

COMMISSIONER'S ORDER NO. 86 - 88  
Natural Resources

A Commissioner's Order identifying the effects of the drought and additional water draw down will have on the Sandy Lake Reservation Wild Rice beds.

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

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

WHEREAS, Band Statute 1032-MLC-1, Section 29 directs the Commissioner of Natural Resources to protect all natural resources of the Mille Lacs Band of Chippewa Indians; and

WHEREAS, under the case of Winters v. United States, 207 U.S. 564 (1908) the United States Supreme Court held that there exists an implied reservation to a tribe of an amount of water reasonably necessary for irrigation and domestic purposes; and

WHEREAS, water rights under Winters are also reserved for Indian use with regard to water off the reservation if it is determined that these waters are necessary to meet a tribe's needs. Arizona v. California, 376 U.S. 340 (1964).

WHEREAS, Winters rights are not lost by non-use;

NOW THEREFORE, by the authority vested in me by the Mille Lacs Band of Chippewa Indians under tribal law, I, Don Wedl, Commissioner of Natural Resources for the Mille Lacs Band of Chippewa Indians hereby identify the potential factor and effects the drought and an additional water draw down will have on the wild rice beds in the Sandy Lake Reservation.

EFFECTS OF DROUGHT  
ON  
SANDY LAKE WILD RICE BED

The basis for determining the effects on Wild Rice because of the drought and any additional draw down of water from the Sandy Lake Reservoir will have on the harvestable wild rice this fall or future reproduction of wild rice.

The factors under consideration are time of draw down, amount of draw down, weather conditions, germination of the wild rice, amount and quality of wild rice, and the present existing condition. Factors are:

1. As water levels lowers wild rice plants become more susceptible to breaking, lodging, insects and disease. It is our conclusion that a significant increase or decrease in water levels on rice beds produces stress to the rice plant. Our review of an additional 4 inch draw down of water will produce additional stress to the wild rice plants which will cause the plant to fill out improperly. The plants are easily affected during the flowering and filling stage. It is our finding that the four inches of water does make a significant difference in the ability of the wild rice plant to resist lodging from wind or stalks from breaking.
2. Wild rice germination is directly related to water, as seeds dry out germination is lost, ripe seeds need to be kept wet in order to be viable seeds.
3. The closer the wild rice is to being ripe the less direct impact a change in water level would have. After the wild rice heads are filled a change in water levels have less impact on the amount of mature rice.
4. The amount of water draw down and the rate at which it is drawn will also impact the wild rice crop. In our review the changing of water levels during the flowering and filling of the rice heads is a critical period and can produce a significant impact.
5. The quality and quantity of the wild rice is:

The rice is presently in its flowering and filling stages and we calculate it would continue in this stage for another 3 weeks.

The present estimate of the wild rice crops is a production level of 245 to 300 pounds per acre.

The following acres of wild rice for the given bodies of water effected are:

Aitkin Lake	260 acres
Flowage Lake	175 acres
Rats Lake	200 acres
Sandy Lake & Savanna Portage	460 acres
Sandy Lake River	60 acres
TOTAL	1,155 ACRES

6. The present drought has stressed the plants and assuming its continuance we calculate that 25% of the total rice crop will be unharvested.

The effects of an additional 4 inch draw down during the flowering and filling stage will reduce the overall production level of the wild rice crop between 45% to 65%.

The additional 4 inches will reduce the total harvestable acreage of wild rice by approximately 25% based on the summer level of 1216.06 to a winter level of 1214.31.

Assuming the drought does not continue we would expect a total harvest of 314,737 pounds with approximately 75% of this being harvested by tribal member or 236,053 pounds of wild rice.

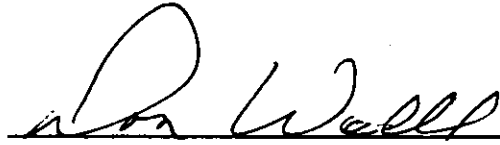
If the drought continues a 25% loss would occur or loss of 78,685 pounds and a remaining amount of 236,053 pounds with 75% of this amount being harvested by tribal members equal to an amount of 177,040 pounds.

Should a draw down of 4 inches occur now or within the next two weeks we calculate that the impact would be that 55% reduction in the rice crop plus an additional 25% that is not harvestable due to additional low water, thus a tribal harvestable amount of 70,815 pounds.

This translates to a loss of 106,225 pounds of green rice. The value of the green rice averages at \$.75 per pound, would make a loss of \$79,669.00. or with the processing of this rice, at a rate of 47% would produce 49,926 pounds of finished rice at a value of \$4.25 per pound, the value would be \$212,184.00 less cost of purchasing and processing.

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DATED at Vineland, Minnesota this 29th day of July in the year one thousand nine hundred and eighty-eight.



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Don Wedl  
Commissioner of Natural Resources

APPROVED AND NUMBERED AS TO  
FORM AND EXECUTION

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Tadd Johnson  
Solicitor General

OFFICIAL SEAL OF THE BAND