

# GREAT LAKES INDIAN FISH & WILDLIFE COMMISSION

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## • 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

### MINNESOTA

Fond du Lac Band  
Mille Lacs Band

Red Cliff Band  
St. Croix Chippewa  
Sokaogon Chippewa

February 5, 2019

Carroll Schaal  
Natural Resources Program Manager  
Wisconsin Department of Natural Resources  
101 S Webster Street, PO Box 7921  
Madison, Wisconsin 53707-7921

Dear Mr. Schaal,

Thank you for the opportunity to review the Aquatic Plant Management (APM) Draft Strategic Analysis. Biological Services and Intergovernmental Affairs staff (hereafter "staff"), of the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) have reviewed the draft and offer the following comments. As you know, GLIFWC is a natural resources management agency exercising delegated authority from its eleven member tribes. These tribes reserved off-reservation hunting, fishing and gathering rights in lands ceded to the United States through various treaties; those rights extend over approximately the northern one-third of Wisconsin. These comments are submitted from an off-reservation perspective and should not be construed as precluding comments by any member tribe pursuant to its sovereign authority.

In general, the document does a good job of presenting the relevant issues as well as potential improvements that could be made to the process. The goal of any proposed restructuring should be to promote and advance the continued health of aquatic resources and habitats. More specific recommendations on this issue can be found below.

As an initial matter, the section summarizing the legal authority for aquatic plant management in Wisconsin should acknowledge the *LCO v. Wisconsin* case stipulations that require consultation with the Voigt Intertribal Task Force where permitted activities have the potential to impact wild rice or certain wild plants. To the extent that this document is meant to inform decision-makers and provide an informational resource, readers should be aware of these requirements and the necessity that they be followed for management activities in the treaty-ceded territory. Such language would complement the language on page 3 that references the stipulation, and on page 30 that describes the tribes in the state and refers to the necessity of considering treaty rights when making APM decisions. GLIFWC's Intergovernmental Affairs staff would be happy to assist in drafting appropriate language.

Page 30 of the Strategic Analysis refers to “a formal review process designed to help evaluate proposed APM actions and potential impacts to treaty reserved rights. . . .” Although GLIFWC and DNR staff do work closely when APM permit applications are submitted, we are unaware of a formal, written process. Developing such a document, that memorializes current aspects of the process that are working well and clarifies other less well-defined aspects of the process, would be very helpful.

With respect to other more specific issues or alternatives presented in the document:

- GLIFWC staff support Collaboration – Alternative 4, (page 59), which would extend the APM permit review time for tribes and GLIFWC in order to improve collaboration. Additional flexibility in timing would greatly ease the burden on both GLIFWC and DNR staff when consultation with the Voigt Intertribal Task Force is required.
- With respect to data management and accessibility, we support work that would increase the electronic data-sharing of management activities, allowing for the ability to track APM permits through the years, permit decisions, and both pre- and post-treatment monitoring reports.
- The Strategic Analysis states that “DMA formulations [of 2,4-D] are not considered toxic to fish or invertebrates at operational application rates.” However, the document acknowledges that preliminary results of studies on native fish embryos and larvae indicates negative impacts. This undermines the original conclusion, perhaps a caveat could be added. In addition, GLIFWC biologists note that there is literature that points to potential impacts to wild rice from 2,4-D.<sup>1</sup> Finally, the section on Endothall fails to mention that the dipotassium salt is toxic to early life stage fish, especially walleye. This should be added.
- GLIFWC staff would support the designation of a "time-window" when all APM permits are required to be submitted to central intake for the upcoming treatment season.
- Those APM permits submitted outside of the "submittal time-window" should be accepted if there is a demonstrated need to assess and address the discovery of a previously undocumented aquatic invasive population.

Thank you for the opportunity to submit these comments, we look forward to our continued work together to enhance native species and habitats in the ceded territory. If you have any questions or would like to discuss these comments further, please don't hesitate to

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<sup>1</sup> Nelson LS, Owens CS, Getsinger KD. 2003. Response of Wild Rice to Selected Aquatic Herbicides. Army Corps of Engineers, Engineer Research and Development. Report ERDC/EL TR-03-014. [www.dtic.mil/get-tr-doc/pdf?AD=ADA417366](http://www.dtic.mil/get-tr-doc/pdf?AD=ADA417366).

Mr. Carroll Schaal  
February 5, 2019  
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contact Ann McCammon Soltis, GLIFWC's Intergovernmental Affairs Director (at [amsoltis@glifwc.org](mailto:amsoltis@glifwc.org)), or Lisa David, GLIFWC's Manoomin Biologist (at [lisa@glifwc.org](mailto:lisa@glifwc.org)) at any time.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Isham, Jr." in a cursive script.

Michael J. Isham, Jr.  
Executive Administrator