

COMMISSIONER'S ORDER NO. 261-97
Natural Resources

A Commissioner's Order establishing Off-Reservation 1997 Deer Hunting Regulations. East of the St. Croix River.

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

WHEREAS, the Bands that reside within the ceded territories of 1837 have negotiated a 1997 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 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 population 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 11 MLBSA § 2003, and 2 MLBSA § 1153 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 11 MLBSA § 2003, 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 East of the St. Croix River and within the 1837 treaty area.

NOW THEREFORE, by the authority vested in me by the Mille Lacs Band of Chippewa Indians pursuant to 11 MLBSA § 2003, I, Don Wedll, Commissioner of Natural Resources for the Mille Lacs Band of Chippewa Indians hereby ratify 1997 Off-Reservation Deer Hunting Agreement and establish the following Deer Hunting Regulations for members of the Band, east of the St. Croix River:

OFF-RESERVATION 1997 DEER HUNTING REGULATION
East of the St. Croix River

CHAPTER 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) Off-Reservation 1997 Deer Hunting Regulations.
102. Authority. This Commissioner's Order is authorized pursuant to 11 MLBSA § 2003, and 2 MLBSA § 1153 et seq. Band Statute§ 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, 1998.
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 pursuant to Title 5 Mille Lacs Band Statute Annotated. 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.
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 governing body, or its designee.
 - 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 rifle, shotgun, or handgun.
- 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, or 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 1997.

- a) Closed Season. No member shall hunt deer through September 4, or after January 1, 1997.
- b) Regular Bow and Gun Season. A regular bow and gun season is established for the dates September 5 through November 16 and November 17 through December 31.
- c) Middle Bow and Gun Season. A middle bow and gun season is established for the dates November 17 through December 3. During the middle season, in addition to the other provisions of this Order no member shall:
 - (1) Hunt without blaze orange coloring on at least 50% of the outer garment as provided by the parallel Wisconsin State regulation found in §29.22(2), Stat.;
 - (2) Hunt without a tribally-furnished back tag;
 - (3) 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) When a member casts rays of light on a field, forest, or other area which is frequented by wild animals, a rebuttable presumption shall be created that the member is shining wild animals.
- 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 unless the deer is transported in such a manner that the tag attached to the deer cannot be handled or manipulated by any occupant of the vehicle.

- e) Firearms. No member shall hunt deer using any firearm other than a rifle, handgun, or shotgun permitted by this section.
 - (1) No member shall hunt deer with a .22 rimfire, 5mm rimfire rifle, or .17 caliber centerfire rifle.
 - (2) No member shall hunt deer with a 410 bore shotgun.
 - (3) No member shall hunt deer with any handgun except as follows:
 - (i) Loaded with .357, .41, or .44 magnum caliber handgun chambered or commercially manufactured cartridges which produce a minimum energy of 1000 ft-lbs; and
 - (ii) Having a minimum barrel length of 5.5 inches measured from the muzzle to the firing pin with the action closed;
 - (iii) No member shall have more than one handgun in his/her possession while hunting.
- 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 and dates 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	6:00 a.m.	to	5:00 p.m.	CST
November 7 - 17	6:15 a.m.	to	4:45 p.m.	CST
November 18 - December 31	6:30 a.m.	to	4:30 p.m.	CST

304. Hunting Lands.

- a) No member shall hunt deer on any land located in the ceded territory where hunting is prohibited by this section.
- b) Deer hunting activities may be conducted on all public lands within the ceded territory, except for the following:
 - 1) Designated public campgrounds, public beaches, and public picnic areas.
 - 2) School forests, public land fills and public gravel pits where deer hunting is prohibited and where notice of the prohibition is clearly posted.
 - 3) Public land within incorporated areas except that tribal hunters may use the same methods as non-Indians for those lands:
 - (i) which are designated for bow and gun deer hunting; or
 - (ii) which are designated for bow deer hunting.
 - 4) All state parks except for those where deer gun or bow hunting is permitted. Where deer hunting is permitted, hunting in state parks during the 1997 Treaty Season shall be from November 17 through December 31. The following state parks in the ceded territory are open for deer hunting in designated areas: Big Bay State Park; Interstate State Park; and Tuscobia-Park Falls State Trail.
 - 5) All state wildlife refuges except for those refuges where deer hunting is permitted. Where deer hunting is permitted in state wildlife refuges, hunting in state wildlife refuges shall be from November 17 through December 31. The following state wildlife refuges in the ceded territory are open for deer hunting during that time period:

Burnett County	Fish Lake Wildlife Area
Marathon County	Beans Eddy
	Berkhahn Flowage
	Honey Island Flowage
	McMillion Marsh
	Mead
Oneida County	Rice Lake
Douglas County	Brule River
Vilas County	Powell Marsh
Wood County	Mead
- c) No member shall hunt deer on privately-owned lands within the ceded territory except for such lands designated and enrolled as Forest Croplands or Open Managed Forest Lands pursuant to Section 77.16 of the Wisconsin Statutes.

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, 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.
 - ii) Except those members who reside on the following reservations: Red Cliff, Bad River, Lac du Flambeau, Mole Lake, Keweenaw Bay, Lac Courte Oreilles, and St. Croix harvesting permit.
- b) No member shall hunt any deer without a validly issued metal carcass tag in his/her possession, except as provided by sec. 302(i) of this ordinance.
- c) No member shall hunt an antlerless deer without a valid 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 sec. 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 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.
- e) A tribal member registering a deer shall register the whole carcass, except that a member may register the head of a carcass provided the metal carcass tag is firmly affixed to the head or any part thereof.

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 Wisconsin Department of Natural Resources Wardens. Wisconsin conservation wardens and deputy 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 Wisconsin Department of Natural Resources, as described in Wis. Stat. §23.54.
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 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 violator if convicted of or plead guilty to violating any provision of this Order, his or her immediate family or other members of the hunting party.
405. Registration information. Tribal and Commission wardens are empowered to request and receive from tribal deer tag and permit issuance and deer registration stations information regarding deer 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 one year from the date of conviction.
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.406 and 407 of this order may be had through the collection of penalties from 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 ordinance.

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 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 the violation 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.

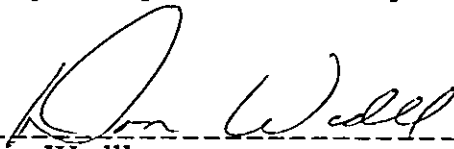
410. Hearing in Tribal Court. The Court of Central Jurisdiction shall adjudicate all matters arising under this order, pursuant to the provisions of the 11MLBSA § 2601, and 5 MLBSA § 111.

411. Members of Other Tribes, Tribal Court Adjudication. The Tribal Court is authorized to adjudicate alleged violations by any member of the Keweenaw Bay Indian Community or the Mille Lacs Band of Chippewa Indians of the off-reservation deer hunting ordinance of either tribe provided:

- a) The ordinance is in conformance with the 1997 Chippewa Indian Off-Reservation Deer Hunting Season Agreement in Lac Courte Oreilles Band, et al., v. State of Wisconsin, et al., and
- b) The Mille Lacs Band has authorized the adjudication.

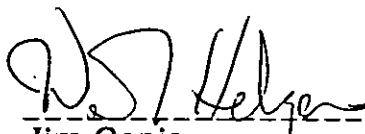
412. Issuance of Harvesting Permits, Tags, Antlerless Deer Permits. The tribal conservation department is authorized to issue and validate tribal off-reservation natural resources harvesting permits, and to issue metal carcass tags and antlerless deer permits to members of the tribe and of any other tribe which has adopted an ordinance in conformance with the 1997 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 1997 Off-Reservation Treaty Deer Hunting which contains permit and registration provisions in conformance with the provisions of this ordinance, and to register deer taken by members of the tribe and of such other tribes.

DATED at Vineland, Minnesota this 12th day of September in the year one thousand nine hundred and ninety seven.



Don Wedll
Commissioner of Natural Resources

APPROVED AND NUMBERED AS TO
FORM AND EXECUTION



Jim Genia
Solicitor General

OFFICIAL SEAL OF THE BAND