

**COMMISSIONER'S ORDER NO. 240-96**

**Natural Resources**

A Commissioner's Order authorizing approval of Mille Lacs Band of Chippewa Indians Department of Natural Resources to enter into a Cooperative Agreement with the Bureau of Indian Affairs on the management, protection, of the forest and other natural resources.

**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 11 MLBSA § 2002 and §2003; and

**WHEREAS:** the management and protection of a natural resource is under the jurisdiction of the Mille Lacs Band of Chippewa Indians Department of Natural Resources; and

**WHEREAS:** the management and protection will include forest and natural resources on trust lands and Indian lands, and

**WHEREAS:** Indian lands are those lands owned by the Mille Lacs Band of Chippewa within or outside the Mille Lacs Reservation, and

**WHEREAS:** the priority for the forest and natural resources will be the preservation of the resources through the Forestry Fire Management Program; and

**WHEREAS:** the United States Department of Interior, Bureau of Indian Affairs has an interest in establishing a Cooperative Agreement with the Mille Lacs Band's Department of Natural Resources on the management and protection of the forest and natural resources on trust lands and Indian lands taking; 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 said Cooperative 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

COOPERATIVE AGREEMENT  
BETWEEN  
MILLE LACS BAND OF OJIBWE  
AND  
MINNEAPOLIS AREA OFFICE  
BUREAU OF INDIAN AFFAIRS

This Cooperative Agreement is made and entered into between Minneapolis Area Office, Bureau of Indian Affairs, an executive agency of the United States Department of the Interior, hereinafter referred to as the BUREAU, and Mille Lacs Band of Ojibwe Indians, hereinafter referred to as the MILLE LACS BAND OF OJIBWE, pursuant to the Tribal Self-Governance Act of 1994, 25 U.S.C. §§ 458aa-gg and National Indian Forest Resources Management Act of 1990, P.L. 10-630, 25 U.S.C. 3101.

The BUREAU enters this Cooperative Agreement pursuant to the above authority to provide MILLE LACS BAND OF OJIBWE participation in Secretarial administered fire programs in the same manner and extent allowed to BUREAU personnel. However, the BUREAU and the MILLE LACS BAND OF OJIBWE enter into this Cooperative Agreement with the mutual understanding that nothing in this Cooperative Agreement shall duplicated Bureau funding for any activities elsewhere compacted to the MILLE LACS BAND OF OJIBWE under the Tribal Self-Governance Act of 1994, 25 U.S.C. §§ 458aa-gg.

OBJECTIVE

The Bureau of Indian Affairs, has the responsibility for the protection of Indian lands, and through various agreements is also responsible to provide fire protection assistance to other Federal and State agencies as requested. When such situations occur, it is essential for the timely and effective activation of fire protection resources on a total mobility basis. MILLE LACS BAND OF OJIBWE personnel can be used in fire protection activities on State and Federal lands which the Federal Government is committed to protect. "Protection activities" as used in this agreement means prepositioning of protection forces on a temporary basis in anticipation of need; fire dispatch; fire prevention and fuels management, but excludes any of these activities or other fire protection activities elsewhere compacted to the MILLE LACS BAND OF OJIBWE under the Tribal Self-Governance Act of 1994, 25 U.S.C. §§ 458aa-gg.

PURPOSE

During fire related incidents, the MILLE LACS BAND OF OJIBWE and the BUREAU desire to move trained personnel nationwide and for fire related incidents on or near the Mille Lacs Reservation. This provides a method for the utilization of experience and skills of these people, leading to savings to the United States with respect to protection costs and loss of natural resources. Employees receive a training experience which can be of benefit in their own areas and in providing assistance under the terms of interstate fire protection compacts.

THEREFORE:

A. The Bureau of Indian Affairs agrees:

1. To reimburse MILLE LACS BAND OF OJIBWE for expenses incurred in furnishing personnel, equipment and support service for fire protection activities on federal responsibility lands. Reimbursement will cover the following:
  - a) Salary and expenses of personnel who remain on the Mille Lacs payroll while on assignment to the federal government.
  - b) Costs related to dispatching and transporting personnel enroute to and from a designated dispatch point. First class accommodations on commercial air carriers are not authorized.
  - c) Damage or loss of personal property of personnel or Mille Lacs property incident to this service if the claim is substantiated and acceptable to the MILLE LACS TRIBE and the claim would have been allowed under respective MILLE LACS BAND OF OJIBWE claim authorities.
  - d) Travel expenses for housing and feeding personnel while enroute to and from assignments and while employed at the work location when housing and feeding is not provided by the Federal Government.
  - e) Other expenses that are valid and direct in connection with the use of MILLE LACS BAND OF OJIBWE personnel.

2. To pay MILLE LACS BAND OF OJIBWE upon receipt of billing, certified as correct by the MILLE LACS BAND OF OJIBWE. MILLE LACS OJIBWE will retain supporting documentation for audit by the Bureau of Indian Affairs.
3. In the event of damages, liability or personal injury arising when acting as agent of the Federal government, Mille Lacs Tribal personnel will be covered by the Federal Employee's Compensation Act (5 U.S.C. Chapter 81) and the Federal Tort Claims Act (Section 314 of the Fiscal Year 1991 Appropriations Act, P.L. 101-512, 104 stat. 1915).
4. To provide protective clothing and equipment as specified in Appendix I.

B. Mille Lacs Band of Ojibwe Agrees:

1. To bill the Bureau of Indian Affairs for services using Standard Form 1034, Public Voucher for Purchases Other than Personal, as provided for under Clause A-1 for MILLE LACS BAND OF OJIBWE, expenses connected with fire protection activities on Federal responsibility lands.
2. To assign personnel to fire suppression work or availability for this work on Federal assignments who meet training, experience, and physical fitness requirements of the National Interagency Incident Management System Wildland Qualifications.

C. It is mutually agreed:

1. Upon request, and within its ability to do so and subject to the terms of this Agreement, MILLE LACS BAND OF OJIBWE will provide emergency fire protection assistance to the Bureau of Indian Affairs within the contiguous United States, Alaska and Hawaii. This assistance will also apply to those instances when it becomes necessary for the Federal Government to take action, within Canada and Mexico, on border fires threatening U.S. Federal lands. Examples of situations which may require the use of Mille Lacs people on Federal responsibility lands include but are not limited to:

- a) Fire suppression assignment for individuals and as members of Federal crews.
  - b) Assignments to fire crews or personnel for repositioning and use on probable fires during periods of drought and when the requesting agencies' forces are down to critical levels due to fire suppression activity.
  - c) Assignments to fire prevention activity when the requesting agency has determined that drought conditions, going fires, or an unusually high level of man-caused risk require extra prevention effort.
2. MILLE LACS BAND OF OJIBWE and BUREAU firefighters will be dispatched in accordance with the applicable Mobilization Plan.
3. Length of Assignment
- Firefighters dispatched under this agreement are to be under the control of the using agency for a specified period and will not be released except in cases of individual emergency as determined jointly by the Mille Lacs Tribal Chairperson and the Minneapolis Area Director or their representatives.
4. Commissary Privileges
- a) Mille Lacs personnel on the Federal Pay Plan for Emergency Firefighters will be accorded the privilege of using available commissary facilities and have their purchases deducted from their salary.
  - b) Personnel on Mille Lacs payroll will be accorded the same commissary privileges but their expenses will be deducted from the reimbursement claims submitted to the B.I.A. by the Mille Lacs Tribe. Commissary expenditures by personnel will be itemized on their individual Fire Time Reports (OF-288) which will be furnished to the MILLE LACS BAND OF OJIBWE.
5. Salaries, Wages and Compensation

a) Mille Lacs Payrolled Employees

The salary and expenses of personnel who remain on the Mille Lacs payroll while on assignment under the terms of this agreement shall be the actual cost to the MILLE LACS BAND OF OJIBWE for work time from departure until return to official duty station, including overtime (time and a half of base pay for time worked in excess of eight hours per day and/or forty hours per week), holiday time (double the base pay for the first eight hours and overtime for the remainder) and hazard pay (twenty-five percent of the base rate) when applicable. Timekeeping and pay provisions are included in Appendix I of this Agreement.

Any employee who remains on the Mille Lacs payroll in an exchange under the terms of this agreement who suffers disability or death as a result of personal injury arising out of and in performance of duties in connection herewith, for the purpose of the Workman's Compensation Act, is an employee of MILLE LACS BAND OF OJIBWE.

b) Pay Plan for Emergency Firefighters

The salary and expenses of personnel who are paid under the provisions of the Pay Plan for Emergency Firefighters shall be as indicated in the Current Pay Plan for Emergency Firefighters by AD classification (as Provided for in 53 BIAM, Supplement 8, Exhibit 6). Employees in this category are covered by the provisions of the Federal Employees Compensation Act (5 U.S.C., Chapter 81).

6. The MILLE LACS BAND OF OJIBWE will comply with Indian Employment Preference (BIAPR 14H-70.608) and Equal Employment Opportunity (BIAPR 14H-70.609), no person in the United States shall, on the grounds of race, color, sex, age or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures to effectuate this agreement.

7. The parties to this agreement waive all claims against each other for any loss, damage, personal injury or death suffered by them, their officers, agents or employees in consequence of the performance of this agreement, to the extent permitted by law.

8. Duration; Termination

This Cooperative agreement shall become effective after signatures of both parties. This agreement, unless modified in writing or renewed is scheduled for completion five (5) years after date of the last signature on the agreement. A participating party may terminate this agreement upon 60 days advance written notice to the other participating party.

BY: \_\_\_\_\_

\_\_\_\_\_ Date

TITLE: \_\_\_\_\_  
Commission of Natural Resources  
Mille Lacs Band of Ojibwe

CONCUR: \_\_\_\_\_  
Contracting Officer  
Minneapolis Area Office

\_\_\_\_\_ Date

Approved: \_\_\_\_\_  
Minneapolis Area Director  
Bureau of Indian Affairs

\_\_\_\_\_ Date


APPENDIX I

1. Personnel dispatched under this agreement shall be available for a maximum of three (3) weeks. This time duration may be extended with the mutual consent of the Mille Lacs Tribal Commissioner of Natural Resources and the Area Director, Minneapolis Area Office or their designated representative.
2. The Bureau of Indian Affairs will provide fire resistant shirts, trousers, and fire shelters to Mille Lacs personnel not so equipped when Mille Lacs personnel are requested by the BUREAU. The BUREAU will also provide firefighting equipment such as hand tools, hardhats, headlamps, and canteens. Mille Lacs personnel are responsible for returning all such items to the Bureau.
3. MILLE LACS BAND OF OJIBWE will ensure that each firefighter is equipped with serviceable lace boots and personal clothing and other personal items prior to their dispatch to fire.
4. Mille Lacs personnel dispatched under this Agreement will be paid their normal Mille Lacs salary but will be compensated for standby, travel time, overtime, holiday time and hazard duty as described in NWCG Handbook 2, Interagency Fire Business Management Handbook, for regular GS Federal employees.

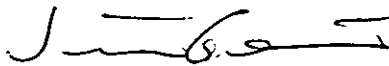


Commissioners Order240-96  
Natural Resources  
Page 7

DATED at Vineland, Minnesota this 10th day of September in the year  
one thousand nine hundred and ninety-six.

  
-----  
Don Wedll  
Commissioner of Natural Resources

APPROVED AND NUMBERED AS TO  
FORM AND EXECUTION

  
-----  
Jim Genia  
Solicitor General

BAND SEAL