

COMMISSIONER'S ORDER NO. 100 - 89
Natural Resources

A Commissioner's Order to establish a 1988-89 Trapping Regulations for lands under jurisdiction of the Mille Lacs Band of Chippewa Indians.

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 1855, 10 Stat. 1165; and

WHEREAS, the Mille Lacs Band deem it appropriate to provide an orderly system of tribal control and regulation of trapping on lands under the jurisdiction of the Mille Lacs Band of Chippewa Indians; and

WHEREAS, the Mille Lacs Band further deems it appropriate to provide conservation and management for furbearing populations found in these lands through the regulation of member trapping occurring there; and

WHEREAS, the Commissioner of Natural Resources has the authority to regulate natural resources within the jurisdiction of the Mille Lacs Band of Chippewa Indians through Band Statute 1032-MLC-1, Sec. 29, Band Statute 1017-MLC-7, and Band Statute 1092-MLC-25, et seq.; and

WHEREAS, the taking of furbearing is a natural resources under the jurisdiction of the Mille Lacs Band of Chippewa Indians; 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 Statute 1032-MLC-1, Section 25 and 29, the Commissioner of Natural Resources is empowered to execute the regulatory agreements for trapping by members of the Mille Lacs Band.

NOW THEREFORE, by the authority vested in me by the Mille Lacs Band of Chippewa Indians pursuant to Band Statute 1032-MLC-1, Section 29, I, Don Wedli, Commissioner of Natural Resources for the Mille Lacs Band of Chippewa Indians hereby establish the 1988-89 On-Reservation Trapping Regulations; and

It is further and finally ordered that the following Trapping Regulations are established for the 1988-89 Trapping Season.

ON-RESERVATION 1988-89 TRAPPING REGULATION

PART I - INTRODUCTION

101. Title. This Commissioner's Order may be cited as the Mille Lacs Band of Chippewa Indians (east of the St. Croix River) on-reservation 1987 Trapping Regulations.
102. Authority. This Commissioner's Order is authorized pursuant to Band Statute 1032-MLC-1, Sec. 29, Band Statute 1017-MLC-7, and Band Statute 1092-MLC-25, et seq., of the Mille Lacs Band of Chippewa Indians.
103. Purpose. It is the purpose of this order to:
 - a) provide an orderly system for tribal control and regulation of trapping on the on-reservation lands and waters ceded by the Chippewa Indians in the Treaty of 1837, 7 Stat. 536 and the Treaty of 1855, 10 Stat. 1165.
 - b) Provide a means to promote the conservation and management of furbearer population in the ceded territory through the regulation of member trapping occurring there.
104. Effective Date. This order shall be effective on the date of issuance and shall expire at 11:59 p.m on September 15, 1989.
105. Interpretation. The provisions of this order shall be interpreted and applied as minimum requirements applicable to trapping and shall be liberally construed in favor of the Mille Lacs Band pursuant to Band Statute 1024-MLC-3, Section 19.01. The provisions shall not be deemed a limitation or repeal of any other Band power or authority.
106. Severability and Non-Liability. If any section, provision, or portion of this order is adjudged unconstitutional or invalid by the Court of Central Jurisdiction, the remainder of this order shall not be affected thereby. The Mille Lacs Band 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 conformance with this order.
107. Repeal of Inconsistent Tribal Ordinances. All previous Commissioner's Orders inconsistent with this order are hereby repealed. To the extent that this order imposes greater restrictions than those contained in any other Commissioner's Orders, the provisions of this order shall govern.

PART II - DEFINITIONS

201. Definitions.
 - a) "Member" means a member of the Mille Lacs Band of Chippewa Indians.
 - b) "To trap" means to trap or snare.
 - c) "Tribal Natural Resources Department" means the conservation departments of the Mille Lacs Band of Chippewa Indians.
 - e) "Tribal Court" means the Court of Central Jurisdiction.
 - f) "Tribal Member" means a member of the, Mille Lacs Band of Chippewa Indians.
 - g) "Tribal transportation tag" means a tag issued by any tribe under an order in conformance with this regulation.
 - h) "Tribe" means the Mille Lacs Band of Chippewa Indians.

Part III - REGULATIONS

301. Seasons:

- a) No member shall trap any species except during the open season provided for it by this section.
- b) Open season are provided as follows: Seasons begins at 6:00 a.m. on the opening date listed and ends at 11:59 p.m. on the closing date listed.
 - (a) Snowshoe Hare Year Around
 - (b) Cottontail Rabbit Year Around
 - (c) Red, Gray & Fox Squirrel Year Around
 - (d) Bobcat Special Permit only
 - (e) Raccoon, Badger October 20, 1988 - January 31, 1989
 - (f) Red & Gray Fox October 20, 1988 - February 29, 1989
 - (g) Coyote October 20, 1988 - February 29, 1989
 - (h) Mink October 20, 1988 - February 29, 1989
 - (i) Muskrat October 20, 1988 - May 1, 1989
 - (j) Beaver October 24, 1988 - May 1, 1989
 - (k) Otter Special Permit only
 - (l) Fisher Special Permit only

302. Setting, tending Traps: non-members. No member shall share any traps or snare with non-tribal member, nor permit any non-tribal member to tend any trap or snare of the member unless both the member and non-member are in conformity with all applicable provisions of the respective laws and regulations governing each party.

303. Identification - Members

- a) No member shall trap on-reservation except while carrying a valid picture identification card issued by the tribe, or other form of identification card issued by the tribe, or other form of identification approved by the tribe for trapping activities.
- b) No member shall refuse to display his or her identification documents upon request of any tribal, state, or local law enforcement officer.

304. Permits. No member shall trap on-reservation except while carrying a validly issued on-reservation natural resources harvesting permit, validated for trapping.

305. Identification - Traps.

- a) Any member trapping on-reservation shall affix to each trap a metal tag upon which shall be stamped or engraved the trapper's name and address and the initials "MLB" indicating membership in the tribe.
- b) Any member placing traps within 15 feet of a beaver house or beaver dam shall affix a tag as provided in par. (a) of this section near the trap in such a manner as to be visible from above the waterline.

306. Methods - Trapping and Snaring. No member shall:

- a) Hunt any mink, muskrat, beaver, fisher, or otter with the aid of any spear, gun or dog, provided that a member may carry a gun or be accompanied by a dog while tending traps; and provided further that a member may use a bullet of no greater size than .22 caliber rim fire to kill a beaver or otter in a trap by shooting it in the head.
- b) Set out traps or snares except during the open season.
- c) Set out bait or scent for attracting fur bearing animals except during the open season.
- d) Use sight-exposed bait, visible from above, consisting of feathers, animal flesh, fur, hide, or entrails within 25 feet of trap or snare.
- e) Use water sets except during the open season for muskrats, beaver, or otter.
- f) Set any trap or snare on or touching a beaver house.

- g) While hunting or trapping, molest any mink den, raccoon den, or den tree, beaver dam, muskrathouse, or muskrat feeding house, except that a member may place a trap or snare within a muskrat house if he or she substantially restores the house to its prior condition after each occasion of setting or tending the trap or snare.
- h) Fail to check all dry land sets and to remove all animal therein at least once each day.
- i) Place on the ice any artificial house or den, or place therein any trap or snare, which has the purpose or may have the effect of taking furbearers.
- j) Set, place, possess, or operate on or adjacent to waters any trap other than a snare or steel-jawed trap or livetrapp capable of capturing only one animal in a single setting for the purpose of taking furbearing animals.
- k) Set, place, or operate except as a water set any killer or conibear trap larger than 7" X 7".
- l) Set, place, or operate any steel-jawed trap with a spread width of more than 8 inches.
- m) Set, place, or operate any steel-jawed trap with teeth except as a water set.
- n) Set, place, or operate any killer trap of the conibear type greater than 6" X 6" or 6" in diameter in the following locations.
 - (i) Within 3 feet of any federal, state, or county road right-of-way culvert unless completely submerged in water.
 - (ii) Within 3 feet of any woven or welded wire mesh type fence.
 - (iii) Within 100 yards of any building devoted to human occupancy without the owner's consent.
- o) Use poison baits or explosives while trapping.
- p) Use nets, pitfalls, pivot guns, swivel guns, spring guns, or similar contrivances, not including snares, to take furbearers.

307. Methods - Snaring. No tribal member shall use a snare except in compliance with the following provisions.

- a) Any snare must be anchored so that it may not be dragged.
- b) Any snare must be tagged as in Sec. 305 of this order.
- c) No snare may be spring activated.
- d) Any snare must be set in a manner which prevents an animal from being suspended unless it is attached to a drowning mechanism.
- e) No upland snare may target any animal except fox, coyote, snowshoe hare, or cottontail rabbit.
- f) Any upland snare, except those set for snowshoe hare or cottontail rabbit, must be removed no later than February 29, 1989.
- g) Any water set snare must be removed no later than May 1, 1989.
- h) Any snare must have a mechanical lock which will prevent the snare loop size from becoming smaller than 2 1/2 inches.
- i) Any snare must have a swivel device on the anchor end.
- j) Any snare or cable wire may not have a diameter exceeding 1/8 inch.
- k) No more than 15 sets shall be used by any trapper at any one time. Each upland snare shall be counted as a set. All water set snares extending from any one pole shall be counted as one set.
- l) Any water set snare shall be completely submerged in water at all times.
- m) No upland snare shall be set on a well defined deer trail.
- n) No upland snare shall be set such that the bottom of the loop is more than 6" above the ground, or when the ground is snow covered, more than 6" above the level of the adjoining trail.
- o) No upland snare shall be set with a loop size greater than 10" in diameter.
- p) Notwithstanding any provision of this section, members may use #9 braided picture wire snares without locks or swivels for the purpose of snaring rabbits or hare.

308. Bobcat, otter, and fisher.

- a) No member shall move any bobcat, otter, or fisher from the site at which it is trapped prior to affixing a tribal transportation tag to it.
- b) No member shall fail to register with the tribal conservation department any bobcat, otter, or fisher he or she has killed. Such registration shall be accomplished no later than 4:30 p.m. of the working day following retrieval of the animal.
- c) No member shall fail accurately to give his name, address and phone number to the tribal conservation department as a condition for receiving tribal transportation tags.
- d) No member shall fail to give to the tribal conservation department at the time of its registration the location at which any fisher was trapped.
- e) No member shall fail to cooperate with the tribal conservation department at the time of registration, nor shall any member refuse to peaceably surrender to the tribal conservation department any fur or animal which an officer of the tribal conservation department reasonable believes to have been taken in violation of this order.
- f) No member shall transfer any transportation or registration tag obtained under this order to any non-member except in conjunction with a legal transfer of a tagged animal.

309. Possession of shot or speared fur. No member shall have in his possession or under his control the skin of any mink, muskrat, fisher, otter, or marten showing that the same has been shot or speared, except for beaver, otter, and fisher shot in the manner authorized in Section 305 (a) of this order.

310. Possession of green skins. No member may possess the green skin of a furbearing animal more than ten days following the close of the open season for that animal unless the member has tagged the animal and presented it to the tribal conservation department for registration within ten days of the close of the open season for the animal and the department has issued to the member a permit for the retention of animal specifying the member's name, the species of the animal and the number of the tag affixed to the animal.

311. Possession of live animals.

- a) All furbearing animals taken shall be immediately killed or released upon taking.
- b) No member shall sell or possess any live furbearing animals.

312. Purchase of furs. No member shall purchase furs from a non-tribal member except with a state license, and except as provided by Wisconsin state law pursuant to Sec. 29.134, Stats.

313. Shipment of furs. Members shall mark all fur shipments, showing the number and kinds of hides in the shipment and the name and address of the shipper and of the consignee.

314. Sale of meat of furbearing animals. During the closed season for an animal, no member may sell the meat of that animal except to a tribal member.

315. Waste. No member shall unreasonably waste, injure, destroy, or impair natural resources while engaged in trapping activities pursuant to this agreement.

316. Molesting traps. No member may molest, take, or appropriate a trap belonging to another person when the trap is lawfully placed. No member may take or appropriate the animal or contents of any lawfully placed trap belonging to another.

317. Larceny of game. No member shall, without permission of the owner, molest, disturb, or appropriate any wild animal or the carcass or part thereof, which has been lawfully reduced to possession by another.

318. Endangered, threatened, and protected species. No member shall harvest badger, wolverine, flying squirrel, or any animal on either the Band's, state or federal endangered or threatened species list.

319. Incidental take. Any member taking any animal except during the open season therefore shall surrender the animal to the Band.

Part IV - ENFORCEMENT

401. Enforcement by deputized conservation wardens. Any provision of this order may be enforced by Mille Lacs Band Enforcement Officer.
402. Seizure of Evidence. Tribal conservation wardens are empowered to seize evidence in connection with the institution of proceedings in tribal court.
403. Seized animals. Animals which are seized in connection with cases referred to tribal court for prosecution shall be turned over to the tribe. Such animals shall not be returned by the tribal court or tribal officials to the convicted violator, his immediate family or other members of the trapping party.
404. Registration information. Tribal wardens are empowered to request and receive from tribal tag and registration stations information regarding tag issuance and registration.
405. Penalties. Any tribal member found by the Court of Central Jurisdiction to have violated a provision of this order shall be subject to the following penalties:
a) For a violation of any other provision of this ordinance, a forfeiture of not more than \$500.00
b) For any violation of any other provision of this ordinance, a revocation of on-reservation trapping privileges may be ordered for a period of time to be determined by the court.
406. 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 order 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.
407. Collection of Money Penalties. Enforcement of the penalties imposed by Sec. 406 and 407 of this order 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.
408. 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.
409. Members of other tribes, issuance of permits, Tags, Registration. The tribal conservation department is authorized to issue and validate tribal on-reservation natural resources harvesting permits, and to issue trapping

DATED at Vineland, Minnesota this twenty-one day of October 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