

COMMISSIONER'S ORDER NO. 113-89
Natural Resources

A Commissioner's Order establishing and regulating Off-Reservation Ricing Season within the Ceded Territory of 1837 for the Mille Lacs Band of Chippewa Indians.

WHEREAS, the Chippewa Bands that reside within the ceded territories of 1837 reserved the right to hunt, fish, and gather within the territory; and

WHEREAS, the United States Department of Interior has ruled that the hunting, fishing, and gathering right does exist; and

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 Mille Lacs Band of Chippewa will regulate its members in the taking of rice within the area of 1837 Treaty; and

WHEREAS, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, the 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, the Mole Lake Band of Lake Superior Chippewa Indians, the Keweenaw Bay Band of Chippewa Indians, and the Mille Lacs Band of Chippewa Indians have a reserved right to rice within the Territory of 1837.

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 the Ceded Territory of 1837.

OFF-RESERVATION 1989 RICING ORDINANCE
OF THE
MILLE LACS BAND OF CHIPPEWA INDIANS

Chapter I -- INTRODUCTION

101. Title. This ordinance shall be known as the Mille Lacs Band of Chippewa Indians Off-Reservation 1989 Ricing Ordinance.
102. Authority. This ordinance is enacted pursuant to Band Statute 1017-MLC-7 of the Mille Lacs Band of Chippewa Indians.
103. Purposes. It is the purpose of this ordinance to:
 - a) Provide an orderly system for tribal control and regulation of ricing on the off-reservation territories 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 wild rice in the ceded territory through the regulation of member ricing occurring there.

104. Effective Date. This order shall be effective on the date adopted by the Tribe's Governing Body and shall expire at 11:59 on July 15, 1990.
105. Interpretation. The provisions of this ordinance shall be interpreted and applied as minimum requirements applicable to ricing and shall be liberally construed in favor of the Tribe. The provisions shall not be deemed a limitation or repeal of any other tribal power or authority.
106. Severability and Non-Liability. If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe 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 in conformance with this ordinance.
107. Repeal of Inconsistent Tribal Ordinances. All ordinances and resolutions inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes greater restrictions than those contained in any other tribal ordinance, the provisions of this ordinance shall govern.

Chapter 2 -- DEFINITIONS

201. Definitions.
- a) "Member" means a member of the Mille Lacs Band of Chippewa Indians.
 - b) "Tribal Conservation Department" means the conservation department of the Bad River, Lac Courte Oreilles, Lac du Flambeau, Mole Lake, Red Cliff, St. Croix Tribes, Keweenaw Bay, Mille Lacs.
 - c) "Tribal Court" means the Court of Central Jurisdiction.
 - d) "Tribal opening authority" means the authority to consult with or concur with the Wisconsin and Minnesota Department of Natural Resources regarding the opening and closing of ricing lakes, pursuant to Article II of the Agreement By and Between the Tribe and State Parties in Lac Courte Oreilles v. State of Wisconsin Governing the 1989 Chippewa Indian Off-Reservation Ricing Season in the Ceded Area.
 - e) "Tribe" means the Mille Lacs Band of Chippewa Indians.

Chapter III -- REGULATIONS

301. Permits Required. No member shall harvest or gather wild rice pursuant to this ordinance without possessing a valid wild rice harvesting permit issued by the tribal conservation department. Such a permit may be the member's tribal identification card required by the Mille Lacs Off-Reservation Code. No wild rice harvest permit is required of helpers of a permittee who participate only in shore operations.
302. Sale of Wild Rice Authorized.
- a) Nothing in this ordinance shall be construed to prohibit members from selling wild rice legally harvested pursuant to this ordinance.
 - b) The provisions of the Mille Lacs Off-Reservation Conservation Code which require that records of commercial transactions shall not apply to the sale of wild rice.
303. Allowable Methods.
- a) Ricing sticks. No tribal member may harvest or gather any wild rice by the use of any method other than smooth, rounded, cedar rods or sticks not more than 38 inches in length and which are held and operated by hand.
 - b) Binding. No member shall bind or otherwise bundle together any wild rice stalks, or harvest or gather any wild rice, the stalks of which have been bound or otherwise bundled together.
 - c) Boats. No tribal member may harvest or gather any wild rice by the use of any boat longer than 17 feet or greater than 38 inches in width or by the use of any boat propelled by other than muscular power using only a push pole or canoe paddle.

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304. Open seasons.
- a) No tribal member shall harvest wild rice in any lake for which a closed season is in place pursuant to this section, except as such lake is posted open pursuant to subsection (c) of this section.
 - b) There is no closed season on any waters except for the following listed lakes:
Barron County: Bear, Beaver Dam, Red Cedar.
Bayfield County: Totogatic.
Burnett County: Bashaw, Big Clam, Big Sand, Briggs, Gaslyn, Long, Mud (town of Oakland), Mud (town of Swiss), Mud Hen, Spencer, Trade.
Douglas County: Allouez Bay, Mulligan Lake
Forest County: Atkins, Riley, Big Rice, Wabigon
Marinette County: Noquebay
Oneida County: Big, Big Lake, Thoroughfare, Gary, Little Rice, Rice, Spur.
Polk County: Balsam Branch, Big Round, East, Glenton, Little Butternut, Nye, Rice, White Ash.
Sawyer County: Musky Bay (sec. 10 and 11, T39N, R9W in Big Lac Courte Oreilles).
Vilas County: Allequash, Little Rice, Nixon, Irving Aurora, West Plum, Devine, West Ellerson, Michay Mud, Frost, Rice, Sand, Sugar Bush Chain.
Washburn County: Bear, Gilmore, Little Mud, Long, Nancy, Rice, Spring, Tranus.
 - c) For each of the lakes listed in par. (b) of this section, there is a closed season except as the lake is posed open by the tribe with tribal opening authority or by the Wisconsin Department of Natural Resources acting concurrently with or on behalf of the tribe with tribal opening authority.
305. Hours. No tribal member may harvest or gather any wild rice between sunset and the following 10:00 a.m., Central Daylight Time.
306. Harvest Monitoring. No member shall refuse to cooperate with or provide information to representatives or wardens of the Wisconsin Department of Natural Resources, the Great Lakes Indian Fish and Wildlife Commission, and the Tribal Natural Resources Officers who are implementing, monitoring, or enforcing provisions of this ordinance.
307. Waste of Natural Resources. No tribal member shall unreasonable waste, injure or destroy or impair natural resources while engage in ricing activities pursuant to this ordinance.

Chapter IV -- ENFORCEMENT

401. Enforcement by deputized conservation wardens. Any provision of this ordinance may be enforced by tribal conservation wardens or by conservation wardens of the Great Lakes Indian Fish and Wildlife Commission. Said Commission wardens are hereby deputized by the Tribe as tribal conservation wardens for purposes of enforcing this ordinance.
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 ordinance 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. §23.54.
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 Wild Rice. Wild Rice which is seized in connection with cases referred to tribal court for prosecution shall be turned over to the tribe. Such wild rice shall not be returned by the tribal court or tribal officials to the convicted violator, his immediate family or other members of the ricing party.
405. Hearings in Tribal Court. The Band Court shall adjudicate all matters arising under this ordinance, pursuant to the provisions of the Band's Court Code.

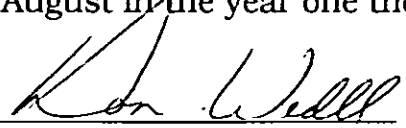
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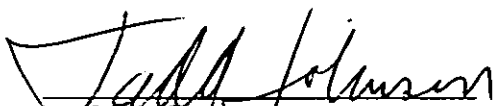
406. **Penalties.** Any tribal member found by the Band Court to have violated a provision of this ordinance shall be subject to the following penalties:
- a) For a violation of any provision of this ordinance, a forfeiture of not more than \$500.00.
 - b) For a violation of any provision of this ordinance, a revocation of off-reservation wild rice harvesting 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. 403 and 404 of this ordinance 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. **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.
410. **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 has not been convicted of 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.
411. **Members of other Tribes, Tribal Court Adjudications.** The Tribal Court is authorized to adjudicate alleged violations by any member of the Keweenaw Bay Indian Community or the Mille Lacs Band of Chippewa Indians of the off-reservation ricing order of either tribe provided: a) The ordinance is in conformance with the 1989 Chippewa Indian Off-Reservation Ricing Season Agreement By and Between the Tribal and State Parties in Lac Courte Oreilles Ban. et al., v. State of Wisconsin, et al., and b) The Tribe has authorized the adjudication.
412. **Issuance of Off-Reservation Natural Resources Harvesting Permit.** The tribal conservation department is authorized to issue and validate natural resource harvesting permits to members of the Tribe and to members of any other tribe which has adopted an ordinance in conformance with the Agreement By and Between the Tribal and State Parties in Lac Courte Oreilles v. State of Wisconsin Governing the 1989 Chippewa Indian Off-Reservation Ricing Season for the Ceded Area.
413. **Concurrence in Lake Openings.** The tribal chairman or his delegate is authorized to exercise the tribe's opening authority pursuant to Section 305 of this ordinance.

DATED at Vineland, Minnesota, this 17th day of August in the year one thousand
nine hundred and eighty-nine.



Don Wedll
Commissioner of Natural Resources

APPROVED AND NUMBERED AS TO
FORM AND EXECUTION



Tadd Johnson
Solicitor General

OFFICIAL SEAL OF THE BAND

