



*Pride of the Ojibwe*

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February 16, 2026

Re: Comments in Opposition to SB 456/AB 619 (aviation biofuel)

To whom it may concern:

The Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin ("LCO" or "Tribe") appreciates the opportunity to express its concerns regarding SB 456 and AB 619 – legislation creating a tax credit for aviation biofuel manufacturing, authorizing the state to contract public debt for an aviation biofuel project grant, and making an appropriation.

We preface our comments with the fact that LCO appreciates when efforts are made to utilize clean and renewable energy. However, we are also cognizant that at times there are tradeoffs when pursuing the use of certain forms of renewable or clean energy, to which a deeper understanding is required. Tribes have long held an entirely different relationship with land than our western counterparts. Whereas the western colonial view of land is shrouded in "ownership" - the tribal view is one entrenched in "stewardship". Since time immemorial, Tribes have been the stewards of these lands with a focus on protection, rejuvenation, and taking no more than is needed.

LCO is a federally recognized tribe that has retained off-reservation hunting, fishing and gathering rights in territories ceded to the United States in the Treaty of 1837 (7 Stat. 536) and the Treaty of 1842 (7 Stat. 591). The Treaties of 1837 and 1842 are binding federal law under the Supremacy Clause of the United States Constitution and predate and transcend present-day state boundaries. The Tribe's lifeway, as recognized and protected in the *Voigt* cases, a.k.a. the *LCO decision*, depends upon clean and healthy natural resources for religious, medicinal, cultural, subsistence and economic purposes.

SB 456 and AB 619 would subsidize the creation of an aviation biofuel manufacturing zone in the state, which the bill sponsors say would likely be in Hayward, Wisconsin. However, based upon Treaty rights that are supreme to the law of this state - state action may not authorize or subsidize activities that substantially interfere with the Tribe's exercise of its treaty-reserved rights.

The merchantable pulp and currently non-merchantable logging slash expected to be targeted for aviation biofuel conversion are likely to come from public land in the territory ceded to the United States in the Treaties of 1837 and 1842. This is the very logging slash that would otherwise remain on the forest floor provides critical nutrients, soil stability, and habitat for the natural resources that sustain the Tribe's lifeways, and its removal on an industrial scale may degrade the ecological foundation of those rights. Furthermore, the construction and operation of an aviation fuel manufacturing plant pose unquantified health risks to the surrounding communities that have not been disclosed or studied for their impact on treaty resources and the health of Tribal members.

An additional concern of the Tribe is that the proposed legislation would provide a \$150 million grant to the project from the Wisconsin Department of Natural Resources' forestry account. This use of conservation funds risks diverting resources from and impairing the DNR's ability to fulfill its affirmative trust responsibility to protect treaty-recognized usufructuary rights.

Lac Courte Oreilles affirms that its rights under the Treaties of 1837 and 1842 remain binding federal law and must be fully honored in any state action affecting the ceded territory. As such, the Tribe calls upon the Wisconsin Legislature to ensure that no funds, grants, tax incentives, or other state-backed support authorized under SB 456 or AB 619 be used for any project that would impair or substantially interfere with treaty-reserved resources.

The Tribe calls for meaningful government-to-government consultation and a thorough evaluation of cumulative impacts to treaty-protected waters, fisheries, forests, and wildlife before any public funds are committed. The Tribe stands ready to work collaboratively to ensure that economic development proceeds in a manner consistent with treaty obligations and the protection of resources for present and future generations.

While we understand that this legislation is focused on the tax credit piece, the concern is that the credit will drive practices that will have harmful impacts on the Tribe's ceded territory. As such, more input from the Tribe is requested at this time. Should you have any questions please reach out to our Assistant Attorney General to set up a time to discuss further with leadership ([nicole.homer@lco-nsn.gov](mailto:nicole.homer@lco-nsn.gov) and 715-699-5311).

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Lac Courte Oreilles Band of Lake  
Superior Chippewa Indians of Wisconsin  
Tribal Governing Board