

# GREAT LAKES INDIAN FISH & WILDLIFE COMMISSION

P.O. Box 9 • Odanah, WI 54861 • 715-682-6619 • FAX 715-682-9294

[www.glifwc.org](http://www.glifwc.org)

## • 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



February 7, 2025

*Delivered electronically via [leya.charles@state.mn.us](mailto:leya.charles@state.mn.us)*

Leya Charles

MN Pollution Control Agency

Environmental Analysis and Outcomes Division – Water Assessment Section

520 Lafayette Rd N

St. Paul, MN 55155-4194

Re: Comments on the Draft Triennial Standards Review Workplan and MN. Rules 7050 and 7052

Dear Leya Charles,

Great Lakes Indian Fish and Wildlife Commission (GLIFWC), staff submit these comments on Minnesota's 2025-2027 Draft Triennial Standards Review Workplan. GLIFWC staff appreciate that MPCA has made efforts to provide an advance copy to Tribes before publishing the draft workplan. Staff have reviewed the draft plan and provide the recommendations below to more fully consider tribes' reserved rights and protect the health of tribal members and important beings (resources). These comments have been prepared by GLIFWC staff and are submitted from an off-reservation intertribal perspective.

## Tribal Rights and Responsibilities

GLIFWC is an intertribal agency exercising delegated authority from 11 federally recognized Ojibwe (or Chippewa) tribes in Wisconsin, Michigan, and Minnesota.<sup>1</sup> These tribes retain hunting, fishing, and gathering rights in territories ceded to the United States, including in the State of Minnesota through various treaties (see map at right). These rights have been reaffirmed by federal courts, including the US Supreme Court. GLIFWC assists its member tribes in fulfilling



<sup>1</sup> 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.

federal court orders that have affirmed treaty reserved rights within these territories. To support the continuation of these treaty rights, GLIFWC also assists in the co-management of ceded territory natural resources and works to protect habitats and ecosystems that support those resources.

Nibi (water) is essential to all beings and is at the very center of the Ojibwe world view. Healthy water is necessary to support the resources that lie at the base of the Ojibwe treaty rights. Under the Clean Water Act, the MPCA must support sufficient water quality standards to protect designated uses and must consider the impact that its standards have on the exercise of the tribes' treaty-guaranteed rights. These rights must be supported by a resource base that will not be negatively impacted by the continuation of tribal lifeways but also that will also not negatively impact the health of tribal members due to contamination. Water quality standards will go far in supporting the sustainability of a healthy resource base and to ensure that tribal members can continue to exercise their treaty rights without negative health consequences. These are considerations that the MPCA is required to make under new CWA regulations.

Minnesota has an obligation to consider tribal reserved rights in review of its water quality standards.<sup>2</sup> In this regard, the US Environmental Protection Agency (EPA) has finalized a rule meant to ensure that tribal reserved rights are considered during state water quality standards review.<sup>3</sup> We look forward to discussing the implications of this rule with you soon, and exploring how the rule can be implemented to the benefit of ceded territory water quality. The following comments on the draft workplan are limited in scope, do not preclude further assertions by tribes in the future, and are focused on the current draft workplan.

### **Mercury Standard**

The draft workplan places "Mercury in fish tissue – human health" in Group 3. Tribes are concerned that assumptions about fish consumption rates contribute to an inappropriate water quality criterion for mercury that does not sufficiently protect tribal consumers. GLIFWC staff recommend that a revision to the fish consumption rate used by MPCA be further prioritized and moved to Group 2 for technical development. GLIFWC staff look forward to discussions with the MPCA about an appropriate consumption rate but note that EPA has recommended and approved a subsistence fish consumption rate of 142.4 grams per day.

### **PFOS Standard**

The draft water quality standards work plan for 2025-2027 places "PFOS in fish tissue – human health" in Group 2. Staff support the Group 2 classification for PFOS in fish tissue and appreciate the State's efforts to develop a statewide standard based on its monitoring data. Again, appropriate fish consumption rates that recognize tribal consumption must be used in developing a statewide standard.

### **Designation of Manoomin Waters**

Formally adopting a "Class 2: Aquatic life and recreation" designated use for natural manoomin (wild rice) waters is necessary to support tribal use and lifeways. The existing "Class 4: Agriculture and wildlife" designation for manoomin is inconsistent with tribal use and the tribal cultural value of

---

<sup>2</sup> See *Grand Portage Band v. EPA*, No. 22-1783, 2024 WL 1345202, at \*12 (D. Minn. Mar. 29, 2024) (failing to consider such Tribal rights "may be grounds for overturning the agency's approval of water quality standards.").

<sup>3</sup> Water Quality Standards Regulatory Revisions To Protect Tribal Reserved Rights. [89 FR 35717 \(2024\)](#).

manoomin. The correct designation of natural manoomin waters should be a priority for the MPCA in this workplan, as the importance and value of manoomin for tribes cannot be overstated. It may be appropriate to create a separate subclass within Class 2 for manoomin, and we look forward to further discussions about the best path forward. GLIFWC staff recommend that a Class 2 wild rice designated use be considered a top priority for this triennial cycle.

### **Chloride and Sulfate Standards**

The existing workplan recognizes a Group 3 priority of, "Revision to chloride standard and new sulfate standard to protect aquatic life." GLIFWC staff support the comments submitted by the Fond du Lac Band and agree that development of ion criteria should be moved up, at least to a Group 2 priority.

GLIFWC staff look forward to further and more detailed discussions with MPCA as the triennial standards review process moves forward. Thank you for considering these comments. Should you have any questions, please contact me at [jschlender@glifwc.org](mailto:jschlender@glifwc.org), or members of my staff Ann McCammon Soltis ([amsoltis@glifwc.org](mailto:amsoltis@glifwc.org)) or John Coleman ([jcoleman@glifwc.org](mailto:jcoleman@glifwc.org)).

Sincerely,



Jason Schlender  
Manidoo Noodin  
Executive Administrator