

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,  
  
Plaintiff,

File No. 2: 73 CV 26  
Hon. Richard A. Enslin

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,

Plaintiff-Intervenors / Counter-Defendants,

vs.

STATE OF MICHIGAN, REBECCA  
HUMPHRIES, DIRECTOR, DEPARTMENT OF  
NATURAL RESOURCES, CHIEF, FISHERIES  
DIVISION, DEPARTMENT OF NATURAL  
RESOURCES, CHIEF, WILDLIFE DIVISION,  
DEPARTMENT OF NATURAL RESOURCES,  
CHIEF, LAW ENFORCEMENT DIVISION,  
DEPARTMENT OF NATURAL RESOURCES,  
RESOURCE MANAGEMENT DEPUTY  
DIRECTOR, DEPARTMENT OF NATURAL  
RESOURCES, AND THE MICHIGAN  
NATURAL RESOURCES COMMISSION,

Defendants / Counter-Claimants.

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*AMENDED STIPULATION FOR ENTRY OF CONSENT DECREE*

The Parties filed a Stipulation for Entry of Consent Decree on October 11, 2007 (Dkt. No. 1792). At that time, counsel for one of the Parties had not yet received authorization to sign the Stipulation and counsel for two of the Amici Curiae not yet received authorization to sign the

Supporting Statement of Amici Curiae. All counsel have now received authorization to sign the Stipulation or Supporting Statement. Accordingly, the Parties submit this Amended Stipulation to include the signatures of all counsel and, as set forth below, respectfully request that the Court enter the proposed Consent Decree filed on October 11, 2007 (Dkt. No. 1793).

**I. STIPULATION.**

WHEREAS:

A. Defendants/Counter-Claimants State of Michigan, Michigan Natural Resources Commission, Michigan Department of Natural Resources (“MDNR”) Director, MDNR Fisheries Division Chief, MDNR Wildlife Division Chief, MDNR Law Enforcement Division Chief and MDNR Resource Management Deputy Director (collectively, “State”) filed a counterclaim in this action, *United States v. Michigan*, No. 2:73 CV 26 (W.D. Mich.) (“Litigation”), against Plaintiff-Intervenors/Counter-Defendants 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 (collectively, “Tribes”), seeking a declaration that, with limited exceptions, the Tribes no longer retain the right to hunt, and the other usual privileges of occupancy, secured by Article 13 of the 1836 Treaty of Washington on lands and inland waters within the boundaries of the territory ceded in the 1836 Treaty (“Inland Article 13 Rights”) (Dkt. No. 1473), and the Tribes filed a joint reply denying the State’s claim (Dkt. No. 1477); and

B. Plaintiff United States filed a supplemental complaint in the Litigation seeking a declaration that the Tribes retain Inland Article 13 Rights on lands and inland waters within the boundaries of the 1836 Ceded Territory that have not been required for settlement (Dkt. No. 1504), and the State filed an answer denying the United States’ claim (Dkt. No. 1516); and

C. The Parties explored settlement of their respective claims regarding Inland Article 13 Rights and reached an agreement in principle on the terms and conditions of such a settlement; and

D. The Parties prepared a proposed Consent Decree on the basis of their agreement in principle; and

E. The Parties intend the proposed Consent Decree to resolve conclusively their respective claims regarding Inland Article 13 Rights and to provide for the protection of the resources in the 1836 Ceded Territory; and

F. The Parties were represented by attorneys of their own choosing in negotiating and drafting the proposed Consent Decree, which was the product of arms-length negotiations by Parties of equal bargaining power, and, therefore, the Parties agree that any ambiguities in the proposed Consent Decree shall not be construed against any Party on the basis of the status of the Parties or by virtue of the fact that such Party drafted or assisted in the drafting of the relevant portion of the proposed Consent Decree, and further agree that, in the event of any inconsistency between the terms of the proposed Consent Decree and the Parties' agreement in principle, the terms of the proposed Consent Decree shall be controlling; and

G. The Parties believe the proposed Consent Decree is a fair and equitable resolution of the Parties' respective claims regarding Inland Article 13 Rights; and

H. The signatories to this Stipulation affirm that they are authorized to execute this Stipulation and to bind legally the Parties they represent;

NOW, THEREFORE, the Parties hereby STIPULATE and REQUEST that the proposed Consent Decree prepared by the Parties and filed on October 11, 2007 (Dkt. No. 1793) herewith be entered as the Court's Judgment and Decree fully and finally resolving the Parties' respective

claims regarding Inland Article 13 rights, with each Party to be responsible for its own expenses incurred in procuring the entry of the proposed Consent Decree, including its attorneys' fees and costs.

Dated: October 22, 2007.

Respectfully submitted,

UNITED STATES OF AMERICA

CHARLES R. GROSS  
United States Attorney

s/ Jennifer L. McManus  
Assistant U.S. Attorney  
330 Ionia N.W., Room 501  
Grand Rapids, MI 49503  
(616) 456 2404  
[Jennifer.McManus@usdoj.gov](mailto:Jennifer.McManus@usdoj.gov)

RONALD J. TENPAS  
Acting Assistant Attorney General  
U.S. Department of Justice  
Environment and Natural Resources  
Division

s/ Steven Miskinis  
U.S. Department of Justice  
Indian Resources Section  
Environment-Natural Resources Div.  
P.O. Box 44378  
Washington, D.C. 20026-4378  
(202) 305 0256  
[Steven.Miskinis@usdoj.gov](mailto:Steven.Miskinis@usdoj.gov)

BAY MILLS INDIAN COMMUNITY

s/ Kathryn L. Tierney  
12140 W. Lakeshore Drive  
Brimley, MI 49715  
(906) 248 3241  
[candyt@bmic.net](mailto:candyt@bmic.net)

SAULT STE. MARIE TRIBE OF  
CHIPPEWA INDIANS

s/ Aaron Schlehuder  
Sault Ste. Marie Tribe of Chippewa Indians  
523 Ashmun Street, 3<sup>rd</sup> Floor  
Sault Ste. Marie, MI 49783  
(906) 632 2137  
[ASchlehuder@saulttribe.net](mailto:ASchlehuder@saulttribe.net)

s/ Bruce R. Greene  
Alice E. Walker  
Greene, Meyer & McElroy, P.C.  
1007 Pearl St., Suite 220  
Boulder, CO 80302  
(303) 442 2021  
[bgreene@greenelawyer.com](mailto:bgreene@greenelawyer.com)

GRAND TRAVERSE BAY BAND OF  
OTTAWA AND CHIPPEWA INDIANS

s/ William Rastetter  
Of Counsel: Olson, Bzdok & Howard  
420 E. Front St.  
Traverse City, MI 49686  
(231) 946 0044  
[rastetter@envlaw.com](mailto:rastetter@envlaw.com)  
John Petoskey  
Grand Traverse Band of Ottawa and  
Chippewa Indians  
2605 N. West Bayshore Drive  
Peshawbestown, MI 49682  
(231) 271 5220

LITTLE RIVER BAND OF OTTAWA  
INDIANS

s/ Marc D. Slonim  
Brian C. Gruber  
Ziontz, Chestnut, Varnell, Berley & Slonim

2101 Fourth Ave., Suite 1230  
Seattle, WA 98121  
(206) 448 1230  
[mstonim@zcvs.com](mailto:mstonim@zcvs.com)

LITTLE TRAVERSE BAY BANDS OF  
ODAWA INDIANS

s/ James A. Bransky  
9393 Lake Leelanau Dr.  
Traverse City, MI 49684  
(231) 946 5241  
[jbransky@chartermi.net](mailto:jbransky@chartermi.net)

STATE OF MICHIGAN et al.

Michael A. Cox  
Attorney General

s/ Marie Shamraj  
Assistant Attorney General  
Environment, Natural Resources and  
Agriculture Division  
P.O. Box 20755  
Lansing, MI 48909  
(517) 373 7540  
[ShamrajM@michigan.gov](mailto:ShamrajM@michigan.gov)

s/ Christopher D. Dobyns  
Special Assistant Attorney General  
Environment, Natural Resources and  
Agriculture Division  
P.O. Box 20755  
Lansing, MI 48909  
(517) 373 7540  
[DOBYNS@michigan.gov](mailto:DOBYNS@michigan.gov)

## **II. SUPPORT OF AMICI CURIAE and APPLICANTS' AGREEMENT RE INTERVENTION MOTIONS.**

WHEREAS:

A. Representatives of Amici Curiae (Michigan United Conservation Clubs, Coalition to Protect Michigan's Resources ("CPMR") [formerly Michigan Fisheries Resource Conservation Coalition ("MFRCC")], U.P. Whitetails Association, Inc. and Bays de Noc Great Lakes Sportsfishermen, Inc.) attended the Parties' settlement discussions and support the Parties' efforts to settle the Parties' respective claims regarding Inland Article 13 Rights on the terms and conditions set forth in the proposed Consent Decree; and

B. Amici Curiae believe the proposed Consent Decree is a fair and equitable resolution of the Parties' respective claims regarding Inland Article 13 Rights; and

C. Applicants for Intervention (MFRCC, Stuart Cheney, Robert Andrus and the Walloon Lake Trust and Conservancy) also attended the Parties' settlement discussions and

entered into an agreement with the Parties relating to intervention motions, the terms of which are set forth in Appendix M of the proposed Consent Decree; and

D. The signatories below affirm that they are authorized to execute this document and to bind legally the Amici Curiae and/or Applicants for Intervention they represent;

NOW, THEREFORE, Amici Curiae express their support for the Parties' request that the Court enter the proposed Consent Decree prepared by the Parties and filed on October 11, 2007 (Dkt. No. 1793) as the Court's Judgment and Decree fully and finally resolving the Parties' respective claims regarding Inland Article 13 rights and the Applicants for Intervention affirm that Appendix M of the proposed Consent Decree accurately sets forth the agreement they entered into with the Parties relating to intervention motions.

Dated: October 22, 2007.

MICHIGAN UNITED CONSERVATION  
CLUBS

s/ Peter W. Steketee  
660 Cascade W. Parkway, S.E., Suite 65  
Grand Rapids, MI 49546  
(616) 949 6551  
[peter@steketee.com](mailto:peter@steketee.com)

COALITION TO PROTECT MICHIGAN'S  
RESOURCES [formerly, MICHIGAN  
FISHERIES RESOURCE  
CONSERVATION COALITION], Amicus  
Curaie, and MICHIGAN FISHERIES  
RESOURCE CONSERVATION  
COALITION, WALLOON LAKE TRUST  
AND CONSERVANCY, STUART  
CHENEY, AND ROBERT ANDRUS,  
Applicants for Intervention

s/ Stephen O. Schultz  
Christopher W. Braverman  
FOSTER, SWIFT, COLLINS, & SMITH,  
P.C.

313 South Washington Square  
Lansing, MI 48933  
(517) 371 8100  
[SSchultz@fosterswift.com](mailto:SSchultz@fosterswift.com)

U.P. WHITETAILS ASSOCIATION, INC.  
AND BAYS DE NOC GREAT LAKES  
SPORTSFISHERMEN

s/ Paul L. Strom  
s/ Peter W. Strom  
Strom & Strom  
417 Ludington St.  
P.O. Box 714  
Escanaba, MI 49829  
(906) 789 3160  
[strom@dsnet.us](mailto:strom@dsnet.us)