

COMMISSIONER'S ORDER NO. 205-95
Natural Resources

A Commissioner's Order establishing and regulating Off-Reservation Wild Ricing Harvesting Season within the Minnesota Ceded Territory of the Treaty of 1837 for the Mille Lacs Band of Chippewa Indians.

WHEREAS, the Mille Lacs Band resides within the ceded territories of 1837 and reserved the right to hunt, fish, and gather within the territory; and

WHEREAS, the United States District Court for District of Minnesota has ruled in *Mille Lacs v. State of Minnesota*, 861 F.Supp.784 (D. Minn. 1994) that the hunting, fishing, and gathering rights reserved by the Mille Lacs Band in the Treaty of 1837 continues to exist; and

WHEREAS, Band Statute 1162-MLC-50, Section 3 mandates that the Commissioner of Natural Resources shall protect and regulate all matters of land and water for the Mille Lacs Band of Chippewa Indians; and

WHEREAS, the Mille Lacs Band of Chippewa desires to regulate its members in the taking of wild rice within the Minnesota ceded territory of 1837 Treaty to conserve and manage wild rice; and

WHEREAS, the Mille Lacs Band has filed with the United States District Court a model code for implementing provisions of the 1837 treaty right; and

WHEREAS, the model code promotes resource conservation and public health and safety.

NOW THEREFORE, pursuant to 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 prescribe the following regulations applicable only for the Ceded Territory of 1837 within the state of Minnesota.

OFF-RESERVATION MINNESOTA 1995 RICING ORDINANCE
OF THE
MILLE LACS BAND OF CHIPPEWA INDIANS

Chapter 1 -- INTRODUCTION

101. Title. This ordinance shall be known as the Mille Lacs Band of Chippewa Indians Off-Reservation Minnesota 1995 Ricing Ordinance.

102. Authority. This ordinance is enacted pursuant to Band Statute 1062-MLC-50 Section 3 and the Natural Resource Model Code Chapter 5.

103. Purposes. It is the purpose of this ordinance to:

- a) Provide an orderly system for tribal control and regulation of ricing on the off-reservation territories ceded by the Chippewa Indians in the Treaty of 1837, 7. Stat. 536.
- b) Provide a means to promote the conservation and management of wild rice in the ceded territory through the regulation of member ricing occurring there.

104. Effective Date. This order shall be effective on the date adopted and shall expire at 11:59 p.m. on July 15, 1996.

105. Interpretation. The provisions of this ordinance shall be interpreted and applied as minimum requirements applicable to ricing and shall be liberally construed in favor of the Tribe. The provisions shall not be deemed a limitation or repeal of any other tribal power or authority other than as expressly provided for herein.

106. Severability and Non-Liability. If any section, provision or portion of this ordinance is adjudged unlawful or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe 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 of conformance to this ordinance.

107. Repeal of Inconsistent Tribal Ordinances. All Commissioner's Orders inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes greater restrictions than those contained in any other tribal ordinance, the provisions of this ordinance shall govern.

Chapter 2 -- DEFINITIONS

201. Definitions.

- a) "Member" means a member of the Mille Lacs Band of Chippewa Indians.
- b) "Tribal Conservation Department" means the conservation department of the Mille Lacs Band or Great Lakes Indian Fish and Wildlife Commission.
- c) "Tribal Court" means the Court of Central Jurisdiction.

- d) "Tribal opening authority" means the authority to consult with or concur with Minnesota Department of Natural Resources regarding the opening and closing of ricing lakes, pursuant to District Court opinions, orders and decrees by the Court in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.) and Model Code governing the 1995 Chippewa Indian Off-Reservation Ricing Season in the Minnesota Ceded Area.
- e) "Tribe or Band" means the Mille Lacs Band of Chippewa Indians.

Chapter III -- REGULATIONS

301. Ricing sticks. No tribal member may harvest or gather any wild rice by the use of any method other than smooth, rounded, cedar or pine wooden rods or sticks not more than 32 inches in length and which are held and operated by hand.

302. Boats. No tribal member may harvest or gather any wild rice by the use of any boat longer than 17 feet or greater than 38 inches in width or by the use of any boat propelled by other than muscular power using only a push pole or canoe paddle.

303. Open seasons.

- a) No tribal member shall harvest wild rice in any lake for which a closed season is in place pursuant to this section, except as such lake is posted open pursuant to subsection (b) of this section.
 - i). All lakes and rivers shall remain closed until August 30, 1995 unless posted.
 - ii). All streams shall open August 23, 1995.
- b) For each of the lakes within the ceded territory, there is a closed season except as the lake is posted open by the tribe with tribal opening authority or in consultation Minnesota Department of Natural Resources acting concurrently with or on behalf of the tribe with tribal opening authority.

304. Hours. No tribal member may harvest or gather any wild rice between 9:00 a.m. and 3:00 p.m., Central Daylight Time.

305. Tribal identification.

- a) No member shall rice off-reservation except while carrying:
 - (1) a tribal off-reservation natural resources harvesting permit, validated for ricing, and
 - (2) a valid picture identification card issued by the Tribe, or other form of identification approved by the Tribe for ricing activities.
- b) No member shall refuse to display his or her identification documents upon request by any tribal, state or local law enforcement officer.

306. Waste of Natural Resources. No tribal member shall unreasonably waste, injure, destroy or impair wild rice while engage in this activities pursuant to this order and members are advised not to pick green wild rice.

307. Cooperation. Tribal members shall cooperate with and provide information to representatives or wardens of the Minnesota Department of Natural Resources, the Great Lakes Indian Fish and Wildlife Commission and the Tribal Conservation Department who are implementing, monitoring, or enforcing the terms of this ordinance.

Chapter IV -- ENFORCEMENT

401. Enforcement by deputized conservation wardens. Any provision of this ordinance may be enforced by tribal conservation wardens or by conservation wardens of the Great Lakes Indian Fish and Wildlife Commission. Said Commission wardens are hereby deputized by the Tribe as tribal conservation wardens for purposes of enforcing this ordinance.

402. Enforcement by Minnesota Department of Natural Resources Wardens. Minnesota conservation officers and deputy conservation officers are hereby empowered to enforce the provision of this ordinance and to institute proceedings in the Court of Central Jurisdiction by transferring information sufficient to justify a prosecution to tribal conservation officers.

403. 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) A forfeiture not to exceed \$500.00. b) A revocation of off-reservation ricing privileges for a period of time to be determined by the Court.

404. Schedule of Money Penalties: No Contest. The Court of Central Jurisdiction 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.

405. Collection of Money Penalties. Enforcement of the penalties imposed by Sec.403 and Sec. 404 of this ordinance 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 Court of Central Jurisdiction or the courts of other jurisdictions, or through any other method authorized by tribal law.

406. Hearing in Tribal Court. The Mille Lacs Court of Central Jurisdiction shall adjudicate all matters arising under this order, pursuant to the provisions of the Band Statute 1303-MLC-4.

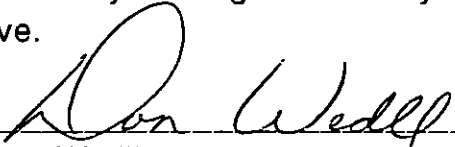
407. Issuance of Off-Reservation Natural Resources Harvesting Permit. The tribal conservation department is authorized to issue and validate natural resource harvesting permits to members of the Tribe.

408. Concurrence in Lake Openings. The Mille Lacs Band's Department of Natural Resources staff person Leonard Sam is authorized to exercise the tribe's opening authority pursuant to Section 303 of this ordinance.

409. Parties to a Violation:


- a) Whoever is concerned in the commission of a violation of this order 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:
 - 1) directly commits the violation;
 - 2) aids or abets the commission of, or
 - 3) is a party to a conspiracy with another to commit the violation, or advises, hires, counsels or otherwise procures another to commit the violation.

DATED at Vineland, Minnesota, this 15th day of August in the year one thousand nine hundred and ninety-five.



Don Wedll
Commissioner of Natural Resources

APPROVED AND NUMBERED AS TO
FORM AND EXECUTION



Jim Genia
Solicitor General

OFFICIAL SEAL OF THE BAND