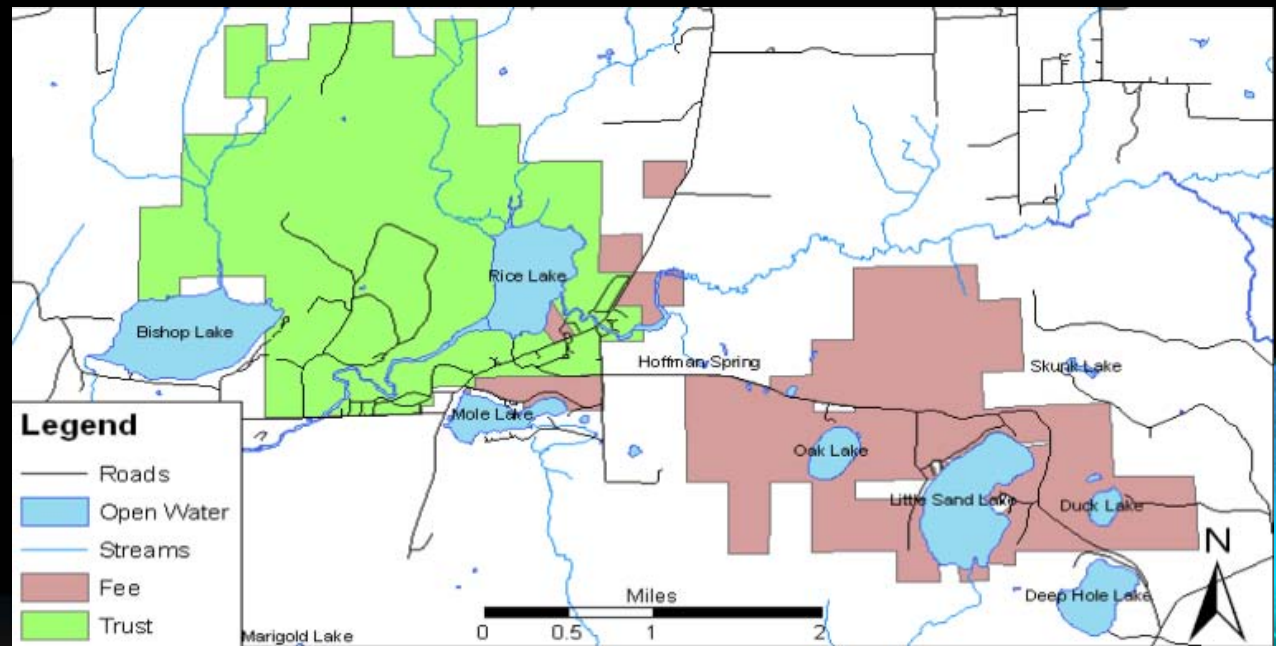


Sokaogon Chippewa Community, Mole Lake Band of the Lake Superior Chippewa Indians



Fight
within
a fight!

WATER QUALITY STANDARDS TIMELINE

Mole Lake

Sokaogon filed an application for state status under Section 303 of the Clean Water Act on August 13, 1994

Environmental Protection Agency

On September 29, 1995 the EPA approved the Treatment As State (TAS) application

In 1996 the EPA approved Mole Lake's Water Quality Standards.

State of Wisconsin

The State filed its challenge to the approval in the District Court on January 25, 1996

District Court

In April 1999, the district court upheld the TAS grant to Sokaogon, finding that EPA's determination was justified.

State of Wisconsin

The State filed an appeal on ?? date with US Court of Appeals for the Seventh Circuit. The US Court of Appeals affirms decision of the District Court in September 2001

State of Wisconsin

The State filed an appeal on ?? with US Supreme Court of the United States. The US Supreme Court denies to hear the case in June, 2002.

6 1/2 year court case

WI had support from Idaho, Alaska, Florida, Kansas, Nevada, North Dakota, South Dakota, Texas, Utah and Wyoming.
Town of Hobart, City of Green Bay, Brown County and Outagamie County, Fidelity Exploration & Production Co.

STATE OF WISCONSIN'S 3 ARGUMENTS:

1-Not "within the borders".

The legal description of the reservation runs only to the Lake's high water mark.

Rice Lake is almost completely surrounded by reservation land (and the small percentage that is not abuts off-reservation trust lands).



2. No Authority because No Title

State has ownership of the underlying beds.

The CWA explicitly gives authority over waters within the borders of the reservation and does not even discuss ownership.

Ownership of the waterbeds did not preclude federally approved regulations of the quality of the water.

3. No Inherent Authority over Off-Reservation Activities

The Band has demonstrated that its water resources are essential to its survival, it was reasonable for the EPA, in line with the purposes of the CWA and the principles of Montana, to allow the tribe to regulate water quality on the reservation, even though that power entails some authority over off-reservation activities.

Wisconsin exaggerates the power of the Tribe to veto upstream discharge activities, it simply gives the Tribe some say regarding those standards and permits.



Water Quality Standards

- Narrative Water Quality Criteria NOT Numeric.
- Protection for cultural and religious significance/spiritual integrity.
- July 2010-More protective of either:
 - 1-SCC Ambient Water Quality Values using the Tribe's baseline data as it is reported to US EPA via 106 grant reporting. i.e. QAPP or
 - 2-US EPA Great Lakes Guidance Numeric Criteria
- Antidegradation policy to maintain ONRW-Outstanding National Resource Waters and Wetland 22-Exceptional High Quality Water.
- Triennial WQS Review Process which includes a Public Hearing.



NATURAL RESOURCES ADMINISTRATIVE PROCEDURE ORDINANCE

- Water Quality Certification Procedures pursuant to Section 401 (a)(1) of the Clean Water Act
- On-reservation ground altering activity requires a Tribal Environmental Permit.

WHY DID WE WANT OUR OWN STANDARDS?

- ❖ Seat at the table, so to speak
- ❖ Anti-degradation
- ❖ On-Reservation permitting
- ❖ Exercise sovereignty
- ❖ Irreplaceable resources (water, land, wild rice, plants, etc.)
- ❖ Reservation can't be relocated (last refuge), Long term survival
- ❖ Trust responsibility-we had to work with federal government to protect our ancestral lands
- ❖ Protect downstream waters, i.e. Wolf River-ONRW
- ❖ AND.....



FUTURE GENERATIONS

We don't inherit the earth from our ancestors. We borrow it from our children!



Questions??

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