

COMMISSIONER'S ORDER NO. 144-90

Natural Resources

A Commissioner's Order authorizing approving a Memorandum of Agreement with U.S. Fish and Wildlife Service regarding enforcement of tribal off-reservation migratory bird hunting.

WHEREAS: the Commissioner of Natural Resources has the power to regulate natural resources within the jurisdiction of the Mille Lacs Band of Chippewa Indians through Band Statute 1162-MLC-50, Section 3; and

WHEREAS: the taking of migratory birds is a natural resource under the jurisdiction of the Mille Lacs Band of Chippewa Indians; and

WHEREAS: the regulating of the taking of migratory birds is an authority under the Commissioner of Natural Resources; and

WHEREAS: the Commissioner of Natural Resources has concurred with the Spiritual Advisor of the Band; and

WHEREAS: the priority for taking of migratory birds will be done with the preservation of the species; and

WHEREAS: the United States Department of Interior, Division of Fish and Wildlife Service has an interest in establishing a Memorandum of Agreement with the Mille Lacs Band's Department of Natural Resources on the enforcement of migratory bird hunting regulation ; 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 Statutes 1162-MLC-50, Section 3 the Commissioner of Natural Resources is empowered to approve the said Memorandum of Agreement for the Mille Lacs Band of Chippewa Indians Department of Natural Resources.

NOW THEREFORE, by 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 adopt the following Memorandum of Agreement for the enforcement of migratory bird hunting regulations.

MEMORANDUM OF AGREEMENT
BETWEEN
THE U.S.FISH AND WILDLIFE SERVICE
AND
THE DEPARTMENT OF NATURAL RESOURCES
MILLE LACS BAND OF CHIPPEWA INDIANS

Relating to Off-Reservation Migratory Bird Hunting Enforcement

THIS AGREEMENT is entered into by and between the United States Fish and Wildlife Service (Service) and the Bad River Band of the Lake Superior Tribe of Chippewa Indians, the Lac Courte Band of the Lake Superior Tribe of Chippewa Indians, the Lac du Flambeau Band of the Lake Superior Tribe of Chippewa Indians, the Red Cliff Band of the Lake Superior Tribe of Chippewa Indians, the St. Croix Chippewa Indians of Wisconsin, the Sokaogon Chippewa Community of the Mole Lake Band, Keweenaw Bay Indian Community, the Lac Vieux Desert Band of Chippewa and the Mille Lacs Band of Chippewa Indians (Tribes). The purpose of this Agreement is to facilitate the ongoing enforcement of Service-approved tribal migratory bird regulations.

1. Scope of Agreement. This Agreement pertains to enforcement by the Service of ordinances, adopted by each of the Tribes, regulating tribal member off-reservation migratory bird hunting consistent with regulations published by the Service.

2. Authorization to enforce. Service employees or agents who are otherwise empowered to enforce federal migratory bird regulations are hereby authorized by the Mille Lacs Band Department of Natural Resources to enforce against its members the provisions of Mille Lacs Migratory Bird off-reservation hunting regulations and to cite its members for violations thereof into its tribal court.

3. Prosecution of violators.

a. Any act by a tribal member arising from migratory bird hunting activity and violating Mille Lacs Band's off-reservation migratory bird hunting regulations shall be referred by Service employees or agents for prosecution in the Mille Lacs Band's Court of Central Jurisdiction, and further provided that the Mille Lacs Band has adopted and agreed to enforce and has in force at the time of the violation an off-reservation migratory bird regulation consistent with rules published by the Service, and has furnished a copy of the regulation to the Service prior to the violation.

b. As to violations occurring on public land or water, the Service shall review each situation on its merits and recommend whether federal prosecution is appropriate. Factors which the Service shall, in its discretion, take into account in making its recommendation include but are not limited to the avoidance of dual prosecution, the egregiousness of the violation, and whether tribal prosecution is contemplated or initiated within a reasonable time.

4. Effective date. Any tribe which wishes to be party to this Agreement shall sign the Agreement on or Before September 15, 1990. This Agreement shall be effective from September 15, 1990, until otherwise terminated as provided below.

5. Dispute resolution. The parties agree that any controversies, disputes, differences, or misunderstandings arising out of Agreement shall be referred to designated representatives for consultation before any further action is taken by any party.

6. Termination. Each of the parties may terminate this Agreement as to any of the other parties upon 30 days written notice to all parties to the Agreement.

The United States Fish and Wildlife Service approves the Memorandum of Agreement providing for the ongoing enforcement of the Chippewa Tribes' off-reservation migratory bird hunting regulation

BY: Marvin E Moriarty

Title: Acting Regional Director

Date: August 27, 1990

DATED at Vineland, Minnesota this 20th day of September in the year one thousand nine hundred and ninety.



Don Wedll
Commissioner of Natural Resources

APPROVED AND NUMBERED AS TO
FORM AND EXECUTION

Anita Fineday
Solicitor General

OFFICIAL SEAL OF THE BAND