



Red Cliff Band of Lake Superior Chippewa Indians

88455 Pike Road

Bayfield, WI 54814

Phone: 715-779-3700 Fax: 715-779-3704

Email: redcliff@redcliff-nsn.gov

Red Cliff Tribal Council

September 20th, 2021

VIA ELECTRONIC MAIL

brundage.jennifer@epa.gov

Ms. Jennifer Brundage
Environmental Protection Agency
1301 Constitution Avenue NW
Washington, DC 20460

RE: Consultation and Coordination on Potential Revisions to the Federal Water Quality Standards Regulations to Protect Tribal Reserved Rights

The Red Cliff Band of Lake Superior Chippewa (henceforth Miskwabekaang) respectfully submits the following comments regarding the US Environmental Protection Agency's (EPA) Potential Revisions to the Federal Water Quality Standards Regulations to Protect Tribal Reserved Rights. Miskwabekaang is a federally recognized tribal nation that reserved the inherent right to hunt, fish, and gather within ceded territories (henceforth Treaty Rights) under the 1842 Treaty of LaPointe with the United States government.¹ In addition to on-reservation resources, our inherent authority, as a sovereign nation, includes exercising stewardship responsibilities of our **inawemaaganag** (relatives), who are often called "natural resources", across the ceded territories (now known as Minnesota, Wisconsin, and Michigan) upon which meaningful exercise of treaty rights is based. These authorities provide us opportunities and the responsibility to submit comments to support, protect, and preserve treaty relatives for the next seven generations within ceded territories and the sacred waters of **Anishinaabeg Gitchigami** (Lake Superior). Miskwabekaang consistently supports laws and policies that provide for the protection and restoration of water resources within ceded territories. Miskwabekaang also supports tribal assertions of regulatory authority over reservation lands and waters, including assumption of various programs under the Clean Water Act.

Miskwabekaang along with other the Great Lakes Indian Fish and Wildlife Commission (GLIWFC) member tribes reserved their ceded territory treaty rights in order to guarantee that they could continue their hunting, fishing, and gathering way of life (or "lifeway") in a manner that meets their subsistence, economic, cultural, medicinal, and spiritual needs. The full exercise of this lifeway requires access to clean, healthy, and abundant natural resources, which require clean water to thrive. The federal government's obligations as a treaty signatory, therefore, requires it to provide water resources with the greatest protection possible. To do less would undermine the fulfillment of US treaty guarantees.

We recommend that the EPA work directly with tribes and GLIFWC to determine appropriately protective regulatory approaches to the protection of treaty resources. This approach would have several benefits. First, it would allow for the development of "ceded territory" standards that would be incorporated into state standards. By incorporation into state standards, political pressure that a state might feel to undermine or ignore a standard that is based on science or how a tribe may use an off-reservation waterbody would be reduced. Likewise, it would reduce

¹ 1842 Treaty of LaPointe, October 4, 1842

uncertainty and confusion for tribes, by consolidating methods of standards across the states. For example, monitoring the implementation of a numeric criterion in one state, an antidegradation provision in another, and a narrative criterion in a third would be inefficient and unduly confusing. Lastly, it would embody the EPA's commitment to Environmental Justice and upholding federal treaty obligations.

Miskwabekaang is currently forced to rely upon other governments to exercise their authority in ways that preserve and enhance the habitats that support health and abundant inawemaaganag in ceded territories. Unfortunately, this isn't always the case and there currently isn't an adequate federal regulatory framework to ensure that state governments act responsibly. A treaty resources initiative, if implemented and enforced vigorously in consultation and coordination with tribes, will go a long way toward ensuring that other governments uphold treaty guarantees and that tribes have the regulatory tools they need to ensure appropriate enforcement. We look forward to subsequent consultations to ensure that Miskwabekaang's concerns and interests are heard and implemented.

We remain committed to protect the nibi (water), aki (land), and air of our current and ancestral homelands for our people and the generations to come. Preserving the environment means preserving our Treaty Rights and our traditional life ways. Miigwech (thank you) for the opportunity to submit comments. Questions and follow-up can be directed to Linda Nguyen, Red Cliff Environmental Director, at linda.nguyen@redcliff-nsn.gov or 715-779-3650.

Sincerely,



Christopher Boyd
Tribal Chairman
Red Cliff Band of Lake Superior Chippewa

Cc: Red Cliff Tribal Council
Chase Meierotto, Treaty Natural Resources Administrator
Linda Nguyen, Environmental Director
Noah Saperstein, Environmental Justice Specialist
Allison Rakowski, Water Resources Program Manager
Marvin Defoe, Red Cliff Tribal Historic Preservation Office (Voigt Task Member)
Mark Duffy, Chief Warden (Voigt Task Member)