

Commissioner's Order 11-84

Natural Resources

A Commissioner's Order establishing and regulating ice fishing East of the St. Croix River for Mille Lacs Band members.

WHEREAS, Band Statute 1032-MLC-1, Section 29 mandates that the Commissioner of Natural Resources shall protect and regulate all matters of land and water for the Mille Lacs Band of Chippewa Indians, and;

WHEREAS, the Seventh Circuit Court of Appeals has ruled that the hunting, fishing, and gathering right does exist, and;

WHEREAS, the State of Wisconsin has been consulted in regards to ice fishing with the ceded territories of 1837, and;

WHEREAS, the Mille Lacs Band of Chippewa will regulate its members in the taking of fish within the area of 1837 treaty east of the St. Croix River, and;

WHEREAS, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, Bad River 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 Band of Lake Superior Chippewa Indians, and the Mole Lake Band of Lake Superior Chippewa Indians have agreed to allow Mille Lacs Band of Chippewa to fish within their territorial jurisdiction for the purpose of ice fishing.

NOW THEREFORE, pursuant to 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 prescribe the following regulations applicable only for ice fishing east of the St. Croix River:

Regulations

Introduction: The purpose of this Order is to state the terms and conditions which the parties have agreed will be in effect for the purpose of regulating subsistence ice fishing during the 1984 Chippewa Indian Off-Reservation Treaty Ice Fishing Season ("1984 Treaty Season"). This Order is effective only for the period of time listed in the terms of this Order. It may not be used for any purpose in this or any other proceeding after the expiration of this Order, except that provisions of this agreement shall remain in effect to the extent needed for the prosecution and defense of violations occurring during the term of this agreement. This agreement shall apply to member ice fishing activities on waters located outside the exterior boundaries of Chippewa Indian Reservations in Wisconsin, and within the ceded territories of 1837 treaty cession, east of the St. Croix River.

- I. The parties agree that ice fishing activities by members of the Mille Lacs Band of Chippewa during the 1984 Treaty Season will be subject to the following conditions and regulations:
1. The term of the 1984 Treaty Ice Fishing Season shall be as follows:
 - a. From January 31, 1984 to April 1, 1984, for spearing;
 - b. From January 31, 1984 to April 15, 1984 for hook and line fishing for all game fish;
 - c. From January 31, 1984 to ice out for hook and line fishing for all pan fish and all rough fish;
 - d. By mutual agreement, the season for spearing and hook and line fishing for game fish may be extended should projected ice conditions and spawning activity indicate that such an action will not result in exploitation of spawning fish.
 2. Ice fishing as that term is used in this Order shall mean fishing by a method permitted by this Order through an artificial hole in the ice.
 3. The following fish bag limits shall be in effect throughout the term of this Order and shall be enforceable against Tribal members throughout the terms of this agreement.
 - a. Lake Trout - 2 per day per person
 - b. Muskellunge - 2 per day per person. No other bag limits are in effect for any species taken pursuant to this agreement.
 4. The following fish size limits shall be in effect throughout the term of this agreement and shall be enforceable against Tribal members throughout the term of this agreement:
 - a. Lake Trout - 17 inches
 - b. Muskellunge - 32 inches for hook and line 30 inches for spearing. Tribes agree to encourage their members not to spear muskellunge which are under 32 inches in length. No other size limits are in effect for any species of fish taken pursuant to this agreement.
 5. There shall be a closed season on sturgeon. All other species of fish may be taken pursuant to the conditions set forth in this agreement.
 6. The following restrictions on ice fishing holes shall be in effect for the term of this 1984 Treaty Ice Fishing Agreement:

- a. Hook and Line fishing - 12 inches in diameter
 - b. Spearing - 24 inches x 36 inches
 - c. All unattended holes created for the purpose of ice fishing shall be reasonably marked.
7. The following methods are the permissible methods of ice fishing pursuant to this Order: spearing, hook and line, tip up and hand line fishing. Band members shall not share gear with non-Band members. All lines must be attended.
 8. The following bodies of waters shall be closed for purposes of this agreement: springs, spring ponds, and trough streams. A trout stream is any body of water so classified by the State of Wisconsin. Bands shall encourage their members not to spear muskellunge on Squirrel Lake {Oneida County}.
 9. The following line fish are prohibited for use as bait by members ice fishing pursuant to this Order: carp, goldfish, redhorse, lamprey, alewife, gizzardshad, smelt, goldeye, mooneye, carpsucker, quillback, chub and cray fish.
 10. Band members must carry Band identification documents or licenses on their persons when ice fishing off their reservation. Band members holding such documents or licenses, which shall be displayed upon reasonable request by state or local law enforcement personnel are not required to hold or obtain a state license to ice fish under this agreement. The Band agrees to verify membership during normal tribal business hours. Fees for state fishing licenses authorizing fishing activities during the 1984 State Fishing Season shall be refunded to members of Bands submitting their license and a copy of their tribal identification to:

License Section
Department of Natural Resources
P.O. Box 7922
Madison, Wisconsin 53707

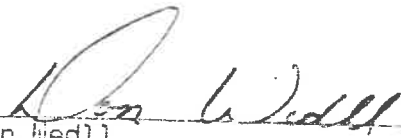
11. Special restrictions applicable to lakes upon which the Wisconsin Department of Natural Resources is conducting fish management experiments shall apply to tribal members ice fishing pursuant to this Order. The following lakes have current on-going research projects and are specially regulated: Spruce Lake {Vilas County}, Mystery Lake {vilas}, Pallett Lake {Vilas}, Escanaba Lake {Vilas}, Nebish Lake {Vilas}, Long Lake {Iron}, Bone Lake {Polk}, Lake Winter {Sawyer}, Big Lake {Vilas}, Pine Lake {Iron}, Clear Lake {Oneida}, Little Bass Lake {Oneida} Wildwood Lake {Vilas}, Kimball Lake {Langlade}, Mueller Lake {Langlade}, Sawyer Lake {Langlade}, Balsalm Lake {Bayfield}, Beaver Lake {Bayfield}, Little Star Lake {Bayfield}, Spring Lake {Bayfield}, McGee Lake {Langlade} and Little Arbe Vitae Lake {Vilas}. The State

of Wisconsin shall commit itself to the design and funding of future joint state-tribal fish management research projects on off-reservation waters in the ceded areas.

12. Ice fishing shanties shall be equipped with a latch which will permit the door to be readily opened from the outside at all times while the enclosure or shelter is occupied. All such shelters shall be removed from the ice on or before March 5, on all waters south of Highway 64 and March 15, on all waters north of Highway 64. Portable shelters may be used after the removal dates. All shanties used for ice fishing purposes shall have the name and residential address of the person owning the shanty. {The parallel state regulation is S 29.283 and NR 20.13(2)-(4)}.
 13. It is a violation of this Order to unreasonably waste, injure or destroy, or impair natural resources while engaged in ice fishing activities pursuant to this agreement. {The parallel state regulation is S23.095}.
 14. It is a violation of this Order to leave upon the ice, cans, bottles, debris, refuse and other solid waste or deposit debris on public or private property. {The parallel state regulations are S23.095, S 29.288 and S 345.94(6)-(6m)}.
- II. Band members violating regulations described in this Order shall be referred for prosecution to the Mille Lacs Court of Central Jurisdiction.
1. It is understood and agreed that state enforcement personnel will conduct themselves in the same manner whether the citation, if any, to be issued would be to Court of Central Jurisdiction or state court.
 2. The Department will strongly encourage state law enforcement personnel to use the utmost discretion in the retention of seized equipment of Band members apprehended in a violation of this agreement, thereby recognizing the hardship such retention may have on the exercise of the Band member's treaty rights. Every reasonable effort shall be made to return the equipment as soon as possible when confiscation is not sought and when retention is not needed for prosecution.

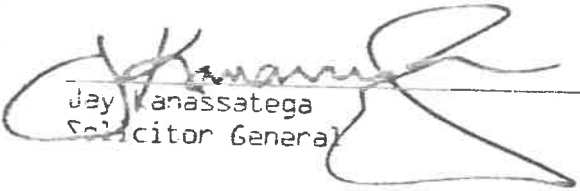
3. All Band members shall register all fish taken pursuant to this regulation east of the St. Croix River prior to their passage west of the St. Croix River. Upon completion of the proper registration and within five days of said registration each Band member shall submit the registration form to any Band Natural Resource Officer.

DATED, at Vineland, Minnesota this tenth day of February in the year one thousand nine hundred and eighty-four.



Don Wedell
Commissioner of Natural Resources

APPROVED AND NUMBERED AS TO
FORM AND EXECUTION



Jay Kanassataga
Solicitor General

OFFICIAL SEAL OF THE BAND

MILLE LACS BAND OF CHIPPEWA
DEPARTMENT OF NATURAL RESOURCES

Fish Registration

The following registration form must be used to bring fish west of the St. Croix River.

Name of Individual: _____
Mille Lacs Band License Number: _____

Types	Method	Number	Date	Location

Under oath of the Mille Lacs Band of Chippewa I hereby certify that the above information is true and identifies the fish I have taken East of the St. Croix River.

SIGNATURE

DATE

I hereby verify that the following fish were in the possession of the above named individual and the above individual was in the State of Wisconsin this

Date

SIGNATURE

DATE