

COMMISSIONER'S ORDER NO. 108-89

Natural Resources

A Commissioner's Order establishing regulation to control purple loosestrife
(*Lythrum Salicaria*)

- 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 the treaty of 1855, 10 Stat. 1165, 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, purple loosestrife is a highly aggressive plant that rapidly takes over wetlands, and
- WHEREAS, purple loosestrife has created serious problems throughout the northeastern United States, and
- WHEREAS, U.S. Fish and Wildlife Service, Wildlife Managers, and Minnesota Department of Agriculture has identified that purple loosestrife chokes out valuable wetland plants which support many birds and mammals, and
- WHEREAS, large number of watersheds has been invaded by purple loosestrife, and thousands of acres of wetlands habitat have been lost, and
- WHEREAS, purple loosestrife has the potential to invade and choke out wild rice beds with the jurisdiction of the Mille Lacs Band of Chippewa Indians, and
- WHEREAS, the lost of wild rice, birds, native plants, and mammals will seriously impact the health, welfare and economic security of the Mille Lacs Band of Chippewa Indians.

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 establish the following regulations to prevent the growth of purple loosestrife within the jurisdiction of the Mille Lacs Band of Chippewa Indians.

Regulation

Definition:

- A. Noxious Weeds - The annual, biennial, and perennial plants which are deemed by the Commissioner of Natural Resources to be injurious to public health, social, cultural and economic security of the Mille Lacs Band members.
- B. Cutting Down-The mechanical cutting of noxious weeds with a mower, scythe, swather, or other implement
- C. Otherwise Destroyed-Any method used to kill the above ground growth of noxious weeds.
- D. Control-The killing of the above ground growth of noxious weeds before nature seeds are spread. This would include both cutting down or otherwise destroying noxious weeds.
- E. Eradicate-The killing of both top growth and roots of a noxious weed by any lawful means.
- F. Growing Crop-Any of the recognized agricultural, horticultural, and forest crops which have been planted and/or are regularly harvested or intended for harvesting.
- G. Permanent Pasture and Meadow-An area of nature or seeded perennial grasses and other perennial plants used for hay or grazing which has been seeded for more than two years. This does not include annuals or biennials planted for or to be used for hay in pasture not more than two year. Permanent pasture and meadow are not considered to be a growing crop.
- H. Wetlands-Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.
- I. Person- The word "person" as used in this ordinance shall mean and include one or more persons of either sex, natural persons, corporations, partnerships, associations, joint stock companies, societies and all other entities of any kind capable of being sued.

Section 1. Purple loosestrife (Lythrum salicaria) Is here declared as a noxious weed.

Section 2. Eradication of purple loosestrife. It shall be unlawful for any owner, lessee, or occupant, or any agent, servant, representative or employee of any such owner, lessee or occupant having control of any occupied or unoccupied lot or land or any part thereof in the Mille Lacs Reservation and other lands under its jurisdiction to permit or maintain on any such lot or land, highway or right of way or on along the sidewalk, street or alley, any growth of purple loosestrife. It shall also be unlawful for any such person or persons to cause, suffer or allow purple loosestrife to grow on any such lot or land in such a manner that any part of such plant shall extend upon, overhang or border any public places or allow seeds, pollen or other particles emanations therefore to be carried through the air or water into any public places.

Subsection 2.11 It shall be unlawful transport, carry or to have such be done, the plants, flowers or seeds of the said plant defined as purple loosestrife

Subsection 2.2 A permit may be issued to transport such plants based upon or acceptable application which would identify the reason for transporting because of scientific or disposal purposes.

Section 3. Duty of Owners, lessee, or Occupant. It shall be the duty of any owner, lessee, or occupant of any lot or land to cut, remove, and eradicate or cause to be cut, remove and eradicate all purple loosestrife as often as may be necessary to comply with the provision of Section 2;

Section 4. Non-compliance. Any person within the territorial jurisdiction of the Mille Lacs Band having care or control over any lot or land in non-compliance with this order shall be served with a written notice by the Commissioner of Natural Resources for the Mille Lacs Band and shall be subjected to the civil jurisdiction of the Court of Central Jurisdiction for the Mille Lacs Band.

Section 5. It shall be unlawful for any owner, lessee, or occupant, or any agent, servant, representative or employee of any such owner, lessee or occupancy having control of any occupied or unoccupied lot or land or any part thereof in Jurisdiction of the Mille Lacs Band to permit or maintain on any such lot or land, or on or along the sidewalk, street or alley adjacent to the such lot or land, or on or along the sidewalk, street or alley adjacent to the same between the property line and the curb, any growth of purple loosestrife to a greater height than 12 inches on the average, or any accumulation of purple loosestrife. It shall also be unlawful for any such person or persons to cause, suffer or allow purple loosestrife plants to extend upon, overhang or boarder any public place or allow to seed, pollen or other particles or emanations therefrom to be carried through the air or water into any public place.

Section 6. Duty of Owner, Lessee or Occupant. It shall be the duty of any owner, lessee or occupant of any lot or land to cut and remove or cause to be cut and removed all purple loosestrife as often as may be necessary to comply with the provisions of Section 2: provided that cutting and removing such weeds, grass and vegetation at least once in every three weeks, between May 15 and September 15 shall be deemed to be a compliance with this ordinance.

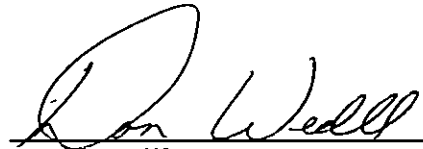
Section 7. When Tribal Government does the work. If person upon whom the Mille Lacs Band Department of Natural Resources serves notice fails, neglects or refuses to eradicate purple loosestrife within eight (8) days after receipt of such notice, or if no person can be found within the jurisdiction of Mille Lacs who either is or claims to be the owner of such lot or land, or who either represents or claims to represent purple loosestrife on such lot or land to be eradicated, then the actual cost of such cutting and removal, plus five percent for inspection and other additional costs in connection therewith, shall be certified by the Commissioner and shall thereupon become and be a lien upon the property on which such purple loosestrife was located and shall be added to and become and form part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and in the same manner as taxes.

Section 8. Penalty. Any person who shall neglect to cut and remove weeds, grass, brush or other vegetation as directed in this ordinance, or who shall fail, neglect or refuse to comply with the provisions of any notice herein provided or who shall violate any of the provisions of this ordinance or who shall resist or obstruct the Natural Resource Officer or his assistants in the eradication of purple loosestrife shall, upon conviction thereof, be subject to a fine or not less than \$25.00, or more than \$500.00 and each day on which such violation continues shall constitute a separate offense.

Section 9. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

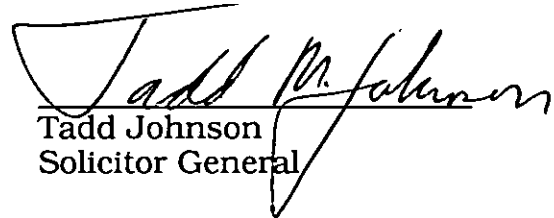
Section 10. This ordinance shall take effect June 30, 1989.

DATED at Vineland, Minnesota this 2nd day of June 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