

COMMISSIONER'S ORDER NO. 194-94
Natural Resources

A Commissioner's Order establishing Off-Reservation 1994 Deer Hunting Regulations for Sherburne National Wildlife Refuge.

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

WHEREAS, the Band has reserved the right to hunt, fish, and gather in the ceded territories of the Treaty of 1837, 7 Stat. 536, and;

WHEREAS, the Bands that reside within the ceded territories of 1837 has negotiated a 1994 Off-Reservation Deer Hunting Agreement by and between the Tribal and State Parties in Lac Courte Oreilles, et al., v. State of Wisconsin, et al., and

WHEREAS, the Department of Interior through its Fish and Wildlife Service acknowledges and recognizes the reserved rights of the treaty of 1837, and

WHEREAS, the Mille Lacs Band deems it appropriate to provide an orderly system of tribal control and regulation of off-reservation Deer hunting, and

WHEREAS, the Mille Lacs Band further deems it appropriate to provide conservation and management for deer populations found in the ceded 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 1164-MLC-50, Section 3, and Band Statute 1092-MLC-25, et seq., and

WHEREAS, the taking of deer is a natural resource 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 1164-MLC-50, Section 3, the Commissioner of Natural Resources is empowered to execute the regulatory agreements for deer hunting by members of the Mille Lacs Band for the area of Sherburne National Wildlife Refuge and within the 1837 treaty area.

NOW THEREFORE, by the authority vested in me by the Mille Lacs Band of Chippewa Indians pursuant to Band Statute 1164-MLC-50,

Section 3, I, Don Wedll, Commissioner of Natural Resources for the Mille Lacs Band of Chippewa Indians hereby establish the following Deer Hunting Regulations for members of the Band in the Sherburne National Wildlife Refuge:

**OFF-RESERVATION 1994 DEER HUNTING REGULATION
Sherburne National Wildlife Refuge**

CHAPTER I - INTRODUCTION

101. Title. This Commissioner's Order may be cited as the Mille Lacs Band of Chippewa Indians (Sherburne National Wildlife Refuge) Off-Reservation 1994 Deer Hunting Regulations.
102. Authority. This Commissioner's Order is authorized pursuant to Band Statute 1164-MLC-50, Section 3, . 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 deer hunting on the off-reservation lands and waters 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 deer population in the ceded territory through the regulation of member 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 1, 1995.
105. Interpretation. The provisions of this ordinance shall be interpreted and applied as minimum requirements applicable to deer hunting and shall be liberally construed in favor of the Mille Lacs Band. The provisions shall not be deemed a limitation or repeal of any other Band power or authority other than as expressly provide for herein.
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.
108. Religious or Ceremonial Use of Natural Resources.
- a) Nothing in this ordinance shall prohibit the use of any resource otherwise subject to the provisions of this ordinance which is harvested, taken or otherwise obtained within the ceded territory for religious or ceremonial purposes in accordance with the traditions and customs of the Mille Lacs Band and with the consent of the Mille Lacs Band's Commissioner of Natural Resources.

- b) In approving any request for religious or ceremonial harvest, the Commissioner of Natural Resources shall take into account the biological impact of the harvest.

CHAPTER II - DEFINITIONS

201. Definitions.

- a) "Antlerless deer" means deer not having at least one antler of at least 3 inches in length.
- b) "Gun" means ,shotgun.
- c) "Hunt" means to shoot, shoot at, pursue, take, catch, or kill, any deer off-reservation, but does not include the recovery of a deer which has already been lawfully reduced to possession.
- d) "Member" means a member of the Mille Lacs Band of Chippewa Indians.
- e) "Tribe" means the Mille Lacs Band of Chippewa Indians.
- f) "Tribal conservation department" means the conservation departments of the Bad River, Lac Courte Oreilles, Lac du Flambeau, Mole Lake, Red Cliff, Mille Lacs, and St. Croix tribes.
- g) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday.

CHAPTER III - REGULATIONS

301. Seasons: season specific regulations. All dates given are inclusive and unless otherwise specified refer to 1994.

- a) Closed Season. No member shall hunt deer within the Refuge except when the season is open. (**Bow and arrow season is September 8,1994 through December 31,1994; Firearm season is November 1, 1994 through November 30, 1994; all other times the season is closed).**
- b) Regular Bow and Gun Season. A regular bow and gun season is established for the dates September 8 through November 3 and November 30 through December 31.
- c) Middle Bow and Gun Season. A middle bow and gun season is established for the dates November 3 through November 30. During the middle season no member shall:
 - (1) Hunt without blaze orange coloring on at least 50% of the outer garment as provided by the parallel State regulation found in §29.22(2), Stat.;
 - (2) Fail to comply with any of the restrictions or requirements generally applicable to deer hunting under this order.

302. General Regulations

- a) Juvenile hunting. No juvenile shall be allowed to hunt deer except as provided by this paragraph:
 - (1) No person under 12 years of age may hunt deer.
 - (2) No person 12 years of age or older but under 14 years of age may hunt unless accompanied by a parent or guardian.
 - (3) 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.
- b) Shining. No member shall use or possess with intent to use a light for shining deer or other wild animals:
 - (1) While the member is hunting deer; or
 - (2) While the member is in possession of a firearm, bow and arrow, or crossbow; or
 - (3) At any time between 10 p.m. and 7 a.m.
 - (4) A member casting rays of light on a field, forest or other area which is frequented by wild animals creates a rebuttable presumption that the shining of wild animals is occurring.
- c) Tagging. No member shall move or field dress a deer before affixing to it a valid metal carcass tag.
- d) Transportation. No member shall transport any deer in or on any motor driven vehicle prior to registration unless the deer is carried so that a portion of it is visible from a

passing vehicle and in such a manner that the tag attached to the deer cannot be handled or manipulated by any occupant of the vehicle.

- e) Firearms. The only allowable firearm is shotgun and slugs.
- f) Bow restrictions. No tribal member while bow hunting shall:
 - (1) Use a bow having a pull of less than 30 pounds;
 - (2) Use a crossbow unless the crossbow:
 - (i) Is fired from the shoulder;
 - (ii) Delivers at least 42 ft-lbs of energy at a distance of 10 feet;
 - (iii) Has a stock of not less than 30 continuing inches in length;
 - (iv) Has a working safety; and
 - (v) Is used with arrows or bolts of not less than 20 inches with a broadhead.
 - (3) Fail to comply with any of the restrictions or requirements generally applicable to deer hunting under this ordinance.
- g) Boats. No member shall possess in a motor driven boat while the motor is running any firearm, bow or crossbow unless the firearm is unloaded and the bow or crossbow is unstrung or enclosed within a carrying case.
- h) Permissible methods. No member shall hunt deer except by use of the firearms and bows authorized by this order.
- i) Group Deer Hunting.
 - (1) In this section:
 - (i) "Contact" means visual or voice contact without the aid of any mechanical or electronic amplifying device other than a hearing aid.
 - (ii) "Group deer hunting party" means 2 or more hunters hunting in a group all using firearms, each of whom holds a carcass tag.
 - (2) Any member of group deer hunting party may kill a deer for another member of the group deer hunting party if both of the following conditions exist:
 - (i) At the time and place of the kill, the person who kills the deer is in contact with the person for whom the deer is killed.
 - (ii) The person for whom the deer is killed possesses a current unused deer carcass tag, and, if the deer is an antlerless deer, an antlerless deer permit valid for the unit in which the deer is killed.
 - (3) A person who kills a deer under sub.(2) shall ensure that a member of his or her group deer hunting party without delay attaches a deer carcass tag to the deer prior to moving or field dressing it. The person who kills the deer may not leave the deer unattended until after it is tagged.
- j) Possession of loaded or uncased weapons. 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.
- k) Discharge of weapon 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.
- l) Discharge of weapons from roadways. No member shall discharge a firearm, bow, or crossbow on or across a highway, as defined in Section 340.01 (22) of the Wisconsin Statutes, or within 50 feet of the centerline of a road shown on an official county highway map.

303. Hunting Hours. No member may hunt deer except during the following hours. Times given are inclusive.

September 5 - 17	6:00 a.m.	to	7:15 p.m.	CDT
September 18 - October 1	6:15 a.m.	to	7:00 p.m.	CDT
October 2 - 9	6:30 a.m.	to	6:45 p.m.	CDT
October 10 - 16	6:30 a.m.	to	6:30 p.m.	CDT
October 17 - 25	6:45 a.m.	to	6:15 p.m.	CDT
October 26 - October 29	7:00 a.m.	to	6:00 p.m.	CDT

October 30 - November 6
November 7 - 17
November 19 - December 31

6:15 a.m. to 5:00 p.m. CST
6:30 a.m. to 4:45 p.m. CST
6:45 a.m. to 4:30 p.m. CST

304. Hunting Lands.

- a) No member shall hunt deer on any land located in the Refuge where hunting is prohibited by this section (see attached map).
- b) Deer hunting activities may be conducted on all public lands within the Refuge, except for the following:
 - 1) Designated as closed to all hunting and lands outside the treaty area.

305. Identification.

- a) No member shall hunt off-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 deer hunting activities.
- b) No member shall refuse to display his or her identification documents upon request of any tribal, Great Lakes Indian Fish and Wildlife Conversation Officer, state, or local law enforcement officer.

306. Permits, Tags.

- a) No member shall hunt deer without a validly issued tribal off-reservation natural resources harvesting permit, validated for deer hunting.
 - i) No member shall receive an off-reservation tribal harvesting permit without first obtaining an on-reservation deer harvesting license.
- b) No member shall hunt any deer without a validly issued metal carcass tag in his/her possession, except as provided by section 302(i) of this ordinance.
- c) No member shall hunt an antlerless deer without a valid Refuge antlerless deer permit in his/her possession bearing the number of the member's carcass tag and valid for the date on which he/she is hunting, except as provided by section 302(i) of this ordinance.
- d) No antlerless deer permit shall be considered valid for any unit :
 - 1) which is shown to be closed on the permit, or
 - 2) for which the permit is marked as invalid.
- e) No antlerless deer permit shall be considered valid if any management unit number on the permit has been slit or punched through.

307. Registration.

- a) A tribal member killing a deer shall register the deer by presenting it at a tribal registration station, or alternatively at the Refuge Manager's Office, no later than 5:00 p.m. of the first working day after killing at which time a metal registration tag shall be affixed by the registering official.
- b) A tribal member killing an antlerless deer shall immediately, before moving or field dressing the deer, make a slit or punch on the antlerless deer permit through the number of the management unit in which the deer has been killed.
- c) A tribal member killing an antlerless deer shall surrender his/her antlerless deer permit upon registration.
- d) A tribal member registering a deer shall provide the registering official with the following information: the management unit and county where the deer was taken, the date and time when the deer was taken, and the ID number of the member taking the deer.

308. Removal and Retention of Tags.

- a) No member who kills a deer shall remove a registration tag until such time as the carcass is butchered.

- b) No member who kills a deer shall dispose of the registration tag until the meat is consumed.
 - c) Any person who receives any meat from a member who retains a tag under this section is not required to possess a tag.
309. Sharing of Permits and Tags. Except as otherwise provided in this ordinance, no member shall lend, share, give, sell, barter, or trade, or offer to lend, share, give, sell, barter or trade to any person any identification document, permit or tag issued by the Tribe pursuant to this ordinance.
310. Sale of Meat Prohibited. No member shall sell any deer meat taken off-reservation if the deer was taken during the effective period of this order, except that such meat may be sold, traded, or bartered among members. In addition, the head and skin of any deer lawfully killed pursuant to this order, when severed from the rest of the carcass, are not subject to this section.
311. Waste of Natural resources. No member shall unreasonably waste, injure, destroy, or impair natural resources while deer hunting.

Part IV - ENFORCEMENT

401. Enforcement by deputized conservation wardens. Any provision of this order may be enforced by tribal 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. Enforcement by Sherburne National Wildlife Officers. Sherburne National Wildlife conservation wardens and Minnesota conservation wardens are hereby empowered to enforce the provision of this order and to institute proceedings in the Court of Central Jurisdiction by use of the citation forms of the Minnesota Department of Natural Resources.
403. Seizure of Evidence. Tribal, Commission, and Federal conservation wardens are empowered to seize evidence in connection with the institution of proceedings in tribal court.
404. Seized deer. Deer which are seized in connection with cases referred to tribal court for prosecution shall be turned over to the tribe. Such deer shall not be returned by the tribal court or tribal officials to the alleged violator, his immediate family or other members of the hunting party except in the event that the tribal court so orders after finding the alleged violator innocent of the violating this ordinance or the Solicitor General's office determines, in writing, that there is insufficient cause to prosecute the alleged violation.
405. Registration information. Tribal and Commission wardens are empowered to request and receive from tribal tag and permit issuance and deer registration stations information regarding tag and permit issuance and deer 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 section 306(c), a forfeiture shall be imposed of not less than \$100.00 and not more than \$500.00.
 - b) For a violation of any other provision of this ordinance, a forfeiture of not more than \$500.00
 - c) For a violation of any provision of this ordinance, a revocation of off-reservation deer hunting 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 admission 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 Section 406 and 407 of this order may be had through the collection of penalties from Any and all funds of the violator held or payable 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 law.

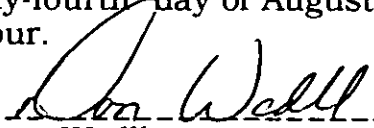
409. Parties to a Violation.

- 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 the violation and although the person who directly committed the violation 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 the violation or;
 - (3) is a party to a conspiracy with another to commit , or advises, hires, counsels or otherwise procures another to commit the violation.

410. Hearing in Tribal Court. The Court of Central Jurisdiction shall adjudicate all matters arising under this order.


411. Issuance of Harvesting Permits, Tags, Antlerless Deer Permits. The tribal conservation department is authorized to issue and validate tribal off-reservation natural resources harvesting permits, and to issue metal carcass tags and antlerless deer permits to members of the tribe and of any other tribe which has adopted an ordinance in conformance with the 1994 Chippewa Indian Off-Reservation Treaty Deer Hunting Season Agreement in Lac Courte Oreilles Band, et al., v. State of Wisconsin, et al., or has adopted an ordinance regulating 1994 Off-Reservation Treaty Deer Hunting which contains permit and registration provisions in conformance with the provisions of this ordinance, and also to register deer taken by members of the tribe and of such other tribes so long as the total harvest of antlerless deer does not exceed forty (40) and the total harvest does not exceed sixty (60) deer.

DATED at Vineland, Minnesota this twenty-fourth day of August in the year one thousand nine hundred and ninety-four.



Don Wedll
Commissioner of Natural Resources

APPROVED AND NUMBERED AS TO
FORM AND EXECUTION



Jim Genia
Solicitor General


OFFICIAL SEAL OF THE BAND