management of Great Lakes Fisheries (CORA signed for the Treaty of 1836 Tribes). The Joint Strategic Plan calls for collaborative management of fisheries, with the parties' recognition that fish stocks are shared, spanning inter-state and international waters, and that fish do not recognize political boundaries as they migrate from one place to another for purposes of feeding, spawning, or habitat selection. Under the Joint Strategic Plan, state, federal, provincial, and tribal agencies are to coordinate their management and collaborate on major decisions that could affect multiple jurisdictions, using the GLFC and its lake committees as a coordinating umbrella (the GLFC functions as an arm of the US Department of State, and can thus enable international agreements between the states and Canadian provinces). For more than 50 years, the GLFC has coordinated the agencies efforts to restore lake trout, with the GLFC providing the international sea lamprey control necessary to the rehabilitation effort. Lake trout rehabilitation plans, spawning refuges, and stocking plans are examples of programs coordinated via the GLFC. More recently, in recognition of the alarming decline in lake whitefish populations in lakes Huron and Michigan, the GLFC (and now also the Great Lakes Fishery Trust) has given high priority to research into causes and potential solutions. Thus, any proposals forwarded for consideration should meet the standard set for collaborative management by the Joint Strategic Plan and be consistent with its Goal Statement:

"To secure fish communities, based on foundations of stable self-sustaining stocks, supplemented by judicious plantings of hatchery-reared fish, and provide from these communities an optimum contribution of fish, fishing opportunities and associated benefits to meet needs identified by society for wholesome food, recreation, cultural heritage, employment and income, and a healthy aquatic ecosystem."

Specifically, proposals for harvest should be consistent with interagency lake trout rehabilitation plans for the respective lakes and should be sensitive to the tenuous status of lake whitefish in lakes Michigan and Huron.

Additionally, the Coalition urges the parties to begin work on initiatives to restore lake whitefish. The parties should support research to clarify causes of whitefish declines and seek State and Federal funding for a whitefish recovery initiative. Where plankton available for whitefish fry appears to be lacking, but predation on juvenile whitefish appears not to have changed, the Coalition suggests an adaptive approach to stocking using fingerlings to circumvent this prey bottleneck. The Coalition also expects future proposals to be congruent with established, interjurisdictional plans for the restoration of lake trout in lakes Michigan and Huron where lake trout are currently either hatchery dependent or their reproductive status is tenuous.