

COOPERATIVE AGREEMENT FOR EVALUATING HARVEST OF WHITEFISH AND NON-TARGET SPECIES IN LARGE MESH GILL NETS

This entire document is draft and open to changes. Some of the sections that particularly need additional discussion are highlighted in yellow.

THIS COOPERATIVE AGREEMENT IS MADE BY AND BETWEEN THE STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES (THE DEPARTMENT), UNIVERSITY OF WISCONSIN SEA GRANT (SEA GRANT), GLENN SEGER AND GARY SEGER FOR THE PURPOSE OF ASSESSING THE IMPACTS OF LARGE MESH GILLS NETS FOR WHITEFISH ON LAKE TROUT, CHINOOK SALMON AND OTHER NON-TARGET SPECIES. SEA GRANT, GARY SEGER AND GLENN SEGER ARE REFERRED TO HERE AS THE COOPERATORS.

THE DEPARTMENT AND THE COOPERATORS AGREE AS FOLLOWS:

1. **TERM.** This agreement shall commence on December 1, 2017 or the date all parties have signed this agreement, whichever is later, and shall terminate at 11:59 p.m., December 31, 2018 unless previously terminated by the Department or one of the Cooperators as described below.
2. **DISCLAIMER.** The study (attached) was designed by the Department and Cooperators. Participation in this agreement by the Department reflects its desire to accommodate scientific studies sponsored by qualified investigators, but does not necessarily reflect endorsement of the study design or acceptance of conclusions reached by the Cooperators.
3. **COOPERATION.** The Cooperators agree to:
 - a. Provide the boat, net, and crew needed to conduct large mesh gill netting. The boat shall be the M&R, owned by Great Lakes Fish Co. Inc. and operated under commercial fishing licenses of Gary or Glenn Seger.
 - b. Conduct all large mesh gill netting in accordance with the study design, a copy of which is attached to and made a part of this agreement.
 - c. Conduct large mesh gill netting only during the open season for whitefish on Lake Michigan as specified in Administrative Code NR 25.05(1)(c).
 - d. Conduct large mesh gill netting only in locations, at times of day, at depths, and with gear authorized in Administrative Code NR 25.09(2), Administrative Code NR 25.09(3), **Administrative Code NR 25.09(5)** and Administrative Code NR 25.10.
 - e. Notify by email the Department's Milwaukee fisheries supervisor (Cheryl.Masterson@wisconsin.gov) or designated phone number at least 12 hours in advance of every day of operation under this Cooperative Agreement.
 - f. Provide quarterly written reports of study activities to the Department's Milwaukee fisheries supervisor. For each gill net lift the report shall include:
 - Date of large mesh gill net lift
 - Effort (length by mesh)
 - Mesh size
 - Mesh height
 - Depth (inside and outside buoys)

- GPS Location (inside and outside buoys)
- Catch by mesh and height (weight of legal whitefish and other quota or rough fish species, numbers of by-catch (including sub-legal whitefish))
- Greater than 90% of by-catch classified by length class

Need to assess Round Whitefish quota and quota transfer issue

Catch information should be reported for each gill net lift and totaled for entire month.

- g. Allow a Department biologist on board any boats used during the course of this study upon request of the Department.
 - h. Carry a fully signed copy of this agreement on board any boats used during the course of this study whenever the cooperators are operating under the authority of this agreement, and provide the signed copy of the agreement to any Department agent upon request.
 - i. Ensure that crew members assist and cooperate with Department biologists in the implementation of this agreement.
 - j. Have a biologist employed by Sea Grant, as part of fisheries outreach activities, and approved in writing by the Department to oversee the study that could include on board monitoring, video monitoring review, data collection review, data analysis, and report writing. This effort will be approximately 10 hours per month by the Sea Grant biologist.
 - k. No more than 78,580 pounds of legal (17 inches or longer) whitefish may be retained by Glenn Seger during the calendar year (quota year).
 - l. No more than 64,769 pounds of legal (17 inches or longer) whitefish may be retained by Gary Seger during the calendar year (quota year).
 - m. A percentage of the combined quotas of Gary and Glen Seger shall be reserved for completing Department gill net set locations provided that the limit is reached prior to the end of the term of the agreement using the following framework
 - 1) If 129,000 (90% of quota) pounds are harvested by April 30, remaining 10% reserved for experimental nets
 - 2) If 131,900 (92% of quota) pounds are harvested by May 31, remaining 8% reserved for experimental nets
 - 3) If 134,500 (94% of quota) pounds are harvested by June 30, remaining 6% reserved for experimental nets
 - 4) If 137,600 (96% of quota) pounds are harvested by July 31, remaining 4% reserved for experimental nets
 - 5) If 140,500 (98% of quota) pounds are harvested by Aug. 31, remaining 2% reserved for experimental nets
 - n. If the by-catch of any non-quota or non-rough fish contract species exceeds 20 per 1,000 feet by species by gang, the Cooperators agree to notify by phone the Department's Milwaukee fisheries supervisor, Cheryl Masterson at 414-382-7923 within 10 hours of the event.
4. **ONBOARD VIDEO MONITORING.** The Cooperators may use a video monitoring system in combination with data collection by commercial fishing crew in addition to on board monitoring under the following conditions:
- a. Access to the video surveillance operating system and hard drive is allowed only to a Sea Grant biologist and the Department.
 - b. Ownership of the video footage is given to the Department at the time of creation. A copy of the video shall be provided to the Cooperators within sixty (60) days of the end of each quarter.
 - c. The video surveillance system shall be recording upon engine start up and shall remain recording at all times on the water until returning to the docks and shutting down the engine at the docks.
 - d. The video surveillance system shall have an alarm warning to audibly indicate that the system is not working properly.

- e. If the video surveillance system is not working large mesh gill netting lifting shall be completed for the day or the following day if nets have already been set and immediately cease until the Department's Milwaukee fisheries supervisor (414-382-7923) has been notified the video surveillance system is inoperable. This contact shall be no later than 2 hours of returning to the dock. An agreement between the Department and Cooperators will be reached if the system is out for a long period of time
- f. If video surveillance system is tampered with or video records are missing, this large mesh gill net study shall immediately cease until the video surveillance system is functioning properly, at which time the study will commence.
- g. On board monitoring at the same time as the video surveillance monitoring will occur at least once per week during this agreement.
- h. Notwithstanding the use of video surveillance, for each gill net lift, crew shall record the following information:
 - Date of large mesh gill net lift
 - Effort (length by mesh)
 - Mesh size
 - Mesh height
 - Depth (inside and outside buoys)
 - GPS Location (inside and outside buoys)
 - Catch by mesh and height (weight of legal whitefish and other quota or rough fish species, numbers of by-catch (including sub-legal whitefish)
 - Greater than 90% of by-catch classified by length class
- i. A Sea Grant biologist shall examine video to ensure crew fish reporting accuracy for at least two days each month.
- j. If at any time the Department is not satisfied with the video surveillance monitoring the Cooperators shall have the option of continuing the study using only onboard monitoring (provided there is sufficient funds), discontinuing the study or accepting additional conditions developed by the Department.
- k. Two video cameras shall be used. One camera shall be located on the ceiling of the M&R facing the area that fish are emptied from the net onto the picking table. The second camera shall be located in an adjacent area agreed to by the Department and Cooperators.

5. RECORDING OF CATCH. Information from this study shall be entered into the Electronic Fish Harvest Reporting System (EFHRS) by the Cooperators in accordance with Administrative Code NR 25.13(2) except as noted below.

- a. Trip information including the date, licensee's name, commercial fishing license number or fleet reporting number, boat name, grid of fishing, the estimated pounds of each fish species caught by mesh, mesh size, and any other information requested on the electronic fish reporting system for each fishing trip. Estimated weight must be entered before midnight on the day of the gill net lift.
- b. Actual weight must be entered within 48 hours of the gill net lift.
- c. By-catch information shall be reported in numbers for each species and gill net lift

6. DISPOSITION OF CATCH. Glenn Seger may retain and use or sell only lake whitefish that are 17 or more inches in length and only in amounts authorized by catch quotas assigned to license Fleet 6. Gary Seger may retain or sell only lake whitefish that are 17 or more inches in length and only in amounts authorized by catch quotas assigned to license number 69. The Department may retain any fish of any species for analysis. All lake whitefish less than 17 inches in length and all non-target fish species captured must be returned to the water with the exception of fish retained by the Department and fish covered under other quotas or rough fish contracts.

7. STUDY PARTICIPATION. No person, including the Cooperators as defined in Paragraph 8 of this agreement, may participate in or assist with this study and the implementation of this agreement if he or she has been adjudged guilty of two violations in the last three years of any conservation laws found in Chapters 23 or 29, Wisconsin Statutes, or Administrative Rules adopted under these chapters, or who has had an agreement with the Department terminated in the past.

8. **PRINCIPAL CONTACTS.** For purpose of undertaking this agreement and coordinating among the parties, the following shall serve as the points of contact for their respective party:

Glenn Seger, Self
2926 Lisa Ave
Sheboygan WI 53083-2021
920-627-6866

Titus Seilheimer, Sea Grant
UW Manitowoc
705 Viebahn St. Room F103
Manitowoc, WI 54220
(920)683-4697
tseilheimer@aqu.wisc.edu

Cheryl Masterson, Wisconsin Department of Natural Resources
600 E Greenfield Avenue
Milwaukee, WI 53204
Cheryl.Masterson@wisconsin.gov
414-382-7923

9. **DEFINITIONS.** In this agreement, the terms “Department” and “Cooperators” include their respective officers, employees, agents, crew members, directors, subcontractors, assignees, partners, representatives, successors, heirs, members and servants.
10. **APPLICABLE LAW.** This agreement shall be governed by the laws of the State of Wisconsin. The Cooperators shall at all times comply with all federal, state, and local laws, ordinances and regulations in effect during the period of this agreement, except as may be otherwise expressly provided by this agreement.
11. **ASSIGNMENT.** Neither this agreement nor any right or duty under this agreement may be assigned, delegated, or subcontracted in whole or in part by the Cooperators without the written consent of the Department.
12. **ENTIRE AGREEMENT; AMENDMENTS.** This agreement, together with the specifications in the referenced parts and attachments, shall constitute the entire agreement and previous communications or agreements pertaining to the subject matter of this agreement are hereby superseded. Any revisions, including time extensions, may be made only by a written amendment to this agreement, signed by both parties prior to the ending date of this agreement.
13. **INDEMNIFICATION.** Gary Seger and Glenn Seger agree to save, keep harmless, defend, and indemnify the State, the Department, and all their officers, employees, and agents, against any and all liability, claims, and costs of whatever kind and nature, for injury to or death of any person or persons, and for loss or damage to any property (state or other) occurring in connection with or in any way incident to or arising out of this agreement. This section does not apply to liability, claims, and costs to the extent that they result from the willful misconduct, or negligent act, error or omission of the State, the Department, Sea Grant or their officers, employees or agents. In the event of willful misconduct or a negligent act, error or omission of the State, the Department, Sea Grant or their officers, employees or agents, Sea Grant and the Department agree that, as related to this Cooperative Agreement, any loss or expense (including costs and attorney fees) by reason of liability imposed by law, will be charged to the agency responsible for the officer, employee or agent whose activity caused the loss or expense.
14. **INDEPENDENT CONTRACTORS.** The Cooperators are Independent Contractors for all purposes and not employees or agents of the Department.
15. **INSURANCE.** The Cooperators shall maintain, during the term of this agreement, worker's compensation insurance as required by Wisconsin Statutes for all employees engaged in the work.
16. **NONDISCRIMINATION.** In connection with the performance of work under this agreement, the cooperators agree not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex,

physical condition, developmental disability as defined in section 51.01 (5), Wis. Stats., sexual orientation, or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the cooperators further agree to take affirmative action to ensure equal employment opportunities. The cooperators agree to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the Department setting forth the provisions of this nondiscrimination clause.

17. **SUCCESSORS AND ASSIGNS.** The Department and the Cooperators each bind themselves, their partners, successors, assigns, and legal representatives to the other party to this agreement and to the partners, successors, assigns, and legal representatives of the other party with respect to all covenants of this agreement.

18. **STUDY INFORMATION AND RESULTS.** The Cooperators shall analyze all study data and complete quarterly and final reports summarizing all study data. Specifically, this report shall include data analysis regarding target and non-target catches summarized by month, season, depth strata, and other relevant variables. The Cooperators shall freely share and exchange any information collected during the course of this study, any reports or findings made after the conclusion of the study, and all raw data collected during this study with the Department. The Department retains the right to use such information and findings during and after the study, but shall give due credit to the Cooperators if referring to any findings in publications or news media releases.

- a. Sampling period – December – February, report due April 1
- b. Sampling period – March – May, report due July 1
- c. Sampling period – June – August, report due October 1
- d. Sampling period – September – October, report due December 1
- e. Final report due March 1

19. **MODIFICATION & TERMINATION OF AGREEMENT.** This agreement may be terminated by any of the parties at any time. Reasons for termination include but are not limited to violation of terms of this Agreement, inaccuracies in video monitoring, and excess mortality of lake trout or other species, as determined by the Department. This agreement may also be modified in writing upon the written agreement of all parties.

20. STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

Dan Meyer, Secretary

Date

COOPERATORS:

Glenn Seger, license _____

Date

Gary Seger, license _____

Date

Robert Gratzl, Managing Officer
Research & Sponsored Programs

Date