

COMMISSIONER'S ORDER NO. 98-88
Natural Resources

A Commissioner's Order establishing On-Reservation 1988 Small Game hunting Regulations.

WHEREAS, the Mille Lacs Band of Chippewa Indians is a signatory or successor to the Treaty of 1855, 10 Stat. 1165, and;

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

WHEREAS, the Mille Lacs Band deem it appropriate to provide an orderly system of tribal control and regulation of On-Reservation Small Game hunting, and;

WHEREAS, the Mille Lacs Band further deems it appropriate to provide conservation and management for deer population found its jurisdictional territory through the regulation of member hunting 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 small game 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 regulation for Small Game hunting 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 Wedl, Commissioner of Natural Resources for the Mille Lacs Band of Chippewa Indians hereby establish the following Small Game Hunting Regulations on lands under the jurisdiction of the Mille Lacs Band:

ON-RESERVATION 1988 SMALL GAME HUNTING REGULATION

PART I - INTRODUCTION

101. Title. This Commissioner's Order may be cited as the Mille Lacs Band of Chippewa Indians On-Reservation 1988 Small Game Hunting 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 small game hunting on the on-reservation lands and waters within the Mille Lacs Reservation established by the Treaty of 1855, 10 Stat. 1165 and within its on-reservation territorial jurisdiction.
 - b) Provide a means to promote the conservation and management of small game population in the jurisdictional territory through the regulation of hunting 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 small game hunting 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 Commissioner's Order. 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) "Hunt" means to shoot, shoot at, pursue, take, catch, or kill any small game off-reservation, but does not include the recovery of a small game which has already been lawfully reduced to possession.
 - b) "Member" means a member of the Mille Lacs Band of Chippewa Indians.

- c) "Department of Natural Resources" means the conservation department of the Mille Lacs Band of Chippewa Indians.
- d) "Tribal Court" means the Court of Central Jurisdiction.
- e) "Tribal transportation tag" means a tag issued by any tribe under an ordinance in conformance with the 1988-89 Chippewa Indian On-Reservation Small Game Hunting Season
- f) "Tribe" means the Mille Lacs Band of Chippewa Indians.
- g) "Unprotected species" means:
 - 1) Opossum, skunk, weasel, woodchuck;
 - 2) Starlings, English sparrows, coturnix quail, chucker partridge and rock doves;
 - 3) All other species not covered in the following agreements entered into by the tribe: the 1988 Migratory Bird Agreement, 1988 Small Game hunting Regulations, 1988-89 Trapping Regulations, 1988 Deer and Bear regulations.

Part III - REGULATIONS

301. Seasons:

- a) No one shall hunt small game except during the open season provided for it by this section.
- b) Open seasons are provided as follows:

Small Game mammals	Open Season	Daily Limit	Possession	Shooting Hours
Cottontail Rabbit.....	Sept. 15-Feb. 28.....	10.....	20.....	1/2 hr. before sunrise-sunset
Jack Rabbit & Snowshoe Rabbit.....	Sept. 15-Feb. 28.....	10 each.....	20.....	1/2 hr. before sunrise-sunset
Gray & Fox Squirrels.....	Sept. 15-Feb. 28.....	10 each.....	20.....	1/2 hr. before sunrise-sunset
Woodchuck, Porcupine, skunk, raccoon.....	July 1-April 30.....	10 each.....	10.....	1/2 hr. before sunrise-sunset
Beaver.....	Oct. 1-Feb. 24.....	3.....	3.....	1/2 hr. before sunrise-sunset

Nonmigratory Birds

Ruffed & Spruce Grouse.....	Sept. 15-Feb. 28.....	5 combined.....	10.....	1/2 hr. before sunrise-sunset
Pheasant.....	closed.....			closed.....

302. Hunting Hours.

- a) No member shall hunt small game except during the hours provided in this section.
- b) Lawful hunting hours during open seasons are provided as follows. Times given are inclusive.
 - 1) From September 13, 1988 through November 21, 1988, for all animals except coyote, fox, raccoon and snowshoe hare, as follows:

September 15-17	6:00 a.m. to 7:15 p.m. DST (Daylight Savings Time)
September 18 - October 1	6:15 a.m. to 7:00 p.m. DST
October 2-9	6:30 a.m. to 6:45 p.m. DST
October 10-16	6:30 a.m. to 6:30 p.m. DST
October 17-25	6:45 a.m. to 6:15 p.m. DST
October 26-29	7:00 a.m. to 6:00 p.m. DST
October 30 - November 6	6:00 a.m. to 5:00 p.m. CST
November 7-18	6:15 a.m. to 4:45 p.m. CST
 - 2) From November 19, 1988 through November 27, 1988, for all animals, 6:30 a.m. - 4:30 p.m., CST.
 - 3) From November 28, 1988 through December 31, 1988, for all animals except Coyote, fox, raccoon, and snowshow hare, 6:30 p.m. - 4:30 p.m., CST.

- 4) From January 1, 1988 through February 28, 1988, for all animals except coyote, fox, raccoon, and snowshoe hare, the general hunting hours as set forth in NR 10.06, Wis Adm. Code.

(a) For Zone A:

	<u>December</u>		<u>January</u>		<u>February</u>	
	<u>A.M.</u>	<u>P.M.</u>	<u>A.M.</u>	<u>P.M.</u>	<u>A.M.</u>	<u>P.M.</u>
1	6:35	4:12	6:57	4:21	6:38	5:00
2	6:37	4:11	6:57	4:22	6:37	5:02
3	6:39	4:11	6:57	4:23	6:35	5:04
4	6:40	4:11	6:57	4:24	6:34	5:06
5	6:41	4:11	6:57	4:25	6:33	5:08
6	6:42	4:10	6:57	4:26	6:32	5:10
7	6:43	4:10	6:57	4:27	6:31	5:11
8	6:44	4:10	6:56	4:28	6:30	5:12
9	6:45	4:10	6:56	4:29	6:29	5:14
10	6:46	4:10	6:56	4:30	6:28	5:16
11	6:47	4:10	6:55	4:31	6:26	5:17
12	6:47	4:10	6:55	4:32	6:25	5:18
13	6:48	4:10	6:55	4:34	6:24	5:19
14	6:49	4:11	6:54	4:35	6:22	5:21
15	6:50	4:11	6:54	4:36	6:21	5:23
16	6:50	4:11	6:53	4:37	6:20	5:24
17	6:51	4:11	6:53	4:39	6:18	5:25
18	6:52	4:12	6:52	4:40	6:16	5:27
19	6:52	4:12	6:51	4:41	6:15	5:28
20	6:53	4:13	6:51	4:42	6:13	5:29
21	6:54	4:13	6:50	4:44	6:12	5:30
22	6:54	4:13	6:49	4:45	6:10	5:32
23	6:55	4:14	6:48	4:46	6:09	5:33
24	6:55	4:15	6:47	4:48	6:08	5:34
25	6:55	4:15	6:46	4:49	6:06	5:35
26	6:56	4:16	6:46	4:51	6:04	5:37
27	6:56	4:17	6:45	4:52	6:02	5:38
28	6:56	4:17	6:44	4:53	6:01	5:39
29	6:57	4:18	6:43	4:55		
30	6:57	4:19	6:42	4:56		
31	6:57	4:20	6:40	4:58		

303. Possession of loaded or uncased weapon. No member shall possess a loaded or uncased firearm, or a strung and uncased bow or crossbow in a motor vehicle, except when that vehicle is stationary and more than 50 feet from the center of any road shown on an official county highway map.
304. Discharge of weapons from vehicles. No member shall load or discharge a firearm, bow, or crossbow from a motor vehicle unless it is stationary and more than 50 feet from the center of any road shown on an official county highway map.

305. Discharge of weapons from roadways. No member shall discharge a firearm, bow, or crossbow on or across a road shown on an official county highway map or within 50 feet of the center of a road shown on a county highway map.

306. Shining.

a) Definition. As used in this section:

- 1) "Flashlight" means a battery operated light designed to be carried and held by hand.
- 2) "Light" includes flashlight, automobile lights and other lights.
- 3) "Shining" means the casting the rays of light on a field, forest or other area for the purpose of illuminating, locating, or attempting to illuminate or locate wild animals.

b) Presumption. A member casting the rays of light on a field, forest or other area which is frequented by wild animals is presumed to be shining wild animals. A member may introduce evidence to rebut this presumption.

c) Shining wild animals while hunting or possessing weapons prohibited.

- 1) Prohibition. No member may use or possess with intent to use a light for shining wild animals while the member is hunting or in possession of a firearm, bow and arrow, or crossbow.
- 2) Exception. This subsection does not apply:
 - (a) To an employee of the tribe or Great Lakes Indian Fish and Wildlife Commission on official business or a person authorized by the tribe to conduct a game census.
 - (b) To a member who possess a flashlight or who uses a flashlight while hunting on foot raccoons, foxes or other unprotected animals during the open season for the animal hunted.

d) Shining wild animals after 10:00 p.m. during certain times of the year prohibited.

- 1) Prohibition. No member may use or possess with intent to use a light for shining wild animals between 10 p.m. and 7 a.m. from September 13 to December 31.
- 2) Exceptions. This subsection does not apply:
 - (a) To an employee of the tribe or Great Lakes Indian Fish and Wildlife Commission on official business or a person authorized by the tribe to conduct a game census.
 - (b) To a member who possess a flashlight or who uses a flashlight while hunting on foot raccoons, foxes or other unprotected animals during the open season for the animal hunted.
 - (c) To a member who possess a flashlight or who uses a flashlight while on foot and training a dog to track or hunt raccoons, foxes or other unprotected animals.

307. Blaze orange. From November 21, 1988 through November 29, 1988, no member whose outer clothing above the waist is not at least 50% blaze orange shall hunt small game.

308. Prohibited methods. No member shall:

a) Aircraft. Hunt with the aid of an airplane, including the use of an airplane to spot, rally or drive wild animals for hunters on the ground.

b) Devices.

- (1) Place, operate or attend, spread, or set any net, pitfall, spring gun, pivot gun, swivel gun or other similar contrivances for the purpose of catching or which might catch, take or ensnare wild animals.
- (2) Use or possess any device designed or used for the purpose of driving rabbits out of their holes or dens.

c) Molesting. Molest the nest or den of any squirrel.

d) Ferret. Use or possess any ferret while hunting.

- e) Salt. Hunt by the use or aid of salt.
- f) Explosive, stupefactive. Hunt by means of dynamite or other explosives or poisonous or stupefying substances or devices, or possess any such substance or device for the purpose of taking, catching, or killing small game. Possession or control of explosives or poison gases in a hunting camp or on any person while hunting shall be prima facie evidence of a violation of this section.
- g) Poison bait. Use bait containing poison of any description in any forest, fields, or other places where it might destroy or cause the destruction of wild animals or birds. The possession of any such poison or poison baits in a hunting camp or on any person while hunting shall be prima facie evidence of a violation of this section.
- h) Bird traps. Take, capture or kill, or attempt to take, capture, or kill any bird by setting or operating any trap or device designed, built or used to capture birds on a pole, post, tree stump, or any other elevated perch more than 3 feet above the ground.

309. Bobcat hunting.

- a) No member shall move off-reservation a bobcat after killing prior to affixing a tribal transportation tag to it.
- b) No member shall fail to register with the tribal conservation department any bobcat he or she has killed.

310. Juvenile hunting. No juvenile shall be allowed to hunt small game except as provided by this paragraph:

- a) No person under 12 years of age may hunt small game.
- b) No person 12 years of age or older but under 14 years of age may hunt unless accompanied by a parent or guardian.
- c) No person 14 years of age or older but under 16 years of age may hunt unless accompanied by a parent or guardian or unless issued by the tribe or state a hunter education and firearm safety certificate of accomplishment.

311. Identification, Permits.

- a) No member shall hunt on-reservation except while carrying a valid picture identification card issued by the tribe, or other form of identification card approved by the tribe for small game hunting activities.
- b) No member shall hunt small game without a validly issued tribal off-reservation natural resources harvesting permit, valid for small game hunting.
- c) No member shall hunt bobcat without a validly issued metal carcass transportation tag in his/her possession.
- d) No member shall refuse to display his or her identification documents, permit, and carcass tag, if any, upon request of any tribal, state, or local law enforcement officer.

312. Possession of live animals.

- a) All game and furbearing animals taken shall be immediately killed or released upon taking.
- b) No member shall sell or possess any live game or furbearing animals without a special permits.

313. Purchase of furs. No member shall purchase furs from a non-tribal member except with a state license, and except as provided by Mille Lacs Band law.

314. Transportation of animals. No tribal member shall transport the carcass of a small game animal taken while hunting except during the open season for such animal or three days after, provided, that a member may transport any such animal at any time if it is wrapped and is frozen or has once been frozen.


315. Shipment of furs. Members shall mark all fur shipment, showing the number and kinds of hides in the shipment and the name and address of the shipper.
316. Sale of meat of furbearing animals. During the closed season for a furbearing animal, and at any time for other small game animals, no member may sell the meat of such animals except to tribal members.
317. Waste. No member shall unreasonably waste, injure, destroy, or impair natural resources while engaged in small game hunting pursuant to this agreement.
318. Larceny of game. No member shall, without permission of the owner, molest, disturb, or appropriate any wild animals or the carcass or part thereof which has been lawfully reduced to possession by another.
319. Endangered, threatened, and protected species. No member shall harvest badger, wolverine, flying squirrel, or any animal on either the tribes endangered or threatened species list.
320. Duties on accidental shooting. Any member who while small game hunting discharges a firearm thereby injuring or killing another person shall give his name and address to the person, if injured, shall render necessary assistance, shall obtain immediate medical or hospital care, and shall immediately report the incident to the sheriff or police of the locality in which such shooting took place.
321. Failure to report hunting accident. Any member who has injured himself or another person by gunfire while small game hunting shall report such incidents within ten days to the Mille Lacs Department of Natural Resources, unless such member be physically incapable of making the report in which event he or she shall designate an agency to file the report within the specified time.
322. Prohibited places.
 - a) Except as provided by this section, a member may hunt small game on all lands within the jurisdictional territory of the Band which are not privately owned unless authorized by owner.
 - b) No member shall hunt small game in the following public lands:
 - 1) Designated public campgrounds, public beaches, and public picnic areas.

Part IV - ENFORCEMENT

401. Enforcement by deputized conservation wardens. Any provision of this order may be enforced by Band Natural Resource Officers or conservation wardens of the Great Lakes Indian Fish and Wildlife Commission. Said Commission wardens are hereby authorized by the Department as tribal conservation wardens for purposes of enforcing this order.

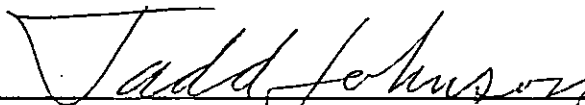
402. Natural Resource Officers, cooperation. Natural Resources Officers can cooperate with Commission and State wardens in enforcing the terms of this order.
403. Seizure of Evidence. Tribal, Commission, and Wisconsin conservation wardens are empowered to seize evidence in connection with the institution of proceedings in tribal court.
404. Seized animals. Small game 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 hunting party.
405. Registration information. Tribal and Commission wardens are empowered to request and receive from tribal tag issuance and registration stations information regarding tag issuance and registration.
406. Penalties. Any tribal member found by the Court of Central Jurisdiction to have violated a provision of this ordinance shall be subject to the following penalties:
 - a) For a violation of any provision of this order, a forfeiture of not more than \$500.00.
 - b) For a violation of any provision of this order, a revocation of on or off-reservation small game hunting privileges may be ordered for a period 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. 408 and 409 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.
409. Members of Other Tribes, Issuance of Tags, Permits. The natural resource department is authorized to issue bobcat transportation tags and to issue and validate on-reservation natural resources harvest permits to members of the tribe and any individual under the jurisdiction of the Band.
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 and although the person who directly committed it has not been convicted of the violation.
 - b) A person is concerned in the commission of the violation if the person:
 - i) directly commits the violation;
 - ii) aids or abets the commission of it; or
 - iii) is a party to a conspiracy with another to commit it, or advises, hires, or counsels or otherwise procures another to commit it.
411. Hearing in Tribal Court. The Court of Central Jurisdiction shall adjudicate all matters arising under this order, pursuant to the provisions of the Band Statutes 1024-MLC-3.

DATED at Vineland, Minnesota this sixteenth day of September 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