

Commissioner's Order No. 245-97
Natural Resources

A Commissioner's Order establishing Special Use Areas within the Minnesota 1837 Ceded Territory:

WHEREAS, the Mille Lacs Band of Chippewa Indians is a signatory and 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 Federal District Court for the District of Minnesota in *Mille Lacs Band v. State of Minnesota*, No. 3-94-1226, has found that the Band retains rights to hunt, fish and gather under the 1837 Treaty, and

WHEREAS, the Commissioner of Natural Resources has authority to regulate the harvest of natural resources within the jurisdiction of the Mille Lacs Band of Ojibwe Indians under Mille Lacs Band Statute Annotated Title 11 Section 2002 and Section 2003, and

WHEREAS, given the limited purpose of this order, nothing herein or the application thereof shall be construed by any government, agency, person or circumstance as a waiver by the Mille Lacs band of its rights under the 1837 treaty or its authority

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 Mille Lacs Band Statutes Annotated Title 11 Section 2002 and Title 2, et seq. and;

NOW THEREFORE, by the authority vested in me by the Mille Lacs Band of Chippewa Indians pursuant to Mille Lacs Band Statutes Annotated Title 11 Section 2002, I, Don Wedll, Commissioner of Natural Resources for the Mille Lacs Band of Chippewa Indians hereby establish the following regulations for Special Use Areas Minnesota 1837 ceded territory.

Special Use Areas

Sec.1: Recognition of Special Use Areas; Restrictions on Activities in Such Areas.

Subd. 1: Pursuant to § 3.27 of the Bands' Minnesota 1837 Treaty Conservation Codes (hereinafter, the "Code" or "Codes"), the designated experimental waters, designated muskie waters, fish rearing ponds, forests, game refuges, northern pike spawning areas, parks, public water access sites, scientific and natural areas, trails, trout streams, and wildlife management areas set forth on the attached list are hereby recognized. In addition to all other applicable provisions of the Codes, members shall be subject to the restrictions set forth in this Order in such areas.

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Subd. 2: All references in the Order to areas listed in Subd. 1 are to the areas identified on the attached list, provided that references to parks do not include lands within parks that are held by the United States in trust for the Minnesota Chippewa Tribe, the Mille Lacs Band, or its members. References to state forest campgrounds and state forest day use areas in this Order are to posted areas within the forests identified on the attached list. References to other areas in this Order are to the specific areas described herein.

Subd. 3: Terms defined in the Codes shall be given the meaning set forth in the Codes when used in this Order.

Sec. 2: Designated Experimental Waters.

Subd. 1: Platte and Sullivan Lakes. When fishing in Platte and Sullivan Lakes in Crow Wing and Morrison Counties, Band members shall abide by the following restrictions before March 1, 2002:

Subp. 1: The daily bag limit of northern pike is six fish, with only one over 30 inches and none between 24 and 30 inches.

Subd. 2: Rum and West Branch Rum Rivers. When fishing in the Rum and West Branch Rum Rivers in Mille Lacs County, Band members shall abide by the following restrictions before March 1, 1999:

Subp. 1: The daily bag limit for smallmouth bass is three fish, with only one over 18 inches and none between 10 and 18 inches.

Sec. 3: Designated Muskie Waters.

Subd. 1: Cross and Rush Lakes. No member shall engage in spear fishing (either in open water or through the ice) in Cross Lake in Pine County or Rush Lake in Chisago County before March 1, 2004.

Sec. 4: Fish Rearing Ponds. No member shall remove live small game fish being reared in a fish rearing pond.

Sec. 5: Game Refuges.

Subd. 1: Linn, Elizabeth and German Lake State Game Refuges are closed to waterfowl hunting.

Subd. 2: St. Croix Islands State Game Refuge and Fish Lake-Ann River State Game Refuge are closed to all hunting.

Subd. 3: Anoka-Isanti State Game Refuge is closed to hunting and trapping, except that deer hunting may take place under a special deer hunt permit issued by the Department of Natural Resources.

Subd. 4: Pine County Unit 2 State Game Refuge is closed to firearm deer and bear hunting.

Sec. 6: Northern Pike Spawning Areas. No member shall fish in a posted northern pike spawning area during the spawning season, which shall be determined annually by the Commissioner.

Sec. 7: Parks and Forests.

Subd. 1: Public Safety -- Hunting, Firearms, Weapons.

Subp. 1: While in a state park, or while within 200 feet of a shelter or motor vehicle in a state forest campground, or while within a state forest day use area, except as provided in subparts 2 or 3 or by special permit from the Commissioner, no member shall:

- A. possess explosives of any kind;
- B. possess a firearm, including an air gun, unless the firearm is unloaded both in barrel and magazine and completely contained in a gun case expressly made for that purpose, which is fully enclosed by being zipped, snapped, buckled, tied, or otherwise fastened, or unless unloaded and contained in the trunk of a car with the trunk door closed;
- C. possess a bow and arrows, unless either unstrung or completely contained in a case or contained in the trunk of a car with the trunk door closed;
- D. use or display any other type of weapon including but not limited to slingshots, switchblade knives, traps, and spears; or
- E. hunt, trap, or in any manner take wild animals other than fish except as authorized by the Commissioner.

Subp. 2: When hunting, trapping, or taking wild animals is authorized in a state park, the restrictions in subpart 1 on firearms, bows and arrows, and traps are waived to the extent necessary to allow the authorized activity. However, no member shall construct, occupy or use any elevated scaffold, stand, or other elevated device to watch for or

take wild animals, except that portable stands may be used if they are removed each day at the hours and do no permanent damage to trees in which they are placed. Spikes or nails driven into trees are prohibited but screwing or clamping devices are allowed if removed each day at the close of shooting hours. No member shall place any bait in or hunt over bait in a state park.

Subp. 3: During an open season for hunting under the Codes, a member may carry an unloaded, uncased firearm or bow and arrows through a state park, state forest campground or day use area in order to engage in hunting in an area open to hunting. During an open season for spear or harpoon fishing under the Codes, the restriction on spears or harpoons is waived to the extent necessary to allow the activity.

Subp. 4: No member shall while hunting pursue wildlife into a state park or chase wildlife out of a state park without permission of the Commissioner after consultation with the park officer, unless retrieving an animal already reduced to possession.

Subd. 2: Boating.

Subp. 1: On waters within or adjacent to state parks, state forest campgrounds, and state forest day use areas:

A. no member shall operate a boat, watercraft, or motor on any body of water or portion of any body of water specifically posted prohibiting that use;

B. no member shall moor a boat on any beach or area specifically posted prohibiting that use; and

C. on any lake entirely within a state park, no member shall operate a motorized watercraft in excess of ten miles per hour, unless the lake is otherwise designated and posted.

Subd. 3: Fishing.

Subp. 1: If a fish-cleaning facility is provided in a state park, state forest campground or state forest day use area, no member shall clean fish and dispose of the remains except at that facility.

Subd. 4: Motor Vehicle Use; Storage and Abandonment of Boats, Trailers, Fish Houses and Other Equipment. The following restrictions apply in state parks, state forest campgrounds and state forest day use areas.

Subp. 1: Only automobiles and trucks which are licensed (including vehicles licensed by a Band government) may be operated. The operator must have a valid driver's license.

Subp. 2: The automobile or truck may be operated only on designated roads and parking areas, and shall be properly parked in designated parking areas or

parking spurs only. It may not be driven on roads which are posted, chained, or gated prohibiting motor vehicles. Parking in any area not designated as a parking area is prohibited and subjects the vehicle to being towed at the owners' expense. The Commissioner may relax these restrictions in permits issued under Code Section 9.06 if he determines it is necessary in order to enable Band members to harvest fish under that section.

Subp. 3: The automobile or truck shall not be operated in excess of posted speeds or in a reckless, careless, or exhibitivive manner. No member shall operate any vehicle in such a manner as to create unnecessary engine noise, tire squeals, skidding, or sliding.

Subp. 4: Storage and abandonment.

A. No member shall leave standing, whether attended or unattended, a motor vehicle, trailer, boat, fish house, or any other equipment or material in any manner so as to block, obstruct, or limit the use of any road, trail, waterway, water access, parking area, or winter sport facility, except as otherwise authorized in permits issued under Chapter 9 of the Code.

B. No motor vehicle, trailer, boat, fish house, or any other equipment or material may be stored, abandoned, or parked overnight. This does not apply, however, to overnight parking for the appropriate use of campsites or for fishing in accordance with Chapter 9 of the Code, or to fish houses on lakes where overnight use is permitted under the Code, or to the temporary storage of such items by a person who remains in the immediate vicinity during normal operating hours. In state parks, for certain approved activities, overnight parking or storage of equipment by members not remaining in the immediate vicinity may be allowed with prior approval of the Commissioner after consultation with the park manager. In state forest campgrounds and state forest day use areas, overnight parking is permitted in designated parking lots.

C. Any motor vehicle, trailer, boat, or any other equipment or material except fish houses located on the ice surface of a body of water, left for a period longer than 30 days, shall be deemed abandoned and shall be transferred to the custody of the Commissioner for disposal.

Subd. 5: Snowmobiles in State Parks.

Subp. 1: No member shall operate a snowmobile in a state park unless on trails and areas posted and designated for such use, under conditions of snow cover considered adequate for protection of the park by the Commissioner after consultation by the park manager.

Subp. 2: No member shall operate a snowmobile in a state park before 8:00 a.m. or after 10:00 p.m., except as otherwise posted.

Subd. 6: Snowmobiles and Recreational Motor Vehicles in State Forest Campgrounds and Forest Day Use Areas.

Subp. 1: No member shall operate a snowmobile or recreational motor vehicle in any state forest campground or state forest day use area unless on a trail or road posted and designated for that use.

Sec. 8: Public Water Access Sites. The following restrictions apply in posted public water access sites. The Commissioner may relax these restrictions in permits issued under Code Section 9.06 if he determines it is necessary in order to enable Band members to harvest fish under that section.

Subd. 1: Vehicles must be parked only in designated parking areas and may not obstruct any avenue of ingress or egress to the site or launch area, except when loading and unloading watercraft or other equipment.

Subd. 2: A member may not take any wildlife species, except fish, on a public water access site.

Subd. 3: A member may not possess loaded firearms within a public water access site or use any firearm, bow or arrow, air rifle, slingshot, or other missile propelling weapon.

Subd. 4: A member may not remove, destroy, or damage any vegetation from a public water access site, except as posted or permitted.

Subd. 5: A member may not permit livestock to enter a public water access site.

Subd. 6: Burning within a public water access site is allowed only in designated locations.

Subd. 7: The destruction of any public property within a public water access site is prohibited.

Subd. 8: A member may not camp on or remain in a vehicle overnight in any public water access site, unless the site is posted for this use.

Subd. 9: A member may not leave, store, or abandon a fish house, shelter house, dark house, other structure, or property within a public water access site.

Subd. 10: A member may not leave, store, or moor any watercraft on a public water access site overnight.

Subd. 11: A member may not place any obstacle or moor any watercraft in a manner that obstructs ingress or egress to a public water access site.

Subd. 12: Public water access sites may be used for swimming unless otherwise posted.

Subd. 13: A member may not consume intoxicating liquor within a public water access site.

Sec. 9: Scientific and Natural Areas.

Subd. 1: No member shall fish in any waters within any scientific and natural areas.

Subd. 2: Except as provided in subpart 3, no member shall, within a scientific and natural area:

Subp. 1: display or have in possession a firearm or air gun unless unloaded in both barrels and magazine and cased;

Subp. 2: have in possession explosives of any kind; or

Subp. 3: use or display any other type of weapon, including but not limited to, slingshots, switchblade knives, bow and arrows, and traps.

Subd. 3: During an open season for hunting under the Codes, a member may hunt in the Black Lake Bog Scientific and Natural Area, and the restrictions in subdivision 2 are waived to permit such hunting to take place. During an open season for trapping under the Codes, a member may trap in the Black Lake Bog Scientific and Natural Area, and the restrictions in subdivision 2 are waived to permit such trapping to take place. During a special hunt authorized by the Commissioner in any scientific and natural area (pursuant to agreement between the Bands and the State regarding special hunts), the restrictions in subdivision 2 are waived to permit members to participate in such hunts.

Sec. 10: Trails.

Subd. 1: Motor Vehicles, Except Snowmobiles. No motor vehicle, other than a snowmobile, shall be operated within a trail, except upon a legal road or highway as those terms are defined in Minnesota Statutes, section 160.02, subdivision 7, and except as authorized by the Commissioner after consultation with the State Commissioner of Natural Resources.

Subd. 2: Snowmobiles. No snowmobile shall be operated within a trail except upon treadways designated for such use and under such conditions considered adequate for the protection of the trail by the Commissioner after consultation with the State Commissioner of Natural Resources.

Subd. 3: Horses. No member shall ride, lead, or drive a horse or other beast of burden upon a trail except upon treadways designated for such use.

Subd. 4: Prohibited Uses. No member shall engage in a specific use of a trail during hours in which such use is prohibited by the Commissioner after consultation with the State Commissioner.

Subd. 5: Traffic control.

Subp. 1: Trail signs shall be obeyed.

Subp. 2: When on a trail treadway, all trail users must stay on the right half of the treadway when meeting or being passed by another trail user.

Subp. 3: When passing another trail user traveling in the same direction, a trail user must pass on the left half of the treadway, and may pass only when such left half is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safety of any trail user approaching from the opposite direction or any trail user overtaken.

Subp. 4: Any trail user who is about to enter onto or cross a trail treadway, shall yield the right of way to any trail user already on the treadway to be entered or crossed.

Subp. 5: When at approximately the same time, two trail users are about to enter an otherwise unmarked treadway intersection from different treadways or are approaching an otherwise unmarked merger of two treadways from any two directions, the trail user on the left shall yield the right-of-way to the trail user on the right.

Subd. 6: Special Events. No special events shall be held within a trail except with a written permit of the Commissioner issued after consultation with the State Commissioner of Natural Resources. Such a permit may exempt the holder and other participants from the operation of any of the rules contained in this subdivision, and may be revoked or suspended by the Commissioner at any time.

Subd. 7: Hunting on Trails.

Subp. 1: No firearm or bow and arrow shall be discharged within the trail at any time, except for the purpose of lawful hunting during the period from the day after Labor Day to March 30 only. No rifle, shotgun with slug, or bow and arrow shall be discharged upon, over, or across the trail treadway at any time.

Subd. 8: Trapping on Trails.

Subp. 1: The Commissioner may forbid the placement of any manner of animal trap in any area of a trail by further order.

Subd. 9: Protection of Trails.

Subp. 1: No member shall disturb, destroy, injure, damage, or remove any property within trails including but not limited to vegetation, ruins, wildlife, geological formations, signs, or facilities except plants and wild animals lawfully harvested under the Code and vegetation unavoidably damaged or destroyed by the ordinary uses of the trail as specifically permitted by these parts.

Subp. 2: No member shall post, paste, fasten, paint, or affix any placard, bill, notice, or sign upon any structure, tree, stone, fence, or enclosure in a trail.

Subp. 3: No member shall place or cause to remain within any trail, any snowmobile, trailer, horse, bicycle, or other object so as to obstruct the free use and enjoyment of said trail. Any such obstruction shall be removed at the owner's expense. If not claimed and payment of expenses offered within a reasonable time, which in no case shall be more than 30 days, it may be disposed of by the Commissioner.

Subp. 4: No member shall burn or dispose of garbage, refuse, litter or trash, within a trail except in receptacles provided for that purpose.

Sec. 11: Trout Streams. No member shall take minnows from a trout stream except with a special permit issued by the Commissioner.

Sec. 12: Wildlife Management Areas.

Subd. 1: The Commissioner may require members to report animals taken within wildlife management areas and submit them for inspection.

Subd. 2: A member may not leave a vehicle, trailer, or tent overnight within a wildlife management area, except by permit or in areas and at times designated by signs for overnight use. A vehicle, trailer, or tent lawfully left overnight must be occupied or attended.

Subd. 3: A member may not consume alcoholic beverages within a wildlife management area, except when lawfully occupying an overnight use area.

Subd. 4: Motorboat use is prohibited within a wildlife management area, except where posted or otherwise allowed by state law.

Subd. 5: A member may not operate an all-terrain vehicle, snowmobile, hang glider, air boat, hover craft, or personal watercraft within the boundaries of a wildlife management area, except that a member may operate an all-terrain vehicle with a permit from the Commissioner, which may be issued to disabled hunters or for the gathering of medicinal plants or other similar purposes on a limited basis, after consultation with the wildlife manager in charge. A vehicle may not be parked in a wildlife management area in front of a gate or in a manner that obstructs travel.

Subd. 6: Motor vehicles licensed for use on a public highway may be operated up to 20 miles per hour within the Carlos Avery and Mille Lacs Wildlife Management Areas,

unless posted otherwise. Vehicles may be operated only on established roads and may not be driven beyond signs prohibiting vehicular use, beyond any constructed vehicle barrier, or in a reckless or careless manner.

Subd. 7: Motor vehicles licensed for use on a public highway are prohibited within all other wildlife management areas in the Minnesota Ceded Territory, except that they may be operated up to 20 miles per hour on those routes designated by signs for travel purposes.

Subd. 8: Target, trap, skeet, or indiscriminate shooting is prohibited within a wildlife management area except as permitted by State law. A member may not possess an uncased or loaded firearm or an uncased and strung bow, except when lawfully taking a wild animal or by permit from the Commissioner.

Subd. 9: A member may not construct or maintain a building, dock, fence, billboard, sign, or other structure within a wildlife management area. Temporary waterfowl blinds may be erected but may not be used to preempt a hunting location. Materials brought into the area for the construction of blinds must be removed from the area each day at the close of shooting hours.

Subd. 10: No member shall construct, occupy, or use any elevated scaffold, stand, or other elevated device to watch for or take wild animals in a wildlife management area, except that portable stands may be used if they are removed each day at the close of shooting hours and do no permanent damage to trees in which they are placed. Spikes or nails driven into trees are prohibited but screwing or clamping devices are allowed if removed each day at the close of shooting hours.

Subd. 11: Except for commercial hunting, fishing or gathering activities authorized under the 1837 Treaty and applicable Band law, or as otherwise authorized under state law, no member shall conduct any commercial operation, solicit business, farm, or keep bees within a wildlife management area.

Subd. 12: No member shall dispose or abandon garbage, trash, spoil, sludge, rocks, vehicles, carcasses or other debris or store property within a wildlife management area. Boats, decoys, or other property may not be left unattended overnight, except for traps lawfully placed.

Subd. 13: A member may not release, place, or transplant in a wildlife management area any plant or animal life that did not originate within the area, unless approved by the manager of the wildlife area.

Subd. 14: No member shall take unprotected wild animals within wildlife management areas from March 1 to August 31 except while hunting a protected species in accordance with this ordinance.

Subd. 15: No member shall enter or remain within a wildlife management area during closed hours adopted by Commissioner's Order, except by permit issued by the Commissioner after consultation with the wildlife manager in charge.

Subd. 16: Members may take minnows, leeches and other live bait for subsistence uses from wildlife management areas. However, no member shall harvest bait for commercial purposes in a wildlife management area without a special permit issued by the Department of Natural Resources. Such permits shall limit the harvest to the following areas: Cook WMA; Roosevelt WMA; Crooked Road WMA; Cranberry WMA; Tosher Creek WMA; Rice Creek WMA; and Mille Lacs WMA (Dewitt, Ernst, and Korsness Pools). In addition, such permits shall limit the harvest to the period from December 1 through March 31 and August 1 through August 31 provided that, upon consultation with the wildlife manager in charge, the permit may authorize the taking of leeches during the period May 1 to July 31, subject to special conditions needed to prevent the disturbance of waterfowl, including provisions that identify the size of open water bodies and the timing and location of leech trapping within those water bodies. The permit may impose other limitations as determined by the Department. No member shall harvest bait in violation of the limitations in his or her permit.

Subd. 17: Branch Wildlife Management Area is closed to entry and no member shall hunt, fish or gather therein.

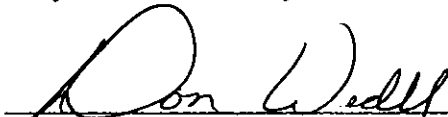
Subd. 18: Carlos Avery Wildlife Management Area is closed to entry from 10:00 p.m. until 4:00 a.m. and no member shall hunt, fish or gather therein during such hours, except by permit issued by the Commissioner after consultation with the wildlife manager in charge.

Subd. 19: Mud Lake Sanctuary in the Sunrise Unit of the Carlos Avery Wildlife Management Area is closed to all hunting, except to disabled members possessing a special permit issued by the Department of Natural Resources and to spring wild turkey hunting.

Sec. 13: Watercraft Operation on Brown Lake, Mille Lacs County. No member shall operate at any time a watercraft propelled in any respect by machinery, except those watercraft temporarily equipped with a detachable electric motor of less than one-half horsepower rating, on Brown Lake (48-15), T. 43 N., R. 27 W., S. 7., in Mille Lacs County, Minnesota.

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Dated at Vineland, Minnesota this 7th day of March 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

OFFICAL SEAL OF THE BAND