

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

RED CLIFF BAND OF LAKE SUPERIOR CHIPPEWA INDIANS OF WISCONSIN, a federally recognized Indian tribe, on its own behalf and as *parens patriae* for its members,

BAD RIVER BAND OF THE LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS OF THE BAD RIVER RESERVATION, a federally recognized Indian tribe, on its own behalf and as *parens patriae* for its members,

LAC COURTE OREILLES BAND OF LAKE SUPERIOR CHIPPEWA INDIANS OF WISCONSIN, a federally recognized Indian tribe, on its own behalf and as *parens patriae* for its members,

LAC DU FLAMBEAU BAND OF LAKE SUPERIOR CHIPPEWA INDIANS OF THE LAC DU FLAMBEAU RESERVATION OF WISCONSIN, a federally recognized Indian tribe, on its own behalf and as *parens patriae* for its members,

ST. CROIX CHIPPEWA INDIANS OF WISCONSIN, a federally recognized Indian tribe, on its own behalf and as *parens patriae* for its members, and

SOKAOGON CHIPPEWA COMMUNITY, a federally recognized Indian tribe, on its own behalf and as *parens patriae* for its members,

Plaintiffs,

-v.-

PRESTON D. COLE, in his official capacity as the Secretary of the Wisconsin Department of Natural Resources,

DR. FREDERICK PREHN, in his official capacity as a person who claims to be, and is acting as, both the Chair and a member of the Wisconsin Natural Resources Board,

GREGORY KAZMIERSKI, in his official capacity as

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the Vice Chair and a member of the Wisconsin Natural Resources Board,

BILL SMITH, in his official capacity as the Secretary and a member of the Wisconsin Natural Resources Board,

SHARON ADAMS, in her official capacity as a member of the Wisconsin Natural Resources Board,

WILLIAM BRUINS, in his official capacity as a member of the Wisconsin Natural Resources Board,

TERRY HILGENBERG, in his official capacity as a member of the Wisconsin Natural Resources Board,

MARCY WEST, in her official capacity as a member of the Wisconsin Natural Resources Board,

Defendants.

**DECLARATION OF MARVIN DEFOE IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

I, Marvin DeFoe, declare as follows:

1. My name is Marvin DeFoe. I currently serve as the Tribal Historic Preservation Officer for the Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin and have held this position since 2017. As Tribal Historic Preservation Officer, my responsibilities include oversight of the National Historic Preservation Act, American Indian Religious Freedom Act, Religious Freedom Restoration Act, Native American Graves Protection and Repatriation Act, and preservation of sacred sites on behalf of the Red Cliff Ojibwe.

2. I currently serve as the vice-chair of the Voigt Inter-Tribal Task Force Committee of the Great Lakes Indian Fish and Wildlife Commission (GLIFWC). The Voigt Inter-Tribal Task Force Committee recommends policy regarding inland harvest seasons and resource

management issues that affect the treaty rights of the GLIFWC member tribes in the territories ceded under the 1837 and 1842 Treaties with the United States.

3. I formerly served as the Vice Chairman of the Red Cliff Band for 3 years, and also served as a tribal council member for 8 years. The Red Cliff Band operates largely upon grants and contracts with federal and other government agencies. Tribal discretionary revenue is extremely limited, with many competing priorities for any discretionary funds.

4. I am a tribal elder of the Red Cliff Band and am a birch bark canoe builder. I currently live on the Red Cliff Reservation and have lived in my present home for 20 years.

5. The Red Cliff Band adopted the Ma'iingan Gananaagitaawiminonaanig, or Wolf Protection Plan, in 2015. A copy of the Plan is attached to this declaration. The Red Cliff Band has formally recognized the wolf, or ma'iingan, as a tribally important species and a protected species within the boundaries of the reservation. The Red Cliff Band prohibits hunting and trapping of ma'iingan within the reservation boundary, and has declared the Red Cliff Reservation to be a wolf sanctuary. The small size of the reservation, which has a long and thin shape at the tip of the Bayfield Peninsula, means that the wolf packs that do come onto the reservation do not spend more than 50% of their time there. The ma'iingan in our area have a range of approximately 70 square miles, and we know this because of data from collaring and tracking with GPS and game cameras. Because the Red Cliff wolf packs enter and leave the reservation, we will not be able to prevent ma'iingan in the reservation packs being killed.

6. In developing the Wolf Protection Plan, one of the things we did was to survey our tribal members to better understand the community's views on ma'iingan to inform our management decisions and recommendations. We discovered that tribal members' opinions varied on wolf management. Not all tribal members oppose a public wolf hunt or depredation

control. Some members said that while they have great respect for wolves and their cultural status, they also believe that the Anishinaabe historically took wolves when needed. In general, the results of the survey showed that Red Cliff tribal members were likely to oppose public wolf hunting at the time of the survey. Members also largely, though not entirely, expressed a preference for non-lethal methods, like relocation, to address problem or depredating wolves over lethal methods.

7. Under the 1837 and 1842 Treaties, the Anishinaabe have a right to half of the harvestable species in the lands that were ceded. This means we have to work together with the state to manage those resources, protect those resources, and manage the harvest of those resources by our citizens. This is the role of GLIFWC and the Voigt Inter-Tribal Task Force Committee.

8. Overall, we are asking for respect. Clear across the board, the state is not respecting the tribes. The DNR Board is not respecting the tribes. As Vice Chair of the Voigt Task Force, I told the state several months ago that it appears that Hunter Nation from Kansas has more authority than we do. They went to court and got the court order to do the wolf hunt. The state's response was that they had to follow the court order. The Ojibwe already have a court order – the Voigt Decision. Why did the state not honor that court order that requires it to consult with the tribes? The state decided to go with that other court order. And all I got was silence.

9. The disrespect from the state is clear across the board – with the walleye, for example, it has been the same story. The people from the state say the state must follow science, but the science says they are going over the quota. They look at the science and then do what they want anyway.

10. There already has been harm to the Anishinaabe from the wolf hunt back in February. There was a quota allocation of wolves to the tribes – but the state hunters took all of the allocation.

11. In our legends, our stories from the beginning of time, we have always said that ma'iingan walked alongside the Anishinaabe, since the earth was made. In that story, we were separated. The Anishinaabe, the ma'iingan, each went on his own path. But it is said they will forever be linked—that what happens to the ma'iingan happens to the Anishinaabe. So when the ma'iingan gets hunted down, Anishinaabe are getting hunted down, too. When the pregnant female ma'iingan is getting killed, it is no different than the murdered Indigenous women. Ma'iingan is telling us something. To listen.

12. Ma'iingan lives in a family group, where there are many adults that parent the young. Ma'iingan survives by hunting the deer, the rabbits, the same species as the Anishinaabe. Where there is the ma'iingan, the Anishinaabe know that there will be good hunting.

13. In the spiritual laws we follow as Anishinaabe, the ma'iingan is our brother. It is like the brother in our families. The ma'iingan is no different. It is part of our clans, our families, an extension of our families. So when the ma'iingan is being hunted and killed, you are killing our brother. It is no different. When a ma'iingan is killed it is like you are murdering one of our family members, one of our kids.

14. Part of the harm that was done in Wisconsin's February hunt is that they went against universal law. Universal law is embedded into our way of life. Universal law tells us that you don't go out and shoot animals that are pregnant. Deer, for example. Certain times of

year, we don't hunt deer because they are carrying fawns. When the firefly comes out, it tells us it is time to hunt the deer.

15. In the February hunt, they shot and killed pregnant wolves. The harm was that they killed those pups that would have grown up this year. Murdered and Indigenous ma'iingan.

16. Universal law is something that we as Anishinaabe follow that is being violated. That ma'iingan is telling us something. Even though the state went and had a wolf hunt, there is a reason why we are where we are today. What that ma'iingan is telling us is to put into practice the art of listening.

17. What I am saying is that what happens to ma'iingan happens to Anishinaabe. What happens to the wolf happens to humanity. That is universal law. The ecosystem is all connected. That is the message the ma'iingan is giving to humanity. Look at what we are facing today – the fish are dying, the trees are dying, the climate is changing, the water is drying up. Look at what is going on with the earth--what is taking place. I believe ma'iingan is saying – pay attention. That's what the spirits are saying.

18. There is a word we say, "gaawiin anishaa." Things don't happen for nothing. There is a purpose as to why things happen. There is a reason the ma'iingan are sacrificing their lives to give that message. What happens to ma'iingan happens to humanity.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on September 30, 2021, at the Red Cliff Reservation, Wisconsin.

  
Marvin DeFoe