

COMMISSIONER'S ORDER NO. 90-88
Natural Resources

A Commissioner's Order establishing Off-Reservation 1988 Bear Hunting Regulations. East of the St. Croix River.

WHEREAS, the Mille Lacs Band of Chippewa Indians is a signatory or successor to the Treaty of 1837, 7 Stat. 536, and the Treaty of 1842, 7 Stat. 591, and;

WHEREAS, the Band resides in the ceded territories of the Treaty of 1837, 7 Stat. 536, and;

WHEREAS, the Bands that reside within the ceded territories of 1837 has negotiated a 1988 Off-Reservation Bear Hunting Agreement by and between the Tribal and State Parties in Lac Courte Oreilles, et al., v. State of Wisconsin, et al., and;

WHEREAS, the Mille Lacs Band deem it appropriate to provide an orderly system of tribal control and regulation of off-reservation Bear hunting, and;

WHEREAS, the Mille Lacs Band further deems it appropriate to provide conservation and management for bear population found in the ceded territory through the regulation of member hunting occurring there, and;

WHEREAS, the Commissioner of Natural Resources has the authority to regulate natural resources within the jurisdiction of the Mille Lacs Band of Chippewa Indians through Band Statute 1032-MLC-1, Sec. 29, Band Statute 1017-MLC-7, and Band Statute 1092-MLC-25, et seq., and;

WHEREAS, the taking of bear is a natural resources under the jurisdiction of the Mille Lacs Band of Chippewa Indians and;

WHEREAS, nothing herein or the application thereof shall be construed by any government, agency, person or circumstance as a waiver by the Non-Removable Mille Lacs Band of Chippewa Indians of the solemn, special trust obligation of the United States of America, and;

WHEREAS, pursuant to the provisions of Band Statute 1032-MLC-1, Section 25 and 29, the Commissioner of Natural Resources is empowered to execute the regulatory agreements for bear hunting by members of the Mille Lacs Band for the area East of the St. Croix River and within the 1837 treaty area.

NOW THEREFORE, by the authority vested in me by the Mille Lacs Band of Chippewa Indians pursuant to Band Statute 1032-MLC-1, Section 29, I, Don Wedl, Commissioner of Natural Resources for the Mille Lacs Band of Chippewa Indians hereby ratify 1988 Off-Reservation Bear Hunting Agreement and establish the following Bear Hunting Regulations for members of the Band, east of the St. Croix River:

OFF-RESERVATION 1988 BEAR HUNTING REGULATION
East of the St. Croix River

PART I - INTRODUCTION

101. Title. This Commissioner's Order may be cited as the Mille Lacs Band of Chippewa Indians (east of the St. Croix River) Off-Reservation 1988 Bear Hunting Regulations.
102. Authority. This Commissioner's Order is authorized pursuant to Band Statute 1032-MLC-1, Sec. 29, Band Statute 1017-MLC-7, and Band Statute 1092-MLC-25, et seq., of the Mille Lacs Band of Chippewa Indians.
103. Purpose. It is the purpose of this order to:
 - a) provide an orderly system for tribal control and regulation of bear hunting on the off-reservation lands and waters ceded by the Chippewa Indians in the Treaty of 1837, 7 Stat. 536 and the Treaty of 1842, 7 Stat. 591.
 - b) Provide a means to promote the conservation and management of bear population in the ceded territory through the regulation of member hunting occurring there.
104. Effective Date. This order shall be effective on the date of issuance and shall expire at 11:59 p.m. on September 1, 1989.
105. Interpretation. The provisions of this ordinance shall be interpreted and applied as minimum requirements applicable to bear hunting and shall be liberally construed in favor of the Mille Lacs Band pursuant to Band Statute 1024-MLC-3, Section 19.01. The provisions shall not be deemed a limitation or repeal of any other Band power or authority.
106. Severability and Non-Liability. If any section, provision, or portion of this order is adjudged unconstitutional or invalid by the Court of Central Jurisdiction, the remainder of this order shall not be affected thereby. The Mille Lacs Band further asserts immunity on its part and that of its agencies, employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this order.
107. Repeal of Inconsistent Tribal Ordinances. All previous Commissioner's Orders inconsistent with this order are hereby repealed. To the extent that this order imposes greater restrictions than those contained in any other Commissioner's Orders, the provisions of this order shall govern.
108. Religious or Ceremonial Use of Natural Resources.
 - a) Nothing in this ordinance shall prohibit the use of any resource otherwise subject to the provisions of this ordinance which is harvested, taken or otherwise obtained within the ceded territory for religious or ceremonial purposes in accordance with the traditions and customs of the Mille Lacs Band and with the authority grant under Band Statute 1129-MLC-7 Section 36.
 - b) In approving any request for religious or ceremonial harvest, the Commissioner of Natural Resources shall take into account the biological impact of the harvest.

PART II - DEFINITIONS

201. Definitions.

- a) "Member" means a member of the Mille Lacs Band of Chippewa Indians.
- b) "Bear" means any mature bear without cubs, nor cubs.
- c) "Gun" means rifle, shotgun, or handgun.
- d) "Hunt" means to shoot, shoot at, pursue, take, catch, or kill, any bear off-reservation, but does not include the recovery of a bear which has already been lawfully reduced to possession.
- e) "Tribe" means the Mille Lacs Band of Chippewa Indians.
- f) "Tribal conservation department" means the conservation departments of the Bad River, Lac Courte Oreilles, Lac du Flambeau, Mole Lake, Red Cliff, Mille Lacs, or St. Croix tribes.
- g) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday.

Part III - REGULATIONS

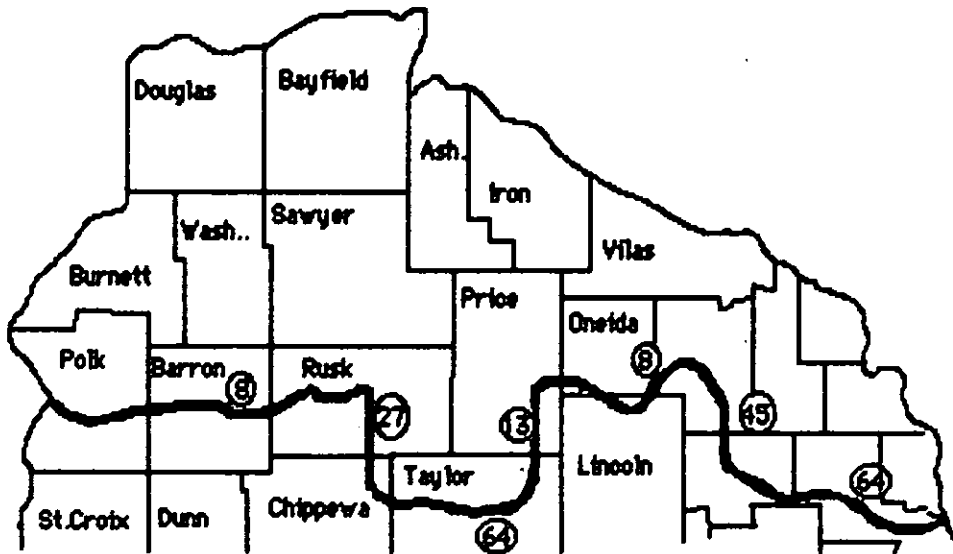
301. Seasons:

- a) No member shall hunt bear before September 17 or after October 31, 1987
- b) No member shall hunt bear after the Great Lakes Indian Fish and Wildlife Commission, acting for the tribe pursuant to sec.412 of this ordinance has closed the season.

302. General Regulations

- a) Juvenile hunting. No juvenile shall be allowed to hunt bear except as provided by this paragraph:
 - (1) No person under 12 years of age may hunt bear.
 - (2) No person 12 years of age or older but under 14 years of age may hunt unless accompanied by a parent or guardian.
 - (3) No person 14 years of age or older but under 16 years of age may hunt unless accompanied by a parent or guardian or unless issued by the tribe or state a hunter education and firearm safety certificate of accomplishment.
- b) Shining. No member shall use or possess with intent to use a light for shining bear or other wild animals:
 - (1) While the member is hunting bear; or
 - (2) While the member is in possession of a firearm, bow and arrow, or crossbow; or
 - (3) At any time between 10 p.m. and 7 a.m.
 - (4) A member casting rays of light on a field, forest or other area which is frequented by wild animals is rebuttably presumed to be shining wild animals.
- c) Tagging. No member shall move or field dress a bear before affixing to it a valid metal carcass tag.
- d) Transportation. No member shall transport any bear in or on any motor driven vehicle prior to registration unless the bear is carried openly exposed and in such manner that the tag attached to the bear cannot be handled or manipulated by any occupant of the vehicle.
- e) Permissible methods. No member shall hunt bear except by use of the firearms and bows authorized by this order.
- f) Firearms. No member shall hunt bear using any firearm other than a rifle, handgun, or shotgun permitted by this section.
 - (1) No member shall hunt bear with a .22 rimfire, 5mm rimfire rifle, or .17 caliber centerfire rifle.
 - (2) No member shall hunt bear with a 410 bore shotgun.
 - (3) No member shall hunt bear with any handgun except as follows:
 - (i) Loaded with .357, .41, or .44 magnum caliber handgun chambered or commercially manufactured cartridges which produce a minimum energy of 1000 ft-lbs; and
 - (ii) Having a minimum barrel length of 5.5 inches measured from the muzzle to the firing pin with the action closed;
 - (iii) No member shall have more than one handgun in his/her possession while hunting.

- g) Bow and arrow. No member may hunt bear with bow and arrow unless the bow has a pull of at least 30 pounds.
- h) Crossbow. No member shall hunt with a crossbow unless the crossbow:
 - 1) Is fired from the shoulder;
 - 2) Delivers at least 42 ft-lbs of energy at a distance of 10 feet;
 - 3) Has a stock of not less than 30 continuing inches in length;
 - 4) Has a working safety; and
 - 5) Is used with arrows or bolts of not less than 10 inches with a broadhead.
- i) Boats. No member shall possess in a motor driven boat while the motor is running any firearm, bow or crossbow unless the firearm is unloaded and the bow or crossbow is unstrung or enclosed within a carrying case.
- j) Preservation Intact. Except for field dressing, a bear shall be preserved intact until it arrives at the residence member who tagged the bear.
- k) Skinning. No member may skin a bear prior to registration unless he or she leaves the claws, head and teeth attached to the hide.
- l) Dogs - North Only. Dogs may not be used to hunt bear south of the line shown below:



- m) Dogs Marked. No member may hunt or pursue bear with a dog unless the dog is tattooed or wearing a collar with the owner's name and address attached.
- n) Dens. No member may hunt or shoot a bear in a den.
- o) Dumps. No member may hunt bear in any dump or sanitary landfill.
- p) Cubs. No member may shoot, shoot at, or kill any adult bear accompanied by a cub or cubs.
- q) Training Session. No member may train dogs by pursuing wild bear except from July 10 through August 31.
- r) Dog Packs. No more than six dogs in a single pack may be used to pursue bear regardless of the number of bear hunters and regardless of dog ownership.
- s) Bait Container. No member may place, use or hunt over bait contained within metal, plastic, glass, wood or other nondegradable materials.
- t) Bait Size. No member may use bait except as confined to a hole measuring no more than two feet square.
- u) Bait; Proximity to trails, etc. No member may place or hunt over bait or liquid scent within 50 yards of any trail, road or campsite used by the public.

- v) Honey. No member may use honey for bait.
- w) Bait tags. No member may use animal flesh for bait unless the member places a metal identification tag stating the member's name, address, and tribal affiliation on the tree nearest the bait, at eye level, and directly facing the bait.
- x) Possession of live game. No member may possess any live game or furbearing animal unless it is killed or released immediately upon obtaining possession.
- y) Sale or Barter. No member may sell, barter or otherwise exchange a bear or its parts with anyone not an enrolled Chippewa, except for the hide of a lawfully killed bear with head, claws, and teeth intact.
- z) Hunting with non-members. No member may share with anyone not an enrolled Chippewa the use of any tribal bear permit, carcass tag, gear, bait or dogs, provided that nothing herein prohibits a member from hunting with any person not an enrolled Chippewa during the state bear hunting season if that person has a state license and if an individual in the hunting party has a state bear harvest permit.
- aa) Possession of loaded or uncased weapons. No member shall possess a loaded or uncased firearm, or a strung and uncased bow or crossbow in a motor vehicle, except when that vehicle is stationary and more than 50 feet from the center of any road shown on an official county highway map.
- bb) Discharge of weapon from vehicles. No member shall load or discharge a firearm, bow or crossbow from a motor vehicle unless it is stationary and more than 50 feet from the center of any road shown on an official county highway map.
- cc) Discharge of weapons from roadways. No member shall discharge a firearm, bow, or crossbow on or across a road shown on an official county highway map or within 50 feet of the center of a road shown on a county highway map.

303. Hunting Hours. No member may hunt bear except during the following hours. Times given are inclusive.

September 6 - 17	6:00 a.m.	to	7:15 p.m.	CDT
September 18 - October 1	6:15 a.m.	to	7:00 p.m.	CDT
October 2 - 9	6:30 a.m.	to	6:45 p.m.	CDT
October 10 - 16	6:30 a.m.	to	6:30 p.m.	CDT
October 17 - 25	6:45 a.m.	to	6:15 p.m.	CDT
October 26 - 29	7:00 a.m.	to	6:00 p.m.	CDT
October 30 - 31	6:00 a.m.	to	5:00 p.m.	CST

304. Hunting Lands.
- a) No member may hunt bear on any land located in the ceded territory where hunting is prohibited by this section.
 - b) Bear hunting activities may be conducted on all public lands within the ceded territory which are not privately owned, except for the following:
 - 1) Designated public campgrounds, public beaches, and public picnic areas.
 - 2) School forests, public land fills and public gravel pits where bear hunting is prohibited and where notice of the prohibition is clearly posted.
 - 3) Public land within incorporated areas except that tribal hunters may use the same methods as non-Indians for those lands:
 - (i) which are designated for bow and gun bear hunting; or
 - (ii) which are designated for bow bear hunting.
 - 4) All state parks.
 - 5) All state wildlife refuges, except where bear hunting is permitted during the open season established by this ordinance.
 - c) No member shall hunt bear on privately-owned lands within the ceded territory except for such lands designated and enrolled as Forest Croplands or Open Managed Forest Lands pursuant to Section 77.16 of the Wisconsin Statutes.

305. Identification.

- a) No member shall hunt off-reservation except while carrying a valid picture identification card issued by the tribe, or other form of identification card issued by the tribe, or other form of identification approved by the tribe for bear hunting activities.
- b) No member shall refuse to display his or her identification documents upon request of any tribal, state, or local law enforcement officer.

306. Permits, Tags.

- a) No member shall hunt bear without a validly issued tribal off-reservation natural resources harvesting permit, validated for bear hunting.
- b) No member shall hunt any bear without a validly issued metal carcass tag in his/her possession, except as provided by sec. 302(h) of this ordinance.
- c) No member shall hunt a bear without a valid bear permit in his/ her possession bearing the number of the member's carcass tag and valid for the date on which he/she is hunting, except as provided by sec. 302(h) of this ordinance.
- d) No bear permit shall be considered valid for any unit :
 - 1) which is shown to be closed on the permit, or
 - 2) for which the permit is marked as invalid.
- e) No bear permit shall be considered valid if any management unit number on the permit has been slit or punched through.

307. Registration.

- a) A tribal member killing a bear shall register the bear by presenting the bear or the bear hide with claws, head, and teeth attached to it, at a tribal registration station no later than 5:00 p.m. of the first working day after killing at which time a metal registration tag shall be affixed.
- b) A tribal member killing a bear shall immediately, before moving or field dressing the bear, make a slit or punch on the a bear permit through the number of the management unit in which the bear has been killed.
- c) No member shall remove the bear carcass tag and the tribal registration tag from the bear carcass except at the time of butchering or when the bear is prepared by a taxidermist..
- d) Any member possessing a bear shall retain the carcass and registration tags until all the meat of the bear is consumed or otherwise disposed of.
- e) A member registering a bear shall provide the registering official with the following information: the deer management unit and county where the bear was taken, the date and time when the bear was taken, and the ID number of the member taking the bear.

308. Waste of Natural resources. No member shall unreasonably waste, injure or destroy, or impair natural resources while bear hunting.

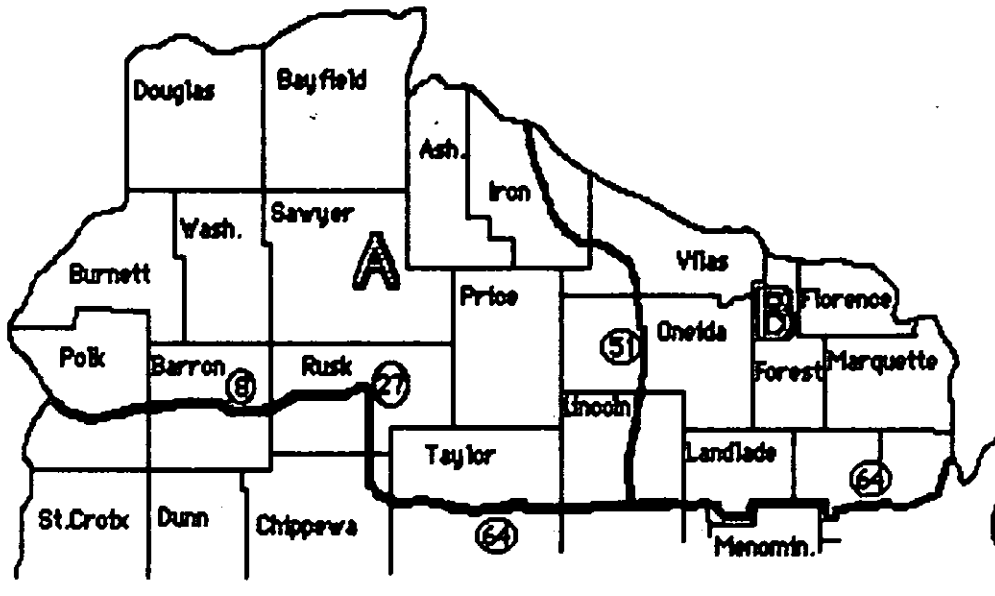
Part IV - ENFORCEMENT

401. Enforcement by deputized conservation wardens. Any provision of this order may be enforced by tribal conservation wardens of the Great Lakes Indian Fish and Wildlife Commission. Said Commission wardens are hereby authorized by the Department as tribal conservation wardens for purposes of enforcing this order.


402. Enforcement by Wisconsin Department of Natural Resources Wardens. Wisconsin conservation wardens and deputy conservation wardens are hereby empowered to enforce the provision of this order and to institute proceedings in the Court of Central Jurisdiction by use of the citation forms of the Wisconsin Department of Natural Resources, as described in Wis. Stat. S23.54.

403. Seizure of Evidence. Tribal, Commission, and Wisconsin conservation wardens are empowered to seize evidence in connection with the institution of proceedings in tribal court.
404. Seized bear. bear which are seized in connection with cases referred to tribal court for prosecution shall be turned over to the tribe. Such bear shall not be returned by the tribal court or tribal officials to the violator, his immediate family or other members of the hunting party.
405. Registration information. Tribal and Commission wardens are empowered to request and receive from tribal tag and permit issuance and bear registration stations information regarding tag and permit issuance and bear registration.
406. Penalties. Any tribal member found by the Court of Central Jurisdiction to have violated a provision of this ordinance shall be subject to the following penalties:
- a) For a violation of section 306(b) or 306(c), a forfeiture shall be imposed of not less than \$100.00 and not more than \$500.00.
 - b) For a violation of any other provision of this ordinance, a forfeiture of not more than \$500.00
 - c) For a violation of any other provision of this ordinance, a revocation of off-reservation bear hunting privileges may be ordered for a period of time to be determined by the court.
407. Schedule of Money Penalties: No Contest. The Band Court may adopt a schedule of forfeitures to be imposed by the Court upon the receipt of an admission that a violation of this ordinance has occurred, which may be done either in person or in writing. This schedule is not binding as to the forfeitures assessed by the Court after adjudicating a violation.
408. Collection of Money Penalties. Enforcement of the penalties imposed by Sec. 406 and 407 of this order may be had through the collection of penalties from funds of the violator held by the Band, through the imposition of community service work requirements in lieu of money payment, through debt collection mechanisms of the courts of other jurisdictions, or through any other method authorized by tribal ordinance.
409. Parties to a violation.
- a) Whoever is concerned in the commission of a violation of this ordinance shall be deemed a principal and may be charged with the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted for the violation.
 - b) A person is concerned in the commission of the violation if the person:
 - (1) directly commits the violation;
 - (2) aids or abets the commission of it; or
 - (3) is a party to a conspiracy with another to commit it, or advises, hires, or counsels or otherwise procures another to commit it.
410. Hearing in Tribal Court. The Court of Central Jurisdiction shall adjudicate all matters arising under this order, pursuant to the provisions of the Band Statute 1024-MLC-3.
411. Member of Other Tribes, Tribal Court Adjudication. The Tribal Court is authorized to adjudicate alleged violations by any member of the Keweenaw Bay Indian Community or the Mille Lacs Band Chippewa Indians of this off-reservation bear hunting ordinance of either tribe provided:
- a) The ordinance is in conformance with the 1988 Chippewa Off-Reservation Bear Hunting Season Agreement in the Lac Courte Oreilles Band, et al., v State of Wisconsin, et al., and
 - b) The Band has authorized the adjudication.

412. Issuance of Harvesting Permits, Tags, Permits. The tribal conservation department is authorized to issue and validate tribal off-reservation natural resources harvesting permits, and to issue metal carcass tags and bear permits to members of the tribe and of any other tribe which has adopted an ordinance in conformance with the 1987 Chippewa Indian Off-Reservation Treaty bear Hunting Season Agreement in Lac Courte Oreilles Band, et al., v. State of Wisconsin, et al., and to register bear taken by members of the tribe and of such other tribes.
413. Authorized for Closure. The Great Lakes Indian Fish and Wildlife Commission (GLIFWC) is hereby delegated the authority to close the bear season and individual hunting zones prior to October 31, 1988, provided:
- a) To close the season seventy (70) bear have been taken in the appropriate zones under the 1988 Chippewa Indian Off-Reservation Treaty Bear Hunting Season Agreement, and
 - b) To close a bear hunting zone, the following numbers of bear have been taken in the particular zone-- Zone A: 50 bear; Zone B: 15 bear; Zone C: 5 bear, and
 - c) GLIFWC undertakes reasonable efforts over a 48 hour period to notify tribal bear hunters that the closure will occur.

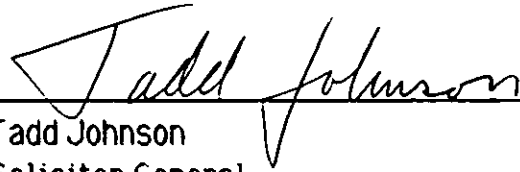


DATED at Vineland, Minnesota this twelfth day of September in the year one thousand nine hundred and eighty-eight.



Don Wedell
Commissioner of Natural Resources

APPROVED AND NUMBERED AS TO
FORM AND EXECUTION



Tadd Johnson
Solicitor General

OFFICIAL SEAL OF THE BAND