



# FISHING TALES



## Engler reports on Indian fishing rights status

*The letter appearing below from Governor John Engler concerning various aspects of Indian treaty fishing rights was originally published in the July 1998 issue of Fred Trost's Outdoor Digest.*

Dear Mr. Trost:

The year 1998 has been active for Indian treaty natural resource issues. I am taking this opportunity to provide an update on 1998 events regarding these issues, which affect all of us in Michigan.

There are eight treaties between the United States and various tribal groups in the State of Michigan, covering the entire land area of this state. These treaties preceded statehood. Federal courts have determined that two treaties involving Michigan tribes reserved the right of signatory tribes to exercise either fishing or hunting rights within treaty areas. These treaties, signed in 1836 and 1842, involve the Upper Peninsula and roughly the northern third of the Lower Peninsula. Seven Michigan

tribes reside in the two treaty areas and are eligible to exercise reserved treaty rights.

### 1842 TREATY: TRIBES MAY NOT TRESPASS ON PRIVATE LANDS

The 1842 Treaty area covers roughly the western half of the Upper Peninsula and a large portion of northern Wisconsin. The 1842 Treaty was the subject of an extensive series of court cases during the 1980's in the federal courts in Wisconsin, which examined the treaty and affirmed reserved hunting and fishing rights. The Wisconsin cases indicate that tribal members hunting or fishing on private property other than Commercial Forest Act enrolled land must be state-licensed and abide by state regulations, and may not trespass on private lands. Michigan has been following the guidelines those cases established.

The Michigan Commercial Forest Act is legislation that provides tax breaks to private landowners willing to defer harvesting timber over a period of years until trees reach maturity.

There are benefits to the landowner and Michigan forest industries in increased commercial value of forest products, and public benefit in that lands enrolled under this process are open to hunting and fishing by the public during the period of enrollment.

In Michigan, there has been ongoing disagreement between the 1842 tribes and the State of Michigan regarding treaty-related hunting and fishing on private property. This issue has now been before state district courts in Michigan on three occasions, the most recent in 1998, and in every case the courts have maintained that the treaty right does not apply on private land.

I am convinced that the Wisconsin and Michigan courts have correctly interpreted this legal issue, protecting both property rights and natural resources in this state, while also recognizing valid rights reserved under the 1842 Treaty.

### 1836 TREATY: GRAND TRAVERSE BAY BAND WANTS TO CHANGE THE 1985 AGREEMENT

Eighteen thirty-six Treaty issues have been before the federal court twice in 1998, and in both instances, the federal court vindicated the state's position.

In the first matter, the Grand Traverse Bay Band of Ottawa and Chippewa Indians (GTB) filed a motion with the court asking for two things:

- Removal of the Michigan United Conservation Clubs (MUCC) and the Grand Traverse Sportfishing Association (GTSFA) as parties to the ongoing treaty fishing case.
- Modification of the 1985 court-ordered agreement regulating the tribal fishery in 1836 Treaty waters to provide GTB fishers access to waters of Lake Michigan closed to GTB commercial fishing under terms of the agreement.

The State of Michigan objected to both of these requests. The court determined that it would not modify the 1985 agreement per GTB's request for expanded fishing territory. The court also indicated that MUCC and GTSFA involvement was of benefit to the court in resolving treaty issues, and refused to remove them from the case.

*Continued on Page Two . . .*



**INDIAN TRIBAL FISHING RIGHTS** are protected and regulated by agreements between the tribes, the state of Michigan, the U.S. government, and various sport fishing organizations, and are enforced by federal court order. When fishing in treaty waters (shaded areas in the above map define treaty waters boundaries), you may encounter tribal nets, etc. Please remember that these are protected by law.

.../Continued from Page One

## INDIANS EXPAND SALMON FISHING AREAS

The court also resolved another long-standing area of dispute between the state and the 1836 Treaty tribes, pertaining to tribal salmon fishing under terms of the 1985 agreement. In the years since 1985, tribal salmon fishing had expanded in geographical territory. Originally taking place in a very limited area of northern Lake Huron, salmon fishing in recent years was pursued by the tribes in a variety of locations in Lake Huron and in Grand Traverse Bay in Lake Michigan. State biologists and law enforcement staff were concerned with biological impacts on salmon stocks and with safety threats to boaters posed by heavy nets floating on or near the water surface of the Great Lakes.

## FEDERAL COURT UPHOLDS TWO-MILE RESTRICTION

The state maintained that the 1985 agreement clearly restricted tribal gill net fishing for salmon to a limited area within a two-mile radius of a designated stream in Mackinac County. The tribes disagreed, and maintained that the 1985 agreement did not restrict commercial salmon harvest with nets outside the designated area. Disagreement over interpretation of this part of the agreement led to several court appearances over the intervening years since 1985, and to adoption of interim regulations imposed by the federal court for the past several years.

In February of this year the federal court interpreted the 1985 agreement to mean that the tribal commercial salmon fishery was limited to the area within the two-mile radius of the stream in northern Lake Huron. Tribal salmon nets will be limited to that area for the remaining years of the 1985 agreement, with the exception of several zones negotiated between the state, the tribes and sport fishing groups in recent years.

This decision is noteworthy in that it maintains the intent and integrity of the 1985 agreement. It also provides for protection of fish populations and the safety of Great Lakes boaters. The negotiated areas will provide a reasonable fishing opportunity for tribal salmon

fishers, in areas clearly identified and understood by other users of the resource, and negotiated by all parties.

## INDIANS VIOLATE RESTRICTIONS IN NORTHERN LAKE HURON

The second federal court engagement in 1998 involved a tribal fishing initiative in the waters of northern Lake Huron.

In late April, the Department of Natural Resources (DNR) became aware of a rumored tribal fishing initiative that would provide for tribal fishing activity in waters closed to tribal commercial fishing under provisions of the 1985 agreement. Tribal sources eventually confirmed that a permit process had been developed that would allow six tribal fishing operations in waters between Hammond Bay and Alpena. These operations would be permitted to fish approximately nine million feet of gill net during the permitted period in 1998 as a "research assessment" project.

## STATE OF MICHIGAN OBJECTS TO TREATY VIOLATIONS

The DNR had many objections to the tribal proposal, including that it was a major violation of terms of the 1985 agreement, and that the project was much more expansive in scope than would be necessary for a valid research assessment project. Additionally, the project as proposed failed to utilize research information already on hand as the result of long-term DNR assessment efforts and was of sufficient scale to potentially impede the return of a self-reproducing lake trout population in northern Lake Huron.

## TRIBES CONTINUE VIOLATIONS

In spite of DNR objections communicated to the tribes regarding this proposal, the tribes initiated fishing activities on May 4. Shortly thereafter, the State of Michigan requested a Temporary Restraining Order (TRO) from the federal court, asking for an immediate halt to the tribal fishing effort. The court granted the request for the TRO, ordering immediate removal of the gill nets from Lake Huron. Additionally, the court ordered biologists from all of the parties to initiate a process reviewing the tribal proposal to determine how valid tribal research concerns could be addressed on a

more reasonable scale. The court will convene again in August to decide if a permanent injunction will be granted in this matter.

## WHY WOULD THE TRIBES INTENTIONALLY VIOLATE THE FISHING AGREEMENT?

It is not clear why the tribes would initiate this fishing initiative at this time, in a fashion and location clearly likely to provoke strong negative reaction. The potential damage to good will among the parties is significant, and only serves to impair our mutual ability to resolve these difficult resource-sharing issues of concern to all Michigan residents, both Indian and non-Indian alike.

## COURTS UPHOLD THE STATE

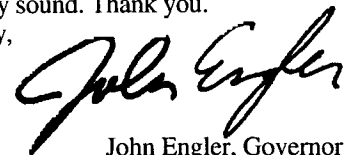
In both of these matters, the court preserved the integrity of the 1985 agreement and acted to protect natural resources in the treaty waters of the Great Lakes. There also seemed to be a clear message from the court that it is time to bring disagreement over terms of the 1985 agreement to a halt and that all parties would benefit from devoting effort to development of some process which would provide a plan for the future beyond the 2000, when the 1985 agreement expires.

## STATE CONTINUES EFFORTS TO NEGOTIATE A SETTLEMENT

I am well-aware of how important natural resources in these treaty areas are to all Michigan residents and to tourists who travel to our state. I am equally aware of the legal validity of the treaties that cover the territory of this state. These treaties present difficult legal and resource management issues.

I believe these recent developments are of sufficient importance that I wanted to clearly communicate them to you. Please be assured that the State of Michigan will continue efforts to protect and manage the natural resources of this state, and will also continue efforts to work with Michigan treaty tribes to share resources reserved by treaty in ways that are both fair and scientifically sound. Thank you.

Sincerely,



John Engler, Governor

The **DEADLINE**

for the

**SEPTEMBER**

issue of

**FISHIN' TALES**

is

**AUGUST 25, 1998**

# Coming Events

## MEMBERSHIP MEETINGS

(Last Tuesday each month at 7:30 p.m. • American Legion Hall, 1815 Rochester Road, Royal Oak)

**AUGUST 25, 1998 • SEPTEMBER 29, 1998 • OCTOBER 27, 1998**

## BOAT TROLLING TOURNAMENT SCHEDULE

DATE	EVENT	PORT CAPTAIN
Aug. 29	MANISTEE	Paul Schoenrade, (810) 773-6477
Sept. 12	HARBOR BEACH (Make-up, if needed)	Stan Bilek, (248) 828-4159

# “Lil Scratch” wins at Presque Isle

A total of 16 captains showed up early on August 1 at beautiful Presque Isle Harbor for our sixth boat trolling tournament of the 1998 season. The tournament started right on time with perfect fishing weather, accompanied, unfortunately, by less-than-perfect water conditions. Surface water temperatures were close to 68° F and stayed at that level down to depths of 75'-90', where you could find a temperature break of about 10°.

However, this didn't prevent Detroit Area Steelheaders from catching fish. By the mid-morning Fish Call, most boats had at least one fish caught, and at noon, all boats were reporting fish in the box.

We wrapped up fishing at the usual time, and headed for our scheduled 3:00 p.m. weigh-in at the Fog Horn Pavilion near the new lighthouse. By the time we reached the pavilion, it was already occupied by another fishing club. But you can't stop the Detroit Area Steelheaders that easily, so we went back down the road to the lighthouse, gathered together some picnic tables, and had a great time at our post-tournament party.

I would like to thank everyone who helped out at the picnic, and I'd especially like to thank Paul Colone for helping me with the cooking at the grills. See you all at Ludington!

— Mark Stosiak

## PRESQUE ISLE TOURNAMENT RESULTS (August 1, 1998)

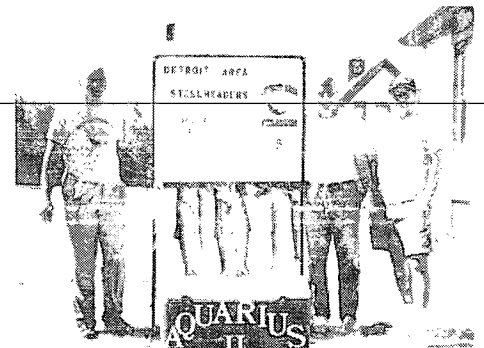
BOAT/SKIPPER	PTS.
1) LIL' SCRATCH (Dick Shirk) .....	87.01
2) MARY K (Ken Kuhar) .....	76.03
3) LUCKY FALCON (R. Golaszewski) .	68.13
4) HARMONY (Tim Graskewicz) .....	68.10
5) AQUARIUS II (Chris Nytko) .....	66.06
6) MICKEY MOUSE CLUB (B. Buero) ...	62.11
7) RETURNER (Darwin Gregg) .....	56.01
8) MY DREAM (Jimmy Hardrick) .....	50.08
9) EAGLE III (Paul Schoenrade) .....	46.10
10) LADY'S CHOICE (Denis Harper) .....	28.02



1st Place: “LIL SCRATCH” with Dick, Don, Jeff and Brett Shirk.



2nd Place: “MARY K” with Ken and Adele Kuhar, Mike Perusich, and Scott Obazaner.



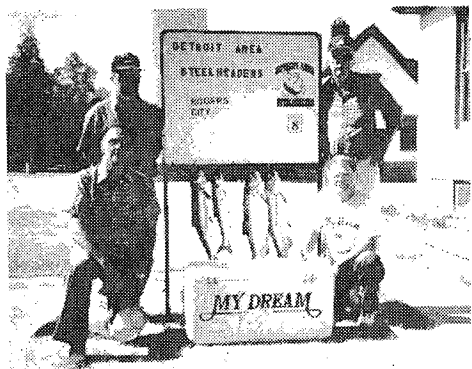
5th Place: “AQUARIUS II” with Chris Nytko, Steve Domino, and Warren Wright.



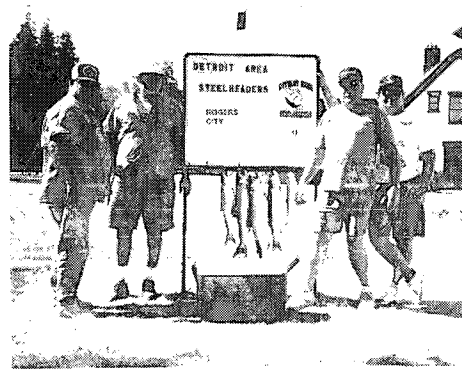
6th Place: “MICKEY MOUSE CLUB” with Bob, Juanita, and Nicholas Buero.



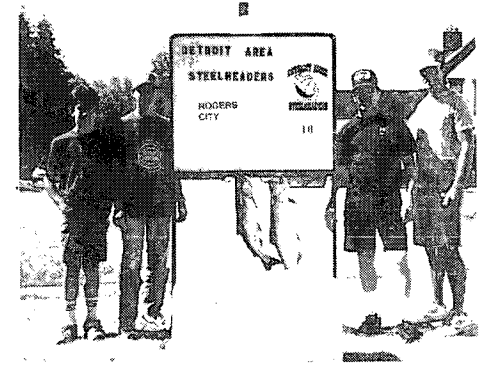
7th Place: “RETURNER” with Darwin and Wade Gregg, and Larry Foster.



8th Place: “MY DREAM” with Jimmy Hardrick, John Hanwa, Ed Horen, and Jim Marshall.



9th Place: “EAGLE III” with Paul Schoenrade, Charles Shelley, Ed Morris, and James Bell.



10th Place: “LADY'S CHOICE” with Denis Harper and Bill Webster, Billy Webster, and Shane Webster.

# Manistee tourney wraps up 1998 trolling season

Manistee is one of my personal favorite ports on the west side of the state. Fishing from this port has much to offer in the way of fish—Steelhead, Brown Trout, Chinook Salmon,

Lake Trout, and Coho Salmon.

With *El Niño* affecting the weather, water conditions may be strange. You really may need a temperature probe to try to find fish.

The waters off Manistee usually will provide some very nice Steelhead action. If you are able to locate a school, you're in for a real treat. Steelhead are normally found within the top 20 feet of water. If you do find them, the use of full-size planer boards will put the maximum number of lines in the water to help you catch the most fish. Steelhead are the true acrobats of the Great Lakes. I guarantee you'll have some fun!

Big King Salmon should be abundant in late August at Manistee. Try some J-Plugs off your downriggers. Stagger the difference every five feet. Keep your leads short—the J-Plugs really dart around.

The third clay bank may produce some nice Coho Salmon. Try your stingers here—green tips work well. From there to Gurney Creek, look from some Brown Trout action.

Fish Calls during the tournament will take place at 9:00 a.m. and 12:00 noon on Channel 72. Please keep an eye on your watches at those times to answer your call. If you can't hear them, try to have someone relay for you.

The weigh-in will start at 3:00 p.m. at the K. of C. Pavilion near the middle pier head down by the launch ramps. You must be in line by 4:00 p.m. Immediately after the weigh-in, there will be the traditional cookout with something a little different—A FISH FRY (!) from the crew of Eagle III. Hope to "catch" you in Manistee.

— Paul Schoenrade, Port Captain "Eagle III"

## GUN RAFFLE DRAWING SET FOR AUGUST MEETING

The Detroit Area Steelheaders will draw the winning ticket in this summer's raffle at the August membership meeting. The prize is the lucky winner's choice of a new Remington rifle, shotgun or muzzle loader.

The rifle, a Model 700ADL with walnut stock and hard case, is available in several different calibers, the shotgun is a Model 870 Express combo with rifled barrel and hard case, and the muzzle loader is a Model 700 with a black fiber stock and a 4X Bushnell scope. The raffle prize even includes a couple of boxes of ammo!

The winner will go to Wessel's Gun Service, Inc. in Warren to select the gun of his choice. Wessel's, located at 4000 E. Nine Mile Rd., offers a fine selection of guns and shooting supplies.

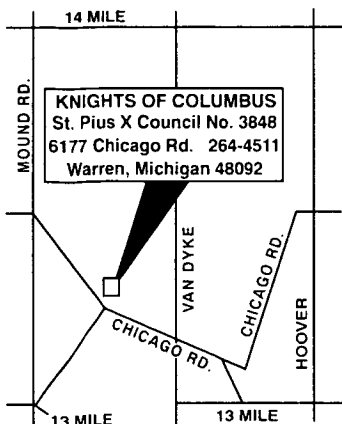
Tickets for the raffle (at \$5 each) are still available from Directors, and you still have time to get your tickets. Good luck to all!

## WANT ADS

**FOR SALE** - 1997 Four Winns 22-foot cuddy cabin, V-8 engine, used only twice, \$28,000 or take over monthly payments of \$290.00.

Call: (734) 728-8644

Here's how to get to  
**DETROIT AREA  
STEELHEADER  
Monthly Membership  
Meetings**



# 1998 "Skipper of the Year"

(Standings as of 8-9-98)

Place & Skipper	Boat	A	B	C	D	E	F	G	H	Tot.
1) CHRIS NYTKO	"Aquarius II"	9	4	1	3	4	5			17
2) ROB GOLASZEWSKI	"Lucky Falcon"	8	5	75	5	8	3			29
3) DICK SHIRK	"Lil Scratch"	2	25	12	16	2	1			33
4) KEN KUCHAR	"Mary K"	1	22	11	7	12	2			33
5) HOWARD YORK	"Golden Oldie"	12	50	5	13	3	12			45
6) MARK STOSIAK	"Tomorrow's Dream"	14	7	4	50	5	15			45
7) PAUL SCHOENRADE	"Eagle III"	18	24	9	15	1	9			52
8) PAUL COLONE	"The Kidd"	13	8	13	75	9	13			56
9) STAN BILEK	"Blue Star"	5	18	15	19	10	75			67
10) RON HARTMAN	"Molly Frair"	15	19	8	21	11	75			74
11) DON REDMOND	"Trena Dawn"	4	3	2	1	75	75			85
12) TY VOIGHT	"Tyger"	50	50	6	13	7	16			92
13) ED MORRIS	"Jack In The Box"	19	12	7	8	75	75			121
14) DAVE ROEHR	"Floating Holiday"	16	14	10	18	75	75			133
15) ROBERT BUERO	"Mickey Mouse Club"	50	15	75	2	75	6			148
16) DOUG KARAKAS	"Capt'n Hook II"	50	75	16	10	13	75			164
17) GARY RUPRICH	"Rupe"	50	50	75	20	14	75			209
18) MARK BRADLEY	"Marken Fish"	75	75	50	17	6	75			233
19) ROB PINSKEY	"Anticipation"	75	2	75	6	75	75			238
20) RON HUEY	"Half R's"	3	10	75	75	75	75			238

A = Lexington      B = River Crab      C = Grand Haven      D = Port Austin  
F = Presque Isle      G = Ludington      H = Manistee

**Detroit Area Steelheaders, Inc.**  
P.O. Box 1255  
Sterling Heights, MI 48311-1255

Address Correction Requested



MEETING NOTICE — PLEASE DO NOT DELAY!

