

COMMISSIONER'S ORDER NO. 127-89
Natural Resources

A Commissioner's Order to ratify the Trapping Agreement and to establish the Off-Reservation 1989-90 Trapping Regulations, east of the St. Croix River for members of the Mille Lacs Band of Chippewa Indians.

- 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 Mille Lacs Band of Chippewa Indians resides in the ceded territories of the Treaty of 1837, 7 Stat. 536; and
- WHEREAS, the Mille Lacs Band deem it appropriate to provide an orderly system of tribal control and regulation of off-reservation trapping; and
- WHEREAS, the Mille Lacs Band further deems it appropriate to provide conservation and management for furbearing populations found in the ceded territory through the regulation of member trapping 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 Band Statute 1032-MLC-1, Sec. 29, Band Statute 1017-MLC-7, and Band Statute 1092-MLC-25, et seq.; and
- WHEREAS, the taking of furbearing is a natural resources 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 Band Statute 1032-MLC-1, Section 25 and 29, the Commissioner of Natural Resources is empowered to execute the regulatory agreements for trapping 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 Band Statute 1032-MLC-1, Section 29, I, Don Wedll, Commissioner of Natural Resources for the Mille Lacs Band of Chippewa Indians hereby ratify the 1989-90 Off-Reservation Trapping Agreement by and between the Tribal and State Parties in Lac Courte Oreilles, et al., v. State of Wisconsin, et al.; and

It is further and finally ordered that the following Trapping Regulations are established for the 1989-90 Trapping Season, east of the St. Croix River for members of the Mille Lacs Band of Chippewa Indians.

OFF-RESERVATION 1989-90 TRAPPING REGULATION
East of the St. Croix River

PART 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 1989-90 Trapping Regulations.
102. Authority. This Commissioner's Order is authorized pursuant to Band Statute 1032-MLC-1, Sec. 29, Band Statute 1017-MLC-7, and Band Statute 1092-MLC-25, et seq., 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 trapping 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 furbearer population in the ceded territory through the regulation of member trapping 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 15, 19890.
105. Interpretation. The provisions of this order shall be interpreted and applied as minimum requirements applicable to trapping and shall be liberally construed in favor of the Mille Lacs Band pursuant to Band Statute 1024-MLC-3, Section 19.01. 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. Relationship to Agreement. This order is intended to implement the Agreement as defined in sec. 201 (9), the provisions of which are hereby incorporated by reference as if fully set forth herein. In the event of any inconsistency between the Agreement and this Order, the Agreement shall govern unless the relevant order provision is more strict.

PART II - DEFINITIONS

201. Definitions.

- a) "Agreement" means the 1989-90 Chippewa Indian Off-Reservation Trapping Season Agreement By and Between the Tribal and State Parties in Lac Courte Oreilles, et al. v. State of Wisconsin, et al.
- b) "Member" means a member of the Mille Lacs Band of Chippewa Indians.
- c) "To trap" means to trap or snare.
- d) "Tribal conservation department" means the conservation departments of the any tribe which has approved an order in conformance with the Agreement.
- e) "Tribal Court" means the Court of Central Jurisdiction.
- f) "Tribal Member" means a member of the Bad River, Keweenaw Bay, Lac Courte Oreilles, Lac du Flambeau, Mille Lacs, Mole Lake, Red Cliff or St. Croix Band of Chippewa Indians.
- g) "Tribal transportation tag" means a tag issued by any tribe under an order in conformance with the Agreement.
- h) "Tribe" means the Mille Lacs Band of Chippewa Indians.

Part III - REGULATIONS

301. Seasons:

- a) No member shall trap any species except during the open season provided for it by this section.
- b) Open season are provided as follows: Seasons begins at 6:00 a.m. on the opening date listed and ends at 11:59 p.m. on the closing date listed.
 - (a) Snowshoe Hare Year Around
 - (b) Cottontail Rabbit Year Around
 - (c) Red, Gray & Fox Squirrel Year Around
 - (d) Bobcat October 7, 1988 - March 1, 1989
 - (e) Raccoon October 7, 1988 - March 1, 1989
 - (f) Red & Gray Fox October 7, 1988 - March 1, 1989
 - (g) Coyote October 7, 1988 - March 1, 1989
 - (h) Mink October 21, 1988 - March 1, 1989
 - (i) Muskrat October 21, 1988 - March 1, 1989
 - (j) Beaver October 7, 1988 - March 1, 1989
 - (k) Otter November 15, 1988 - March 15, 1989
 - (l) Fisher November 15, 1989 - December 31, 1989
 - (m) Season closure. Notwithstanding the seasons as provided in section 301, seasons for otter, bobcat, and fisher may be closed pursuant to section 411 upon attainment of the quota for the species. The fisher season may be closed by fisher trapping zone as provided by 411.

302. Setting, tending Traps; non-members. No member shall share any traps or snare with non-tribal member, nor permit any non-tribal member to tend any trap or snare of the member unless both the member and non-member are in conformity with all applicable provisions of the State of Wisconsin law regarding trapping, except that the member need not possess any state license.

303. Identification - Members

- a) No member shall trap 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 trapping activities.
- b) No member shall refuse to display his or her identification documents upon request of any tribal, state, or local law enforcement officer.

304. Permits. No member shall trap off-reservation except while carrying a validly issued off-reservation natural resources harvesting permit, validated for trapping.

305. Identification - Traps.

- a) Except for snares set for rabbits and hares, any member trapping off-reservation shall affix to each trap a metal tag upon which shall be stamped or engraved the trapper's name and address and the initials "MLB" indicating membership in the tribe.
- b) Any member placing traps within 15 feet of a beaver house or beaver dam shall affix a tag as provided in par. (a) of this section near the trap in such a manner as to be visible from above the waterline.
- c) Except for snares set for rabbits and hares, any trap which is untagged shall be immediately seized and confiscated, and the owner or member using or attending the untagged shall be subject to citation for a violation of the provision of subs. (a).

306. Methods - Trapping and Snaring. No member shall:

- a) Hunt any mink, muskrat, fisher, or otter with the aid of any spear, gun or dog, provided that a member may carry a gun or be accompanied by a dog while tending traps; and provided further that a member may use a bullet of no greater size than .22 caliber rim fire to kill a beaver or otter in a trap by shooting it in the head.
- b) Set out traps or snares except during the open season.
- c) Set out bait or scent for attracting furbearing animals except during the open season.
- d) Use sight-exposed bait, visible from above, consisting of feathers, animal flesh, fur, hide, or entrails within 25 feet of trap or snare.
- e) Use water sets except during the open season for muskrats, beaver, or otter.
- f) While hunting or trapping, molest any mink den, raccoon den or den tree, beaver dam, muskrat house, or muskrat feeding house, except that a member may place a trap or snare within a muskrat house if he or she substantially restores the house to its prior condition after each occasion of setting or tending the trap or snare.
- g) Fail to check all dry land sets and to remove all animal therein at least once each day.
- h) Place on the ice any artificial house or den, or place therein any trap or snare, which has the purpose or may have the effect of taking furbearers.
- i) Set, place, possess, or operate on or adjacent to waters any trap other than a snare or steel-jawed trap or live trap capable of capturing only one animal in a single setting for the purpose of taking furbearing animals.
- j) Set, place, or operate except as a water set any killer or conibear trap larger than 7" X 7".
- k) Set, place, or operate any steel-jawed trap with a spread width of more than 8 inches.
- l) Set, place, or operate any steel-jawed trap with teeth except as a water set.
- m) Set, place, or operate any killer trap of the conibear type greater than 6" X 6" or 6" in diameter in the following locations.
 - (i) Within 3 feet of any federal, state, or county road right-of-way culvert unless completely submerged in water.
 - (ii) Within 3 feet of any woven or welded wire mesh type fence.
 - (iii) Within 100 yards of any building devoted to human occupancy without the owner's consent.
- n) Use poison baits or explosives while trapping.
- o) Use nets, pitfalls, pivot guns, swivel guns, spring guns, or similar contrivances, not including snares, to take furbearers.

307. Methods - Snaring. No tribal member shall use a snare except in compliance with the following provisions.

- a) Any snare must be anchored so that it may not be dragged.
- b) Any snare must be tagged as in Sec. 305 of this order.
- c) No snare may be spring activated.
- d) Any snare must be set in a manner which prevents an animal from being suspended unless it is attached to a drowning mechanism.
- e) No upland snare may target any animal except fox, coyote, snowshoe hare, cottontail rabbit, bobcat, squirrel, raccoon, mink, muskrat, beaver, otter, and fisher.
- f) Any upland snare, except those set for snowshoe hare or cottontail rabbit, must be removed no later than March 1, 1990.
- g) Any water set snare must be removed no later than May 1, 1990.
- h) Any snare October 7, 1989 - March 1, 1990 must have a stop device which will prevent the snare loop size from becoming smaller than 2 1/2 inches or have a breakaway mechanical lock.

- i) Any snare, except those set for snowshoe hare or cottontail rabbit, must have a swivel device on the anchor end.
- j) Any snare or cable, except those set for snowshoe hare or cottontail rabbit, wire may not have a diameter exceeding 1/8 inch.
- k) No more than 30 sets shall be used by any trapper at any one time. All water set snares extending from any one pole shall be counted as one set.
- l) Any water set snare shall be set or staked in such a manner as to allow the snare or snared animal to reach water at any point.
- m) No upland snare shall be set on a well defined deer trail.
- n) No upland snare shall be set such that the bottom of the loop is more than 6" above the ground, or when the ground is snow covered, more than 6" above the level of the adjoining trail.
- o) No upland snare shall be set with a loop size greater than 10" in diameter.
- p) Members may use #9 braided picture wire snares without locks or swivels for the purpose of snaring rabbits or hare.

308. Bobcat, otter, and fisher.

- a) No member shall move any bobcat, otter, or fisher from the site at which it is trapped prior to affixing a tribal transportation tag to it.
- b) No member shall fail to register with the tribal conservation department any bobcat, otter, or fisher he or she has killed. Such registration shall be accomplished no later than 4:30 p.m. of the working day following retrieval of the animal.
- c) No member shall fail accurately to give his name, address and phone number to the tribal conservation department as a condition for receiving tribal transportation tags.
- d) A member registering an otter, bobcat or fisher shall provide the registering official with the following information: the sex of the animal taken, the deer management unit and the county where the animal was taken, the date when the animal was taken, the tribal identification number of the member taking the animal and any other relevant information requested by the registering official. It shall be a violation of this Order to provide information to the registering official which the member knows, or has reason to know, is false or misleading.
- e) No member shall fail to cooperate with the tribal conservation department at the time of registration, nor shall any member refuse to peaceably surrender to the tribal conservation department any fur or animal which an officer of the tribal conservation department reasonable believes to have been taken in violation of this order.
- f) No member shall transfer any transportation or registration tag obtained under this order to any non-member except in conjunction with a legal transfer of a tagged animal.

309. Possession of shot or speared fur. No member shall have in his possession or under his control the skin of any mink, muskrat, fisher, otter, or marten showing that the same has been shot or speared, except for beaver, otter, and fisher shot in the manner authorized in Section 306 (a) of this order.

310. Possession of green skins. No member may possess the green skin of a furbearing animal more than ten days following the close of the open season for that animal unless the member has tagged the animal and presented it to the tribal conservation department for registration within ten days of the close of the open season for the animal and the department has issued to the member a permit for the retention of animal specifying the member's name, the species of the animal and the number of the tag affixed to the animal.

311. Possession of live animals.

- a) All furbearing animals taken shall be immediately killed or released upon taking.
- b) No member shall sell or possess any live furbearing animals.

312. Purchase of furs. No member shall purchase furs from a non-tribal member except with a state license, and except as provided by Wisconsin state law pursuant to Sec. 29.134, Stats.

313. Shipment of furs. Members shall mark all fur shipments, showing the number and kinds of hides in the shipment and the name and address of the shipper and of the consignee.

314. Sale of meat of furbearing animals. During the closed season for an animal, no member may sell the meat of that animal except to a tribal member.
315. Waste. No member shall unreasonable waste, injure, destroy, or impair natural resources while engaged in trapping activities pursuant to this Order.
316. Molesting traps. No member may molest, take, or appropriate a trap belonging to another person when the trap is lawfully placed. No member may take or appropriate the animal or contents of any lawfully placed trap belonging to another.
317. Larceny of game. No member shall, without permission of the owner, molest, disturb, or appropriate any wild animal or the carcass or part thereof, which has been lawfully reduced to possession by another.
318. Endangered, threatened, and protected species. No member shall harvest badger, wolverine, flying squirrel, or any animal on either the Band's, state or federal endangered or threatened species list.
319. Incidental take. Any member taking any animal except during the open season therefore shall surrender the animal to the Band.
320. Closed areas and refuges.
- a) No member shall trap at any time in the following areas as more specifically described in the cited appendix maps:
 - 1) Douglas County Hospital Fields, Douglas County, Map (a) (1).
 - 2) Crex Meadows Wildlife Refuge, Burnett County. Map (a) (2).
 - 3) Wisconsin State Park, Chippewa County. Map (a) (3).
 - b) No member shall trap by the use of a dry land set trap or snare at any time in the following areas as more specifically described in the cited section appendix maps:
 - 1) Clam Lake, Ashland, Bayfield and Sawyer Counties. Map (b) (1).
 - 2) Pine River, Forest, Oneida, and Vilas Counties. Map (b) (2).
 - c) No member shall trap before November 7, 1988, in any of the following areas as more specifically described in the cited section appendix maps:
 - 1) Pershing, Taylor County. Map (c) (1).
 - 2) Fish Lake Wildlife Area, Burnett County. Map (c) (2).
 - 3) Bean's Eddy, Berkhahn Flowage, Honey Island Flowage, McMillan Marsh, Mead, Marathon County. Map (c) (3).
 - 4) Rice Lake, Oneida County. Map (c) (4).
 - 5) Brule River, Douglas County. Map (c) (5).
 - 6) Powell Marsh, Vilas County. Map (c) (6).
 - d) No member shall trap from April 1, 1989 - September 15, 1989, in the following areas as more specifically described in the cited appendix.
 - 1) Fish Lake, Burnett County. Map (d) (1).
 - 2) Mead, Marathon County. Map (d) (2).
 - e) No member shall trap fisher except in the following fisher trapping zones:
 - 1) Zone A--Deer Management Units 1, 2, 3, 4, 5, 8, 9, 10, 11, 12 and 17.
 - 2) Zone B--Deer Management Units 6, 7, 13, 14, 18, 19, 20, 25, 28, 29A, and 30.
 - 3) Zone C--Deer Management Units 29B, 31, 32, 34, 35, 36, 37, and 52.
 - 4) Zone D--Deer Management Units 38, 39, 40, 42, 43, 44, 45, 49 and 50.

Part IV - ENFORCEMENT

401. Enforcement by deputized conservation wardens. Any provision of this order may be enforced by Mille Lacs Band Enforcement Officer or 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. §23.054.
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 animals. Animals which are seized in connection with cases referred to tribal court for prosecution shall be turned over to the tribe. Such animals shall not be returned by the tribal court or tribal officials to the convicted violator, his immediate family or other members of the trapping party.
405. Registration information. Tribal and Commission wardens are empowered to request and receive from tribal tag and registration stations, information regarding tag issuance and registration.
406. 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) For a violation of any other provision of this ordinance, a forfeiture of not more than \$500.00
b) For any violation of any other provision of this ordinance, a revocation of off-reservation trapping privileges may be ordered for a period of time to be determined by the court.
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 order 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 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. Hearing in Tribal Court. The Court of Central Jurisdiction shall adjudicate all matters arising under this order, pursuant to the provisions of the Band Statute 1024-MLC-3.
410. Members of other tribes, issuance of permits, Tags, Registration. The tribal conservation department is authorized to issue and validate tribal off-reservation natural resources harvesting permits, and to issue trapping permits, bobcat, otter, and fisher transportation tags to members of the tribe and of any other tribe which has adopted an ordinance in conformance with the 1989-90 Chippewa Indian Off-Reservation Trapping Agreement By and Between the Tribal State Parties in Lac Courte Oreilles Band, et al., v. State of Wisconsin, et al., or has adopted an order regulating 1989-90 Off-Reservation Treaty Trapping which contains permit and registration provisions in conformance with the provisions of this order, and to register bobcats, otters, and fisher taken by members of such tribes.
411. Authorization for Closure. The Great Lakes Indian Fish and wildlife Commission (GLIFWC) is hereby delegated the authority to close the trapping season for otter, bobcat, and fisher, provided
a) To close the otter season, seventy-five (75) otter have been taken under the Agreement:
and
b) To close the bobcat season, a total of one hundred (100) bobcat have been taken under the Agreement and the 1989-90 Chippewa Indian Off-Reservation Small Game Hunting Agreement By and Between the Tribal and State Parties in Lac Courte Oreilles, et. al., v. State of Wisconsin, et.al.; and

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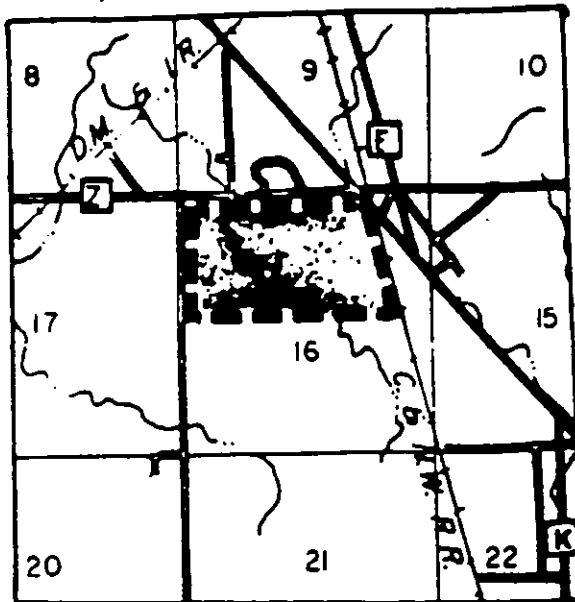
- c) To close the fisher season, the following numbers of fisher have been taken in the particular zone--Zone A: 30 fisher; Zone B: 50 fisher; Zone C: 20 fisher; and Zone D: 20 fisher:
- d) GLIFWC undertakes reasonable efforts over a forty-eight (48) hour period to notify tribal trappers that the closure will occur.

412. 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 a violation.
- b) A person is concerned in the commission of the violation if the person:
 - (1) directly commits the violation;
 - (2) aides and abets the commission of it; or
 - (3) is a party to the conspiracy with another to commit it, or advises, hires, or counsels or otherwise procures another to commit it.

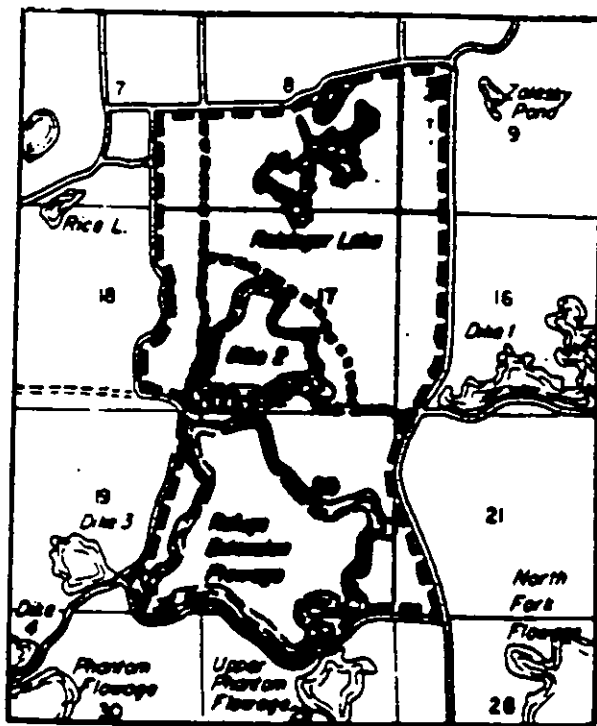
a. Areas closed to trapping at all times.

(1) DOUGLAS COUNTY. (a) Douglas county hospital fields. Township 48 north, range 18 west, town of Packland.

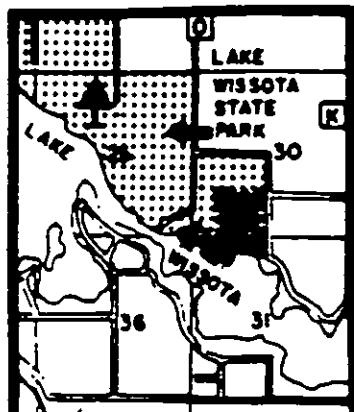


a. Areas closed to trapping at all times.

(2) BURNETT COUNTY. *Cree Meadows*. Township 39 north, range 18 west, town of West Marshland.

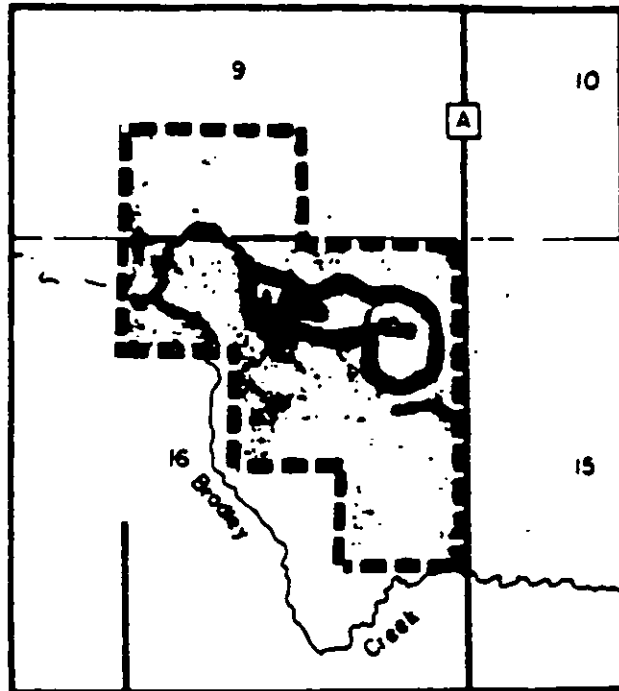


(3) CHIPPEWA COUNTY. *Wisota*. Township 29 north, range 7 west and township 29 north, range 8 west, town of Anson.



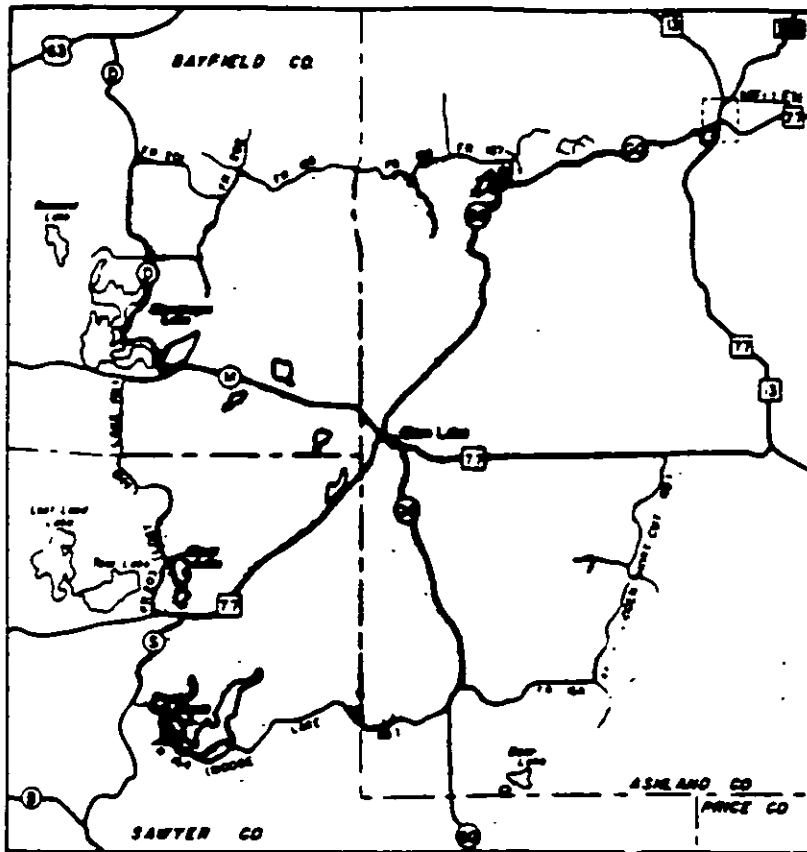
a. Areas closed to trapping at all times.

(4) PORTAGE COUNTY. *Camp for the blind.* Township 25 north,
range 18 east, town of Alton.



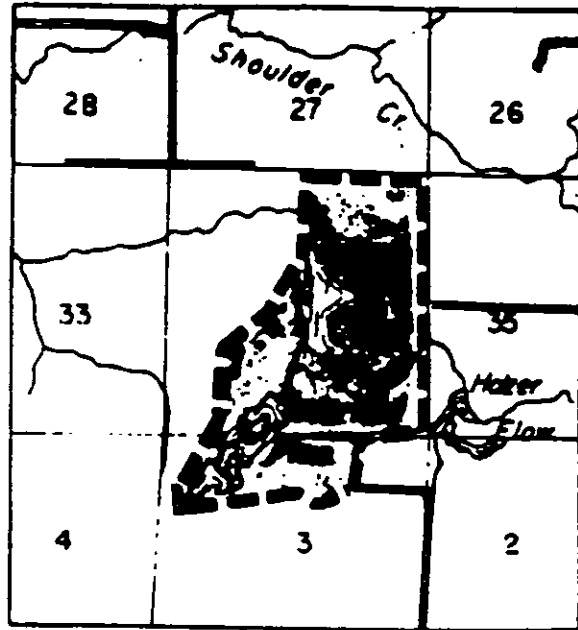
b. Areas closed to dry land settrapping at all times.

(1) ARELAND, BAYFIELD AND SAWYER COUNTIES. *Clean Lake.*



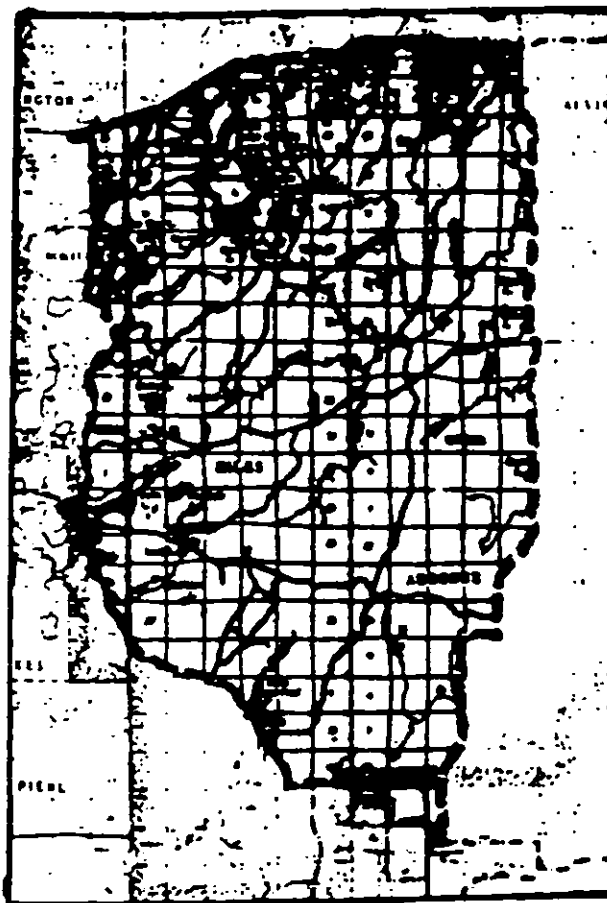
c. Areas closed to trapping from the date of the agreement through November 9,

(1) TAYLOR COUNTY. Pershing. Township 33 north, range 4 west, town of McKinley.



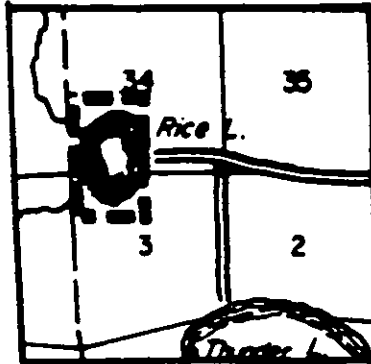
b. Areas closed to dry land set trapping at all times.

(2) FOREST, ONEIDA AND VILAS COUNTIES. Pine River.



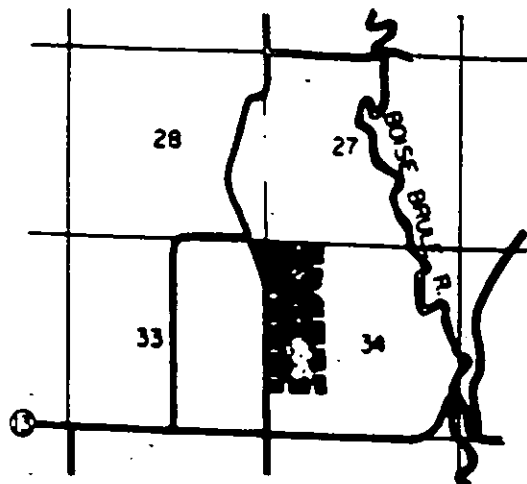
c. Areas closed to trapping from the date of this agreement through November 9 ,

(4). ONEIDA COUNTY. Rice Lake. Township 28 north, range 10 east, and township 29 north, range 10 east, town of Three Lakes.

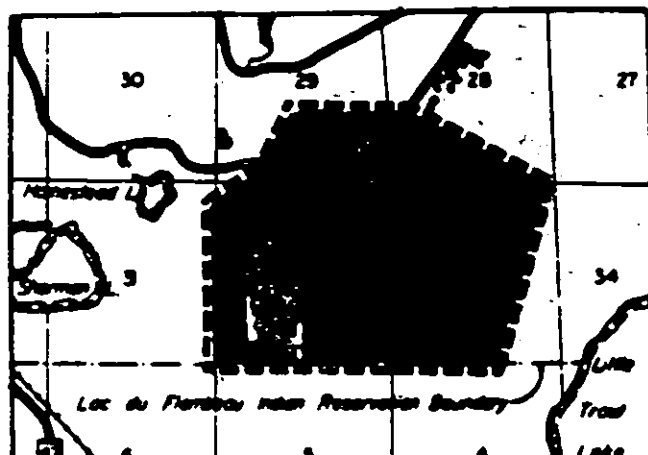


- c. Areas closed to trapping from the date of this agreement through November 9 ,

(5) DOUGLAS COUNTY. *Braze rivier.* Township 49 north, range 10 west, town of Cloverland.

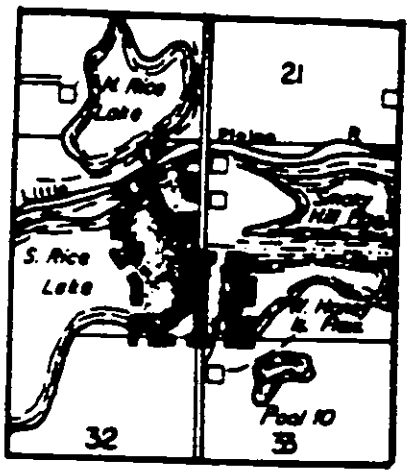


(6) VILAS COUNTY. *Powell Marsh.* Township 42 north, range 5 east, town of Manitowish Waters.



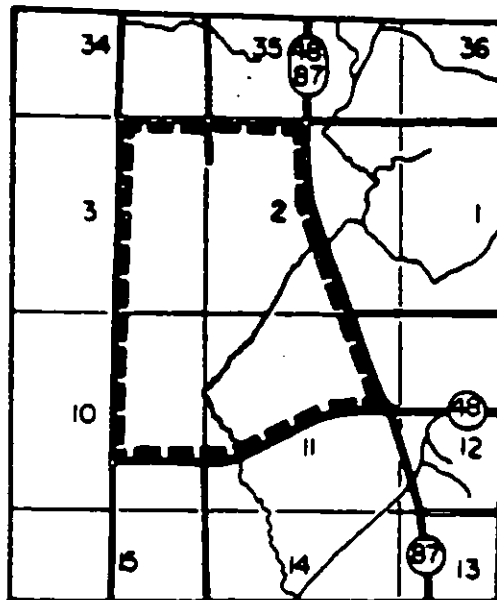
c. Areas closed to trapping from the date of this agreement through November 9,

(e) Mead. Township 26 north, range 5 east, town of Green Valley.



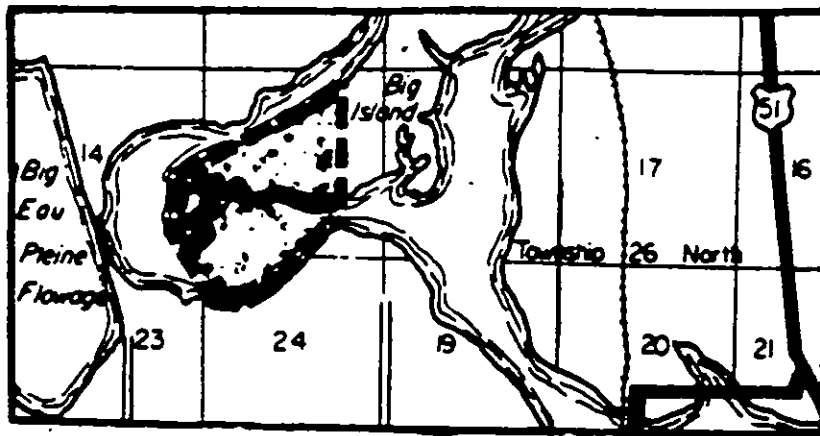
- c. Areas closed to trapping from the date of the agreement through November 9 ,

(2.) BURNETT COUNTY. Fish Lake wildlife area. Township 37 north,
range 19 west, town of Anderson.

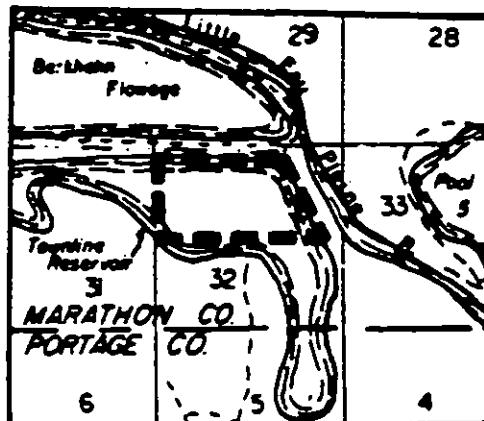


- c. Areas closed to trapping from the date of this agreement through November 9,

(3) MARATHON COUNTY. (a) *Beena Eddy*. Township 26 north, range 6 east, town of Bergen.

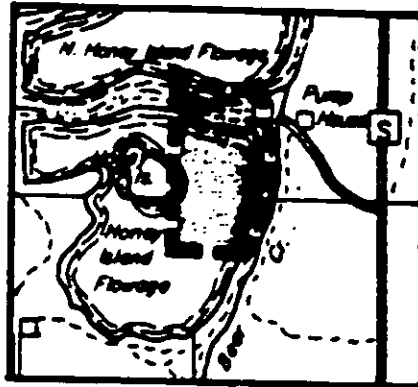


(b) *Berkahn Flowage*. Township 26 north, range 6 east, town of Bergen.

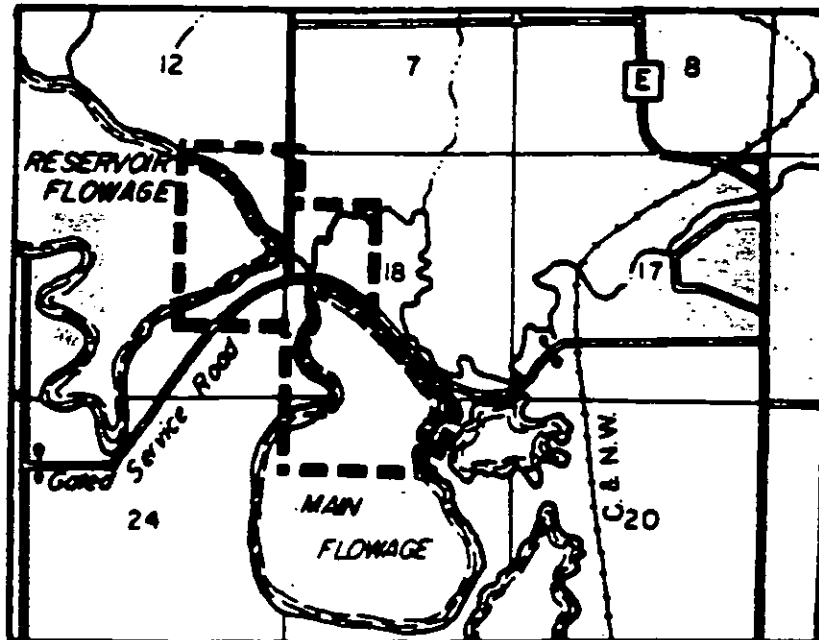


- c. Areas closed to trapping from the date of this agreement through November 9

(c) *Honey Island Flowage*. Township 26 north, range 5 east, town of Green Valley.

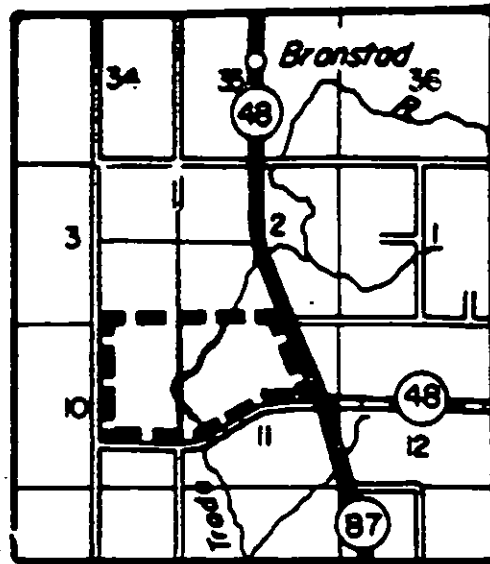


(d) *McMillan Marsh*. Township 26 north, range 2 east, town of Spencer and township 26 north, range 3 east, town of McMillan.



d. Areas closed to trapping from April 1, - September 15,

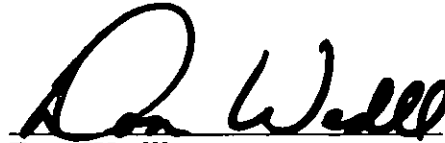
(1) BUSHCUTT COUNTY. (a) Fish Lake. Township 87 north, range 19 west, town of Anderson.



(2) Mead, Marathon Co. See Map c(3)(e).

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DATED at Vineland, Minnesota this second day of November in the year one thousand nine hundred and eighty-nine.



Don Wedll
Commissioner of Natural Resources

APPROVED AND NUMBERED AS TO
FORM AND EXECUTION



Tadd Johnson
Solicitor General

OFFICIAL SEAL OF THE BAND