

COMMISSIONER'S ORDER NO. 94-88
Natural Resources

A Commissioner's Order authorizing approval of Mille Lacs Band of Chippewa Indians Department of Natural Resources to enter into a Memorandum of Agreement with U.S. Fish and Wildlife Service on the enforcement of migratory birds regulation.

WHEREAS: the Commissioner of Natural Resources has the power to regulate natural resources within the jurisdiction of the Mille Lacs Band of Chippewa Indians through Band Statute 1032-MLC-1, Section 29; and

WHEREAS: the taking of migratory birds is a natural resource under the jurisdiction of the Mille Lacs Band of Chippewa Indians; and

WHEREAS: the regulating of the taking of migratory birds is an authority under the Commissioner of Natural Resources; and

WHEREAS: the priority for taking of migratory birds will be done with the preservation of the species; and

WHEREAS: the United States Department of Interior, Division of Fish and Wildlife Service has an interest in establishing a Memorandum of Agreement with the Mille Lacs Band's Department of Natural Resources on the enforcement of the 1837 Off-Reservation Migratory Bird Hunting Regulation, 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 Statutes 1032-MLC-1, Section 25 and 29 the Commissioner of Natural Resources is empowered to execute the said Memorandum of Agreement for the Mille Lacs Band of Chippewa Indians Department of Natural Resources.

NOW THEREFORE, by the authority vested in me by the Mille Lacs Band of Chippewa Indians under tribal law, I, Don Wedll, Commissioner of Natural Resources for the Mille Lacs Band of Chippewa Indians hereby concur with the following Memorandum of Agreement for the enforcement of the 1988 Off-Reservation Migratory Bird Hunting Regulation.

MEMORANDUM OF AGREEMENT

THIS AGREEMENT is entered into by and between the United States Fish and Wildlife Service (SERVICE) and the Bad River Band of Lake Superior Chippewa Indians, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, the Lac Du Flambeau Band of Lake Superior Chippewa Indians, the Red Cliff Band of Lake Superior Chippewa Indians, The St. Croix Chippewa Indians of Wisconsin, The Sokaogon Chippewa Community of the Mole Lake Band, The Keweenaw Bay Indian Community, and the Mille Lacs Band of Chippewa Indians (TRIBES). The purpose of this agreement is to facilitate the enforcement of Service-approved tribal migratory bird regulations in 1988.

1. Scope of agreement. This agreement pertains to enforcement by the SERVICE of ordinances, adopted by each of the TRIBES, regulating tribal member off-reservation migratory bird hunting in 1988 consistent with regulations to be published by the SERVICE.

2. Authorization to enforce. SERVICE employees or agents who are otherwise empowered to enforce federal migratory bird regulations are hereby authorized by each TRIBE to enforce against its members the provisions of its off-reservation migratory bird ordinance and to cite its members for violations thereof into its tribal court.

3. Prosecution of violators.

a. Any act by a tribal member arising from migratory bird hunting activity in 1988 and violating his or her tribe's off-reservation migratory bird hunting ordinance shall be referred by SERVICE employees or agents for prosecution in the tribal court of the member's tribe, provided that the TRIBE maintains a tribal court with jurisdiction over migratory bird hunting by its members, and further provided that the TRIBE has adopted and agreed to enforce and has in force at the time of the violation an off-reservation migratory bird ordinance consistent with rules published by the SERVICE, and has furnished a copy of the ordinance to the SERVICE prior to the violation.

b. As to violations occurring on public land or water, the SERVICE shall review each situation on its merits and recommend whether federal prosecution is appropriate. Factors which the SERVICE shall, in its discretion, take into account in making its recommendation include but are not limited to the avoidance of dual prosecution, the egregiousness of the violation, and whether tribal prosecution is contemplated or initiated within a reasonable time.

4. Effective date. Any tribe which wishes to be a party to this agreement shall sign the Agreement on or before September 15, 1988. This Agreement shall be effective from September 15, 1988 through September 1, 1989.

5. Dispute resolution. The parties agree that any controversies, disputes, differences, or misunderstandings arising out of the Agreement shall be referred to designated representatives for consultation before any further action is taken by any party.

6. Termination. Each of the parties may terminate this Agreement as to any of the other parties upon 30 days written notice to all parties to the Agreement.

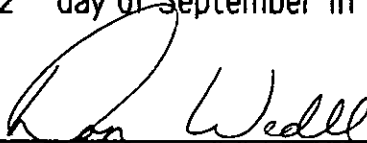
The U. S. FISH AND WILDLIFE SERVICE
approves the 1988 Memorandum of Agreement providing for enforcement of the Chippewa Tribes' off-reservation migratory bird hunting ordinance.

BY: _____

TITLE: Acting Regional Director

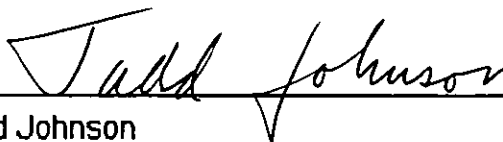
DATE: JUN 21 1988

DATED at Vineland, Minnesota this 12th day of September in the year one thousand nine hundred and eighty-eight.



Don Wedll
Commissioner of Natural Resources

APPROVED AND NUMBERED AS TO
FORM AND EXECUTION



Tadd Johnson
Solicitor General

OFFICIAL SEAL OF THE BAND