Red Cliff Band of Lake Superior Chippewa
Chad Abel, Administrator of Natural Resources
FY19 Testimony to House Appropriations Committee on Interior, Environment and Related Agencies

Department of Interior, Bureau of Indian Affairs, Operation of Indian Programs
Trust – Natural Resources Management, Tribal Management/Development Program (TM/DP)
A requested increase of $750,000 to fund Lake Superior Co-Management (LSCM) in Wisconsin waters of Lake Superior for the Red Cliff and Bad River Bands of Chippewa

The Red Cliff Band of Lake Superior Chippewa Indians have a small reservation with 22 miles of Lake Superior shoreline on the northern most point of Wisconsin. Commercial fishing on the big lake is a tradition spanning generations, as this excerpt describes:

28TH ANNUAL REPORT OF THE BOARD OF INDIAN COMMISSIONERS, 1896

THE RED CLIFF RESERVATION, A THIRD MEMBER OF THE LA POINTE AGENCY GROUP, IS ABOUT 24 MILES BY RAIL FROM ASHLAND. IT CONTAINS 191 INDIANS, A PARTICULARLY INDUSTRIOUS AND DESERVING LOT OF PEOPLE. A GOOD MANY OF THE RED CLIFF INDIANS OBTAIN THEIR CHIEF EMPLOYMENT AT THE BAYFIELD SAWMILLS, AND MANY OTHERS HAVE UNTIL RECENTLY EARNED A FAIR SUBSISTENCE BY FISHING WITH NETS IN THE BAY ALONG THE BORDER OF THE RESERVATION. THEIR FISH THEY WOULD PACK AND SHIP IN KEGS TO THE MARKET, WORKING ON A COOPERATIVE SYSTEM. NOW THE STATE OF WISCONSIN HAS ADOPTED LAWS WHICH FORBID THEIR NET FISHERY, ALTHOUGH THE TREATY OF 1854 BETWEEN THE TRIBE AND THE UNITED STATES GOVERNMENT GUARANTEES THEM THIS PRIVILEGE. THEY CANNOT UNDERSTAND THE CONFLICT OF STATE LAWS WITH FEDERAL TREATIES, AND STILL CONSIDER THEMSELVES ENTITLED TO FISH, THOUGH THEY HAVE MADE NO ATTEMPT TO ASSERT THEIR RIGHTS AGGRESSIVELY SINCE SOME OF THE FISHERMEN WERE ARRESTED BY THE STATE AUTHORITIES.

After *State v. Gurnoe, 53 Wis. 2d 390* (1972), the treaty right to fish Lake Superior was affirmed, and the decision went on to dismiss state prosecution against tribal fishers, initiating the current system of self-regulation. Disagreements over fishery management continued between the Tribes and the State for decades to follow, despite formalized agreements defining management over the shared fishery. However, at present there is a new spirit of cooperation and collaboration. Resource management in the western arm of Lake Superior requires involvement from all entities, and tribal entities need sufficient funding to successfully manage the shared resource.

LSCM spans 6 management units and 7,051,090 surface acres of Lake Superior. Red Cliff licensed fishers alone have averaged about 1,000,000 pounds of fish harvest annually in the 1842 ceded waters over the last several years. Management authority of this magnitude requires conservation enforcement, on-board commercial monitors, fishery-independent surveys, and population modeling to ensure sustainable harvest of target fish species. LSCM funding is essential for Red Cliff and Bad River to continue to fulfill management obligations on Lake Superior and to adhere to the Lake Superior Fishing Agreement with the State of Wisconsin.

Tribal Co-Management Success Stories

Cisco Management

Cisco (lake herring) was once an abundant prey species in the Great Lakes. Cisco stocks collapsed across the Great Lakes and at present have only been successfully rehabilitated in Lake Superior. Beginning about a decade ago, the demand for cisco roe in Scandinavia fueled a November fishery that targets spawning aggregations. Harvest levels for cisco around the Apostle Islands quadrupled to meet demand and, as this new fishery took off, regulations on the harvest and the data available to manage the stock were lacking. Stakeholders were profiting from meeting the increased demand for cisco roe which dampened political will to address depleting cisco stocks.

After many years of concern, tribal and state biologists worked together to set an initial quota that could pass governing bodies. Red Cliff began a research project with University of Minnesota – Duluth and USGS in 2017 to test new hydroacoustic equipment that has the ability to refine estimates of cisco abundance while minimizing the time (and cost) of gathering this critical data needed for harvest management.

USFWS helped organize an interjurisdictional approach to gather existing data on cisco in the western arm of Lake Superior, and the group held a series of meetings to discuss the best way to develop a stock assessment model. Participating entities include Red Cliff, Bad River, State of Minnesota, State of Wisconsin, GLIFWC, Ontario Ministry of Natural Resources, Grand Portage, and USGS. With the help of the Quantitative Fisheries Center, these efforts have just recently led to the first stock assessment model for the western arm of Lake Superior and an understanding of where critical data gaps still exist. The collaborative approach gets all stakeholders to the table and involved early in the process which prevents costly, drawn out disagreements at the point where biological efforts result in new policy. Shared datasets also minimize duplicative efforts.

Returning Sharp-tailed Grouse to the Moquah Barrens

The Moquah Barrens is a unique wildlife management area in the Chequamegon-Nicolet National Forest. Sharp-tailed grouse were once abundant in the barrens, but decades of fire suppression and other factors reduced the population to the point that spring lek surveys were only documenting a few remaining individuals. USFS biologists met with Red Cliff staff to cooperatively develop a management plan to restore thousands of acres of habitat and to trap sharp-tailed grouse in NW Minnesota, where they are abundant, and translocate them to Moquah Barrens. The project is now in its fourth and final year, and the broader effort included collaboration by Sharp-tailed Grouse Society, WI DNR, MN DNR, and Bad River.

By all accounts, translocation efforts have proved an enormous success. The project received a National Honor Award in late 2017! Red Cliff has been responsible for tracking the radio-collared

grouse released to the Moquah Barrens, and this data has been remarkably helpful in understanding habitat preferences and the potential for connectivity of the meta-population. Collaborations like these maximize the effectiveness of federal dollars.

Removing Phragmites from three Wastewater Treatment Plants

The invasive Phragmites has been devastating to coastal estuaries and wetlands throughout the Great Lakes, however there are only a few documented populations of Phragmites in the Lake Superior Basin. Red Cliff began finding small clusters of Phragmites on the Red Cliff reservation in 2013, but the source population was unclear.

In the 1990's Red Cliff and the neighboring communities of Bayfield and Washburn constructed wastewater treatment plants (WWTPs) that used Phragmites in the reed bed system to dewater sludge. Though Phragmites was a known invasive, the plants sourced were marketed as sterile. Working with GLIFWC, Red Cliff documented escaped populations in Washburn and Bayfield as well. Genetic analysis helped to confirm the three WWTPs were the source population.

With support of GLRI, Red Cliff implemented a project to remove and replace the invasive Phragmites with a native species in all three reed bed systems. The construction phase will occur this summer. The project is slated to protect 14,000 acres of estuary in the Apostle Islands area. The Bad River reservation is just across Chequamegon Bay from these communities, and the Bad River estuary is a Ramsar Wetland of International Importance that represents 12,000 of those estuary acres this project is protecting. Coincidentally, Bad River natural resources staff documented a stand of Phragmites in their pristine coastal estuary for the first time in 2017. This project could not be timelier. There is still time to prevent this species from proliferating in the Apostle Islands area and the greater Lake Superior Basin. This is a wise investment in federal dollars; to combat this issue now instead of spending millions on endless control efforts later.

Frog Bay Tribal National Park

In 2012, Red Cliff opened the first tribal national park in the country! The conservation area has grown to 300 acres and is open, free of charge, to tribal membership and the general public alike. The park is a consolidation of former private and Bayfield County lands, and it includes 40 acres of existing tribal land. The park permanently protects one mile of undeveloped Lake Superior coastline, the Frog Creek estuary, and a rare and pristine example of transitional boreal forest. Frog Bay looks out to five of the islands on the Apostle Islands National Lakeshore, and Red Cliff has engaged NPS on how we can manage these protected areas in concert with each other. Look in the coming years to how we define co-management with Apostle Islands National Lakeshore!

<u>LSCM is a program that deserves federal funding</u>. We've develop a model for federal funding that is cost effective, collaborative, and proficient. We do more with less and maximize the federal

investment in natural resources management; resources we all share. Currently Red Cliff receives $260,000 in TMDP to support all of our work in the region. If not for GLRI and interim LSCM support from BIA, these important projects may not have been possible. Please consider funding Red Cliff and Bad River's joint request.

LSCM Wisconsin Waters Program Write-up

Of the proposed increase, $750,000 will be provided to support Lake Superior Co-Management (LSCM) tribes in Wisconsin Waters (Red Cliff, Bad River). The reservations of the LSCM tribes border Lake Superior coastal shoreline, and the tribes actively participate in commercial and subsistence fish harvest across six management units and 7,051,090 surface acres of Lake Superior. The reservations' economies are fundamentally based and inextricably linked to the continued sustainable harvest of wild, native fish stocks in the 1842 ceded waters of Lake Superior.

Tribal commercial fishing on Lake Superior under the Treaty of 1842 (7 Stat. 591) and Treaty of 1854 (10 Stat.1109) with the Chippewa was affirmed in *State v. Gurnoe*, 53 Wis. 2d 390 (1972), which dismissed state prosecution against tribal fishermen and initiated the current system of self-regulation. The US District Court for the Western District of WI also dismissed allegations against tribal fishermen in *US v. Peterson*, 82CR7OU (1984), in light of the regulatory provisions contained in the Lake Superior Fishing Agreement, first adopted in 1981, between the Red Cliff and Bad River Tribes and State of WI. While the rights of these tribes to manage the Lake Superior fishery was made clear in court decisions, the exact jurisdictional boundaries and roles of each Tribe in cooperation with the State was determined through negotiated efforts. Prior to, and since the federal court's decision in *US v. Peterson*, the tribes have maintained sovereign rights to regulate Treaty harvest and to cooperatively manage the shared fishery resource in Lake Superior through subsequent negotiated renditions of the Lake Superior Fishing Agreement in coordination with the State of Wisconsin in 1991, 1995, and 2005. LSCM tribes (Red Cliff and Bad River) each currently receive base TMDP funding for on-reservation management of fish and wildlife resources. Funding of LSCM will provide the funding required for Red Cliff and Bad River to co-manage tribal resources in compliance with the Lake Superior Fishing Agreement within the jurisdictions also managed by the State. This increase to LSCM (Red Cliff and Bad River) is needed to improve conservation enforcement, commercial monitoring, and data-driven fishery management activities within the co-managed jurisdictions of Lake Superior in cooperation with the State.

Since the Gurnoe Decision (1972) reaffirmed the rights of the Chippewa tribes to engage in reservation-based fish harvest, LSCM tribes have developed natural resource programs to demonstrate their co-management authority on Lake Superior and ensure sustainable fishery management. The core functions of these programs are fish stock assessments, conservation enforcement and harvest monitoring.