

## CONTINUATION OF APPLICATION OF SEARCH WARRANT INTRODUCTION

1. I, James P. Fuller, am a Special Agent (SA) with the United States Fish and Wildlife Service (USFWS), Office of Law Enforcement (OLE). I am currently assigned to the OLE office in Bay City, Michigan. I have been employed by USFWS in a law enforcement capacity for more than twenty-two (22) years. I am an investigative law enforcement officer of the United States within the meaning of 16 U.S.C. § 3375, and a Federal Law Enforcement Officer within the meaning of Fed. R. Crim. P. 41(a). I am a graduate of the Federal Law Enforcement Training Center having completed the Criminal Investigators School and twenty weeks of USFWS Special Agent training. I have attended numerous other law enforcement-related training programs. I received a Bachelor of Science Degree in Resource Management from the University of Wisconsin, Stevens Point. I have participated in over 250 investigations involving the unlawful taking, possessing, transporting, purchase and/or sale of wildlife. Furthermore, I have applied for, planned, initiated or otherwise been involved in, at least twenty-five investigations that involved the execution of search warrants on the residences or businesses of persons suspected of illegally taking, possessing and trafficking wildlife.
2. This application establishes probable cause to believe that:
  - a. **Christopher James Peterson, Gilmore Francis Peterson, Patricia Ann Peterson, Tammie M. Peterson** and their business, **Peterson's Fish Market**: (a) knowingly made or submitted a false record, account, or label for, or any false identification of, fish which had been, or were intended to be transported in interstate commerce, in violation of 16 U.S.C. §§ 3372(d)(2) and 3373; and (b) knowingly purchased and possessed fish worth more than \$350 in Wisconsin in violation of Wisconsin law, knowingly transported the fish to Michigan, and then sold and attempted to sell the fish in interstate commerce, in violation of 16 U.S.C. § 3372(a)(2)(A) and (a)(4).
  - b. Evidence of these offenses will be located: (a) at **Peterson's Fish Market**, which is located in Hancock, Michigan, in the Western District of Michigan, Northern Division; and (b) onboard two fishing vessels, the F/V Three Suns and the F/V Charleen.
3. This investigation focuses on the illegal trafficking of fish resources from the Great Lakes. Lake trout populations on the Great Lakes

have been dangerously low due to over-harvest and the invasion of sea lampreys that prey upon lake trout. At great expense, many efforts have been undertaken to recover lake trout, including stocking, sea lamprey removal, and strict harvest quotas have been set to limit harvest of lake trout. Illegal fishing for commercial gain could negatively impact recovery efforts. This investigation documents the illegal commercialization of lake trout and other fish species from the Great Lakes.

4. I submit this application based upon my review of evidence that has been collected by the USFWS during the course of this investigation. The information outlined below is provided for the limited purpose of establishing probable cause and does not contain all of the details or facts of which I am aware relating to this investigation.

### LEGAL OVERVIEW

#### *The Lacey Act (16 U.S.C. §§ 3371-3378)*

5. The Lacey Act is the nation's oldest wildlife protection law. The Lacey Act prohibits trafficking in "tainted" or contraband fish and wildlife, as well as making false records about fish or wildlife.
  - a. The Act addresses the trafficking of contraband fish and wildlife in two ways. First, the Lacey Act prohibits the import, export, transportation, sale, receipt, acquisition or purchase, of fish or wildlife that has been taken, possessed, transported or sold in violation of any fish and wildlife-related Indian tribal law. 16 U.S.C. § 3372(a)(1). This prohibition only applies, however, to the extent that the violation of Indian tribal law occurred within Indian Country. 16 U.S.C. § 3371(c). Second, the Lacey Act prohibits the import, export, transportation, sale, receipt, acquisition or purchase, in interstate or foreign commerce, of fish or wildlife that has been taken, possessed, transported or sold in violation of any fish and wildlife-related state law. 16 U.S.C. § 3372(a)(2)(A).<sup>1</sup> In

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<sup>1</sup> Lacey Act trafficking offenses are regarded as two-step offenses. First, the fish or wildlife must be "taken, possessed, transported or sold" in violation of some federal, state or tribal law or regulation. At this point, the fish or wildlife is contraband. Then, some person – but not necessarily the person who committed the initial violation of federal, state or tribal law or regulation – must import, export, transport, sell, receive, acquire, or purchase the

addition, pursuant to 16 U.S.C. § 3372(a)(4), it is unlawful to attempt to commit a Lacey Act trafficking offense.

These trafficking offenses are Class D felonies punishable by up to five years in prison if the person: (a) knowingly engaged in conduct that involved the sale or purchase of fish, the offer to sell or purchase fish, or the intent to sell or purchase fish, with a market value in excess of \$350; and (b) did so knowing the fish were taken, possessed, transported or sold in violation of any underlying law. 16 U.S.C. § 3373(d)(1)(B). If the offense involved fish with a market value of less than \$350 or if the person did not know but “in the exercise of due care should know that the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty or regulation,” the offense is a Class A misdemeanor punishable by up to one year in prison. 16 U.S.C. § 3372(d)(2).

- b. As to false statements, pursuant to 16 U.S.C. § 3372(d), “[i]t is unlawful for any person to make or submit any false record, account, or label for, or any false identification of, any fish, wildlife, or plant which has been, or is intended to be... (2) transported in interstate or foreign commerce.” These false statements offenses are Class D felonies punishable by up to five years in prison if the person: (a) knowingly commits a violation of this provision involving the sale or purchase of fish that has a market value greater than \$350. 16 U.S.C. § 3373(d)(3)(A)(ii). If the offense involves fish, wildlife or plants with a market value less than \$350, the offense is a Class A misdemeanor punishable by up to one year in prison. 16 U.S.C. § 3373(d)(3)(B).
6. The Lacey Act applies to tribal fishers. *United States v. Sohappy*, 770 F.2d 816, 821 (9th Cir. 1985) (noting that “[t]he Lacey Act . . . should apply to Indian offenders, too, in order to fully effectuate Congress’ goal of protecting wildlife”); *United States v. Big Eagle*, 881 F.2d 539 n.1 (8th Cir. 1989) (noting that “the Lacey Act, by its terms and definitions, applies to Indian people”); *United States v. Stone*, 112 F.3d 971, 973-74 (8th Cir. 1997) (noting that “[f]ederal laws of general applicability ‘are applicable to the Indian unless there exists some

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contraband fish or wildlife. These two steps may not be collapsed into a single act. *United States v. Carpenter*, 933 F.2d 748 (9th Cir. 1991).

treaty right which exempts the Indian from the operation of the particular statutes in question”) (citations omitted).<sup>2</sup>

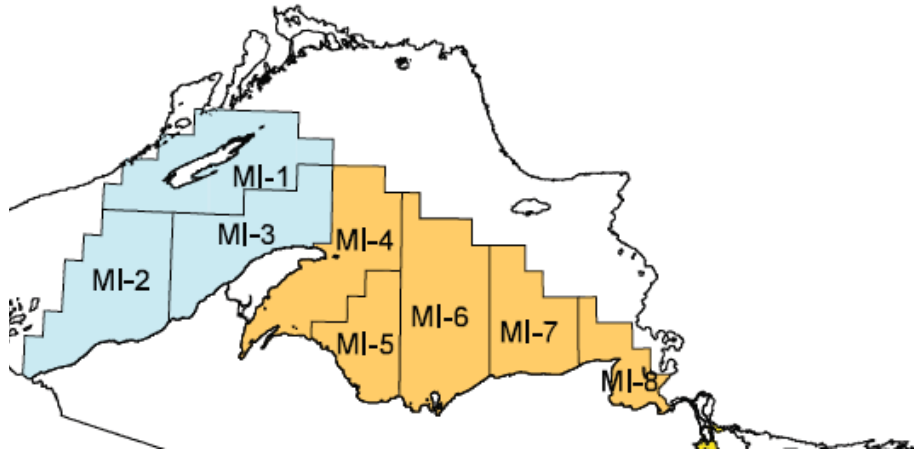
**Tribal Law – Fishing Regulations**

7. Through the Treaty with the Chippewa, commonly referred to as the Treaty of 1842, the Chippewa Indians of the Mississippi and Lake Superior conveyed to the United States title to the lands and waters located in the western half of Michigan’s Upper Peninsula and northern Wisconsin. 7 Stat. 591, Art. 1. The Chippewa Indians retained the right to hunt within the ceded territory and “other usual privileges of occupancy.” *Id.* at Art. 2.
8. Political successors to the Treaty include members of the Red Cliff Band of Lake Superior Chippewa (the Red Cliff Band). The Red Cliff Band’s reservation is located on Lake Superior in Bayfield County, Wisconsin.
9. Red Cliff Band members who engage in commercial fishing on ceded waters are subject to regulations enacted by the Red Cliff Band. Red Cliff Band members who fish for commercial purposes must obtain and carry a license issued by the Red Cliff Band. Red Cliff Code of Laws § 7.2.1(a).
10. The Red Cliff Band Tribal Council establishes a quota for the number of lean lake trout that may be caught from each lake trout management unit. Red Cliff Code of Laws § 7.19.10.
11. The following is a map of lake trout management units in Lake Superior:

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<sup>2</sup> In the District of Minnesota, U.S. District Judge John R. Tunheim granted a motion to dismiss a Lacey Act case arising from fish trafficking in Indian country. *United States v. Brown, et. al.*, Nos. 13-CR-68; 13-CR-70; 13-CR-72 (D. Minn. 2013). U.S. District Judge Richard H. Kyle, another Judge in the District of Minnesota, denied a similar motion to dismiss in *United States v. Bellefy, et al.*, 13-cr-71A (D. Minn. 2013). The U.S. Solicitor General has authorized an affirmative appeal of Judge Tunheim’s dismissal of the indictment in the *Brown* case. That appeal is now pending in the Court of Appeals for the Eighth Circuit. Oral argument was held on October 9, 2014. *United States v. Brown, et. al.*, Nos. 13-3800, 13-3801, 13-3802, 13-3803.

## Lake Trout Management Units and Refuges



12. Based on my review of reports from Great Lakes Indian Fish and Wildlife Commission (GLIFWC) and conversations with Conservation Officers from the Michigan Department of Natural Resources (MDNR), I know that the MI-2 management unit has a lower total allowable catch (TAC) compared to other lake trout management units in the 1842 treaty area from which lake trout may be fished commercially (MI-2, MI-3, MI-4 and half of MI-5) because conservation officials are attempting to restore the lake trout population in the MI-2 management unit. MI-1 is open for assessment fishing only. Red Cliff Code of Laws § 7.19.10(b).
13. The Red Cliff Band Code Tribal Council implements its quotas by issuing a limited number of tags for each management unit. Red Cliff Code of Laws § 7.19.10(a). The following is a photograph of lake trout tags issued by the Red Cliff Band Tribal Council for lean lake trout taken in management units MI-2, MI-4 and MI-5.



14. Red Cliff Band Code commercial fishers are required to affix these tags to the lean lake trout they catch and retain. Red Cliff Code of Laws §

7.19.7. The following photo shows a lean lake trout with a Red Cliff Band tag for MI-4 affixed to it.



15. The Red Cliff Band Code provides that “[n]o fish shall be tagged with tags for any management unit except the unit the fish were taken from.” Red Cliff Code of Laws § 7.19.7.
16. Once a Red Cliff Band commercial fisher runs out of lake trout tags for a particular management unit, he may not fish in that unit with gill nets or retain lake trout caught in that unit.
17. Commercial fishers from Red Cliff Band are also required to report the following information to the Red Cliff Band in regular catch reports: records of catch and effort by day and location by grid, the number of pounds of each type of fish taken, the type and amount of fishing gear employed, the length of time (number of nights) each unit was fished without being lifted. Red Cliff Code of Laws § 7.11.1.

**Michigan State Law – Wholesale Dealer Requirements**

18. Entities that operate as wholesale fish dealers within the State of Michigan are regulated under Michigan state law. Every person who deals in fish by operating a wholesale fish market or fish house, or who solicits the purchase or sale of fish for wholesale distribution, is required to secure a license from the state. Mich. Comp. Laws §

324.47333(1). A person who is licensed by the State of Michigan pursuant to Section 324.47333(1) may sell or purchase commercial fish. Mich. Comp. Laws § 324.47333(3). A person who violates this requirement is committing a misdemeanor offense that is punishable by imprisonment for up to 60 days for the first offense. Mich. Comp. Laws § 324.47334.

**Wisconsin State Law – Wholesale Dealer Requirements**

19. Wisconsin requires “wholesale fish dealers” to be licensed by the Wisconsin Department of Natural Resources. Wis. Stat. § 29.503(2)(a). A “wholesale fish dealer” is defined as:

any person who buys, barter, obtains, sells, solicits, or processes fish in any manner for himself or herself or any other person for sale to anyone other than a consumer; but no established retail store or locker plant is a “wholesale fish dealer” solely as the result of the sale of fish to a restaurant, hotel or tavern at no reduction in the retail price charged other retail customers. A producer of fish, except as otherwise hereinafter provided, who sells fish directly to retailers is a wholesale fish dealer. Hotels, meat markets, grocery stores, restaurants and taverns are retailers, except when they sell fish for resale, in which case they are wholesale fish dealers.

Wis. Stat. § 29.503(1)(e).

**INVESTIGATION**

20. Beginning in August 2012, the USFWS led an undercover operation that investigated the illegal trafficking and false reporting of fish harvested from Lake Superior, northern Lake Michigan and western Lake Huron. This investigation was in response to: (a) reports from numerous sources that lake trout, lake sturgeon and walleye were being illegally harvested in large numbers; and (b) five undercover purchases of contraband lake trout and lake sturgeon by USFWS SA Chris Aldrich, in the Baraga, Michigan area in late 2011 and early 2012.
21. As part of this operation, the USFWS established a covert business – named the Upper Peninsula North Fish Company (UPNFC) – that held itself out as a business engaged in the purchase and sale of fish.

The UPNFC's facility was located on US Highway 41 in L'Anse, Michigan, in a building that had a history of being, and was thus equipped to be, used as a fish buying business. The building was located within the boundaries of the Keweenaw Bay Indian Community (KBIC) reservation.

- a. UPNFC primarily bought and sold fish wholesale. However, the storefront also included an area within the building where they sold fish on a retail basis to customers.
  - b. USFWS SAs Matt Martin and Chris Aldrich operated the facility in an undercover capacity beginning in approximately August 2012. The UPNFC fish processing facility was equipped with audio and video recording equipment in order to document transactions occurring there.
  - c. Undercover officers acting as employees of UPNFC made over 550 purchases of fish at this location. With respect to these purchases, approximately 400 purchases involved fish that were illegal in some manner.
22. Although the UPNFC fish processing facility was closed in November 2013, undercover officers acting as employees of UPNFC continued to make some purchases of fish for the UPNFC until approximately September 2014.

#### **BACKGROUND INFORMATION ON THE PETERSONS AND PETERSON'S FISH MARKET**

23. During the course of the aforementioned investigation, USFWS SAs and other law enforcement officers acting in an undercover capacity as employees of UPNFC entered **Peterson's Fish Market** on approximately fifteen occasions in order to pay for fish that had been purchased or to drop off fish that **Peterson's Fish Market** was purchasing from UPNFC. In addition, these SAs and officers had numerous contacts with **Christopher James Peterson** and **Gilmore Francis Peterson** as they conducted fish sales. In total, the UPNFC bought lake trout and/or whitefish from the **Petersons** on eighteen occasions and sold lake trout and/or whitefish to **Peterson's Fish Market** on nineteen occasions. (Some of these purchases are described in detail below.) I have spoken to the agents and officers involved in this investigation and reviewed their reports. As a result, I have learned the following background information.



24. **Peterson's Fish Market** is located on US Highway 41 in Hancock, Michigan, across from the Quincy Mine Shaft. The photograph below shows **Peterson's Fish Market**.



25. The door into the retail store area of **Peterson's Fish Market** is located under the awning in this photo. The door to the right provides entry into a fish processing area where employees clean and dress fish. A restaurant named "Four Suns Fish n' Chips" is located in a trailer in the parking lot of **Peterson's Fish Market**.
26. **Christopher James Peterson** was involved in all of the fish sales to the UPNFC. Based on conversations he had with SAs and officers working at the UPNFC, SAs learned that he operated the family's fishing tugs out of several different ports. These ports included: (a) Black River Harbor, which is on Lake Superior approximately ten miles east of the border between Michigan and Wisconsin; (b) a harbor within the Portage Canal, which goes through the Keweenaw Peninsula in Michigan, known as "the lily pond;" (c) Big Traverse Bay Harbor on the east end of the Keweenaw Peninsula near Gay, Michigan; and (d) Portage Entry located in the Keweenaw Park Recreational Area, near Chassell, Michigan. **Christopher Peterson** is a Red Cliff Band member and is licensed by the Band as a commercial fisher.
27. **Gilmore Francis Peterson** appears to assist with the running of Peterson's Fish Market. He is a Red Cliff Band member and is licensed by the Band as a commercial fisher.
28. **Patricia Ann Peterson** is **Gilmore Peterson's** spouse. She ran **Peterson's Fish Market** during the time period of the investigation,

wrote checks to pay for fish purchases, managed employees of **Peterson's Fish Market**, and received the invoices that the UPNFC provided for fish they sold to **Peterson's Fish Market**. **Patricia Ann Peterson** is a Red Cliff Band member.

29. **Tammie M. Peterson** is **Christopher Peterson's** spouse. She ran the "Four Suns Fish n' Chips" restaurant during the time period of the investigation. She also acted as Patricia's assistant. **Tammie M. Peterson** is a Red Cliff Band member.
30. The Petersons operate two fishing tugs, the F/V Charleen and the F/V Three Suns. The photograph below shows the F/V Three Suns.



The photograph below shows the F/V Charleen.



31. The Petersons sell fish to local restaurants and also ship fish all over the United States. The “Exploring the North” website states the following: “Since 1992, Peterson’s has shipped fish throughout the United States. Call Peterson’s Fish Market at 906-482-2343 for a price quote on shipping fish to your home.” The website also notes that “you can pick up fresh fish for dinner and arrange for fish to be shipped to you (sic) home at a later date.”  
<http://www.exploringthenorth.com/petersons/fish.html>.

**PROBABLE CAUSE TO BELIEVE THAT LACEY ACT FALSE LABELING AND TRAFFICKING OFFENSES OCCURRED**

32. As part of the USFWS investigation, undercover officers made eighteen purchases of fish from the Petersons and **Peterson’s Fish Market**. Prior to selling fish to the UPNFC, **Gilmore** and **Christopher Peterson** visited the UPNFC fish processing facility. This visit occurred on November 12, 2012. This visit was not recorded. **Gilmore** and **Christopher Peterson** asked detailed questions about the UPNFC operation. USFWS SAs Matt Martin and Chris Aldrich were working at the UPNFC fish processing facility that day and informed **Gilmore** and **Christopher Peterson** that fish purchased by the UPNFC were being transported out of the State of Michigan.
33. On December 16, 2012, during a recorded conversation at Black River Harbor, **Christopher Peterson** told SA Aldrich that he had recently received a ticket from a tribal game warden because he had untagged lake trout on the boat dock when the game warden stopped to do an inspection. **Christopher Peterson** told SA Aldrich that he had “a bunch” of lake trout tags from the MI-5 management unit, and because he never fished there, he would use those tags on lake trout he caught in the MI-2 management unit. SA Aldrich purchased whitefish from **Christopher Peterson** on this occasion.
34. Based on conversations with **Gilmore** and **Christopher Peterson**, the SAs learned that the transit time for one of the Petersons’ fishing tugs from Black River Harbor to Big Traverse Bay, which is on the east side of the Keweenaw Peninsula in the MI-4 management unit, is a minimum of 12 hours. The SAs also learned that the Petersons do not make overnight fishing trips and maintained a house near Black River Harbor. Accordingly, when the Petersons were selling fish from the Black River Harbor, they were fishing west of the Keweenaw Peninsula, most likely within the MI-2 management unit.

35. **Gilmore and Christopher Peterson** made numerous sales of lake trout and whitefish to the UPNFC. The lean lake trout sales included the following:
- a. December 17, 2012. SA Aldrich met **Christopher Peterson** and **Gilmore Peterson** at Black River Harbor, which is in the MI-2 management unit, and purchased 33 lean lake trout and 2,843 pounds of whitefish. Thirteen of these lake trout were tagged with MI-5 tags. The remaining twenty lake trout were tagged with MI-2 tags.
  - b. December 26, 2012. Detective Mike Rowe, a Michigan State Police Trooper assigned to the Upper Peninsula Substance Enforcement Team (UPSET), posing as an employee of the UPNFC, purchased 229 lbs. of lean lake trout and 764 pounds of whitefish from **Christopher Peterson** at Black River Harbor. Forty-three of these lake trout (138 pounds) were tagged with MI-5 tags, and the remainder were tagged with MI-2 tags.
  - c. December 30, 2012. **Christopher Peterson** called SA Aldrich and told him he had more fish to sell. SA Aldrich met **Christopher Peterson** at the Black River Harbor and bought 110 pounds of lean lake trout and 1,237 pounds of whitefish from him. **Christopher Peterson** also asked SA Aldrich to transport an additional 180 pounds of lake trout back to the UPNFC where **Christopher Peterson** would have someone from his store pick them up. Upon examining the lake trout he purchased from **Christopher Peterson**, SA Aldrich discovered that four lake trout were tagged with MI-5 tags, and the remaining were tagged with MI-2 tags. SA Aldrich examined the lake trout he had transported for **Christopher Peterson** and found that eight were tagged with MI-2 tags, and the remaining, about 56 lake trout, were tagged with MI-5 tags.
  - d. March 10, 2013. SA Martin met **Christopher Peterson** at Black River Harbor and purchased 357 pounds of lean lake trout and approximately 3,300 pounds of whitefish. During the transaction, **Christopher Peterson** informed SA Martin that all of these fish had been caught in the MI-2 management unit. Upon examining the lake trout at the UPNFC fish processing facility, SA Martin found that all these lake trout were tagged with MI-4 tags. The previous day, **Christopher Peterson** spoke to SA Martin at Black River Harbor and told SA Martin

that he had four nets set about 26 miles out from Black River Harbor, which would be within MI-2.

- e. March 16, 2013. SA Martin met **Christopher Peterson** at Black River Harbor and purchased 593 pounds of lean lake trout and approximately 1,000 pounds of whitefish. **Patricia Peterson** then called the UPNFC fish processing facility and asked to have two boxes of lake trout returned to the store. SA Martin ended up keeping 362 lbs. of lean lake trout and found that all these lake trout were tagged with MI-4 tags.
36. The SAs assigned to the UPNFC purchased lean lake trout from the Petersons at a price of \$1 per pound. The SAs assigned to the UPNFC would make payments for these purchases by delivering checks to **Peterson's Fish Market** in Hancock, MI. When purchases of lake trout by UPNFC were being arranged, **Christopher Peterson** asked the UPNFC employees to report that the lake trout were purchased in equal shares from **Christopher** and **Gilmore Peterson**. In addition, checks written on the UPNFC checking account to pay for lake trout purchased by the UPNFC listed both **Gilmore** and **Christopher Peterson** as payees.
37. I respectfully submit that these purchases establish probable cause to believe that, on the aforementioned occasions, **Gilmore** and **Christopher Peterson** and **Peterson's Fish Market** were selling lean lake trout that were falsely labeled as having been caught in the MI-4 and MI-5 management units.
38. I also respectfully submit that **Gilmore** and **Christopher Peterson** and **Peterson's Fish Market** falsely stated the management units from which they caught lean lake trout in their catch reports to the Red Cliff Band, in order to hide the fact that they had exceeded their quota of lean lake trout taken from the MI-2 management unit.
39. In addition, as noted above, the Petersons offer to ship fish all over the United States. Thus, it is likely that some of the fish that they falsely labeled were shipped or intended to be ship in interstate commerce.
40. On March 6, 2014, SA Aldrich spoke to **Tammie Peterson** by telephone. She wanted to know if the UPNFC had any fish that **Peterson's Fish Market** could purchase. **Tammie Peterson** said that **Christopher** and **Gilmore Peterson** had been unable to fish for the past few months due to ice conditions. **Tammie Peterson** said that **Peterson's Fish Market** has been purchasing fish from

fishermen in the Bayfield, Wisconsin area for the past few months. Bayfield is located on Lake Superior. **Tammie Peterson** said that the Wisconsin fishermen were fishing through the ice with gill nets. She said that she called fishermen in Michigan to find out if they were fishing through the ice and found out that they were not (thus the need to purchase from fishermen in Wisconsin rather than Michigan). She said that all of the fish they were selling at their retail location, and to other local accounts such as restaurants, had been coming from the fishermen in Wisconsin.

41. The SAs investigating this case spoke to Wisconsin Conservation Warden Patrick Michael Neal and learned that none of the Petersons are licensed as a “wholesale fish dealer” in Wisconsin.
42. On March 11, 2014, SA Chris Aldrich spoke to MDNR Lieutenant Terry Short, who is in charge of the MDNR Commercial Fish Enforcement Unit (CFEU). Lt. Short informed SA Aldrich that **Peterson’s Fish Market** does not have a fish wholesaler license.
43. SA Aldrich and SA Martin spoke to **Patricia** and **Tammie Peterson** on the many occasions they visited **Peterson’s Fish Market** to drop off checks or fish. Both **Patricia** and **Tammie Peterson** stated that **Peterson’s Fish Market** sold fish to local restaurants. In addition, as noted above, the Petersons offer to ship fish all over the United States.
44. SA Aldrich and SA Martin also learned that the price that the Petersons charged the UPNFC for lean lake trout – \$1 per pound – is a wholesale price that is significantly below the retail price that end consumers are charged for fresh or smoked lake trout.
45. In summary, this investigation revealed that **Christopher, Gilmore, Patricia** and **Tammie Peterson**, and **Peterson’s Fish Market** sold and/or attempted to sell fish to (a) fish wholesalers, (b) restaurants, and (c) consumers all over the United States. Accordingly, **Christopher, Gilmore, Patricia** and **Tammie Peterson**, and **Peterson’s Fish Market** qualify as fish wholesalers under Michigan and Wisconsin law. Pursuant to Mich. Comp. Laws § 324.47333(1), they were required to possess a fish wholesaler license in Michigan. In addition, for the period of time that they were soliciting and purchasing fish in Wisconsin, they were required to possess a wholesale fish dealer license in Wisconsin. Wis. Stat. § 29.503(2)(a).
46. Based on the aforementioned facts, I respectfully submit that the Petersons purchased and possessed fish in Wisconsin in violation of

Wisconsin law, transported the fish to Michigan, and then sold and attempted to sell the fish in interstate commerce, in violation of 16 U.S.C. § 3372(a)(2)(A) and (a)(4).

**PROBABLE CAUSE TO BELIEVE THAT EVIDENCE OF LACEY ACT  
FALSE LABELING AND TRAFFICKING OFFENSES WILL BE  
FOUND AT PETERSON'S FISH MARKET**

47. During the course of the investigation, USFWS SAs and other law enforcement officers acting in an undercover capacity as employees of UPNFC entered **Peterson's Fish Market** on approximately fifteen occasions to deliver payment for fish purchased, pick up fish that had been purchased, deliver fish sold to **Peterson's Fish Market**, and deliver equipment sold to **Peterson's Fish Market**. Each of these transactions involved the transfer of checks, invoices or receipts. Thus, these undercover agents and officers had many opportunities to familiarize themselves with the internal layout of **Peterson's Fish Market**, to note where business records were kept, and to observe how business documents such as checks, receipts and invoices were handled. Specifically, USFWS SAs posing as employees of the UPNFC noted the presence of binders and paper documents both on the desk in the office and on a table along the back wall of the office.
48. Based on these observations, USFWS SAs and other officers learned (a) that the business office for **Peterson's Fish Market** was located on the northwest side of the building, (b) that **Patricia Peterson** would write checks to the UPNFC in this business office, and (c) that **Patricia Peterson** would file receipts and invoices in this office.
49. SA Martin operated the UPNFC fish processing facility for a total of fourteen months. He learned that fish processing facilities and wholesalers commonly keep records of fish purchased and sold by the facility. These records commonly include, but are not limited to, copies of invoices, billing statements, checks, and check stubs.
50. USFWS SAs and other law enforcement officers acting in an undercover capacity as employees of UPNFC also observed a fish processing area in the same building with **Peterson's Fish Market** and on the east side of the building.
51. While operating the UPNFC, SA Martin learned that the U.S. Food and Drug Administration requires fish processors to maintain records of fish intake and processing at fish processing locations. SA Martin compiled these records for the UPNFC.

52. The typical method of operation of Peterson's Fish Market is described at: <http://www.exploringthenorth.com/petersons/fish.html>. The website states the following:

**Every morning before dawn, most of the Peterson family heads out in the Three Suns and the Charlene fishing tugs for Lake Superior. The Three Suns and the Charlene are equipped with radar, loran, GPS, a ship to shore phone and a cell phone. When the fish are brought on board, the catch is reported by phone to Pat at the Fish Market in Hancock. By mid morning, the phone at the market is ringing while people are coming in to get the fish report and to purchase fish. By noon, the cleaned fish are being brought into the shop. Some are refrigerated for sale that day and some are put into the smoker for sale the next day.**

53. As previously noted, commercial fishers from the Red Cliff Band are required to submit detailed reports of their fishing activities. Red Cliff Band Code § 7.11.1.
54. Based on my training and experience, I know that fishing vessel captains routinely keep on board their vessel detailed, historical records regarding their fishing activity and observations made while fishing. These can include personal logbooks of fishing locations, set locations, crew, species and pounds landed, bait used, tow times, obstructions, ports of call, communications information, landing and sale information, etc. Additionally, it is also common to find on board required federal and state information, to include fishery reports, permit information, marine safety information, prior boarding reports by USCG, etc. It has been my experience that this information is commonly maintained on vessels for several years, even decades, because of regulatory and business requirements and for personal reasons.
55. Based on my training and experience, I know that navigational equipment is used by commercial fishermen and is kept onboard the vessel, usually in the wheelhouse or cabin structure. This equipment often includes GPS units, desktop computers, laptop computers, chart plotters, radar systems, fish finders, VMS systems, and equipment necessary to support these devices. Because commercial fishermen record their navigation routes and desired fishing locations, they utilize these electronic devices for this purpose. These devices have the capability of storing large amounts of electronic data that can be stored for several years.



56. Vessels are mobile conveyances and are capable of traveling through several judicial districts while conducting commercial fishing operations. Fed. R. Crim. 41(b)(2) contemplates this mobile nature, providing that “magistrate judge with authority in the district has authority to issue a warrant for a person or property outside the district if the person or property is located within the district when the warrant is issued, but might move or be moved outside the district before the warrant is executed.” Accordingly, your affiant respectfully requests that the Court authorize the warrant for the vessels currently located within the district, and that the authority to search be extended pursuant to Rule 41(b)(2), should the vessel leave the district after the warrant is issued.
57. Based on the aforementioned facts, I respectfully submit that records of the fishing activities of **Christopher James Peterson, Gilmore Francis Peterson, Patricia Ann Peterson, Tammie M. Peterson** and their business, **Peterson’s Fish Market**, will be found at Peterson’s Fish Market, and onboard the F/V Three Suns and the F/V Charleen.

#### CONCLUSION

58. I respectfully submit that the aforementioned facts establish probable cause to believe that **Christopher James Peterson, Gilmore Francis Peterson, Patricia Ann Peterson, Tammie M. Peterson** and their business, **Peterson’s Fish Market**, (a) made or submitted a false record, account, or label for, or any false identification of, fish which had been, or were intended to be transported in interstate commerce, in violation of 16 U.S.C. § 3372(d)(2); and (b) purchased and possessed fish in Wisconsin in violation of Wisconsin law, transported the fish to Michigan, and then sold and attempted to sell the fish in interstate commerce, in violation of 16 U.S.C. § 3372(a)(2)(A) and (a)(4). In addition, I respectfully submit that the aforementioned facts establish probable cause to believe that evidence of these offenses will be located at **Peterson’s Fish Market**, which is located in Hancock, Michigan, and onboard the F/V Three Suns and the F/V Charleen.