

COMMISSIONER'S ORDER NO. 235-96

Natural Resources

A Commissioner's Order authorizing approval of Mille Lacs Band of Chippewa Indians Department of Natural Resources to enter into a Memorandum of Understanding with U.S. Fish and Wildlife Service on the taking of migratory birds.

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 § 2003; 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 the taking of migratory birds will be 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 Understanding with the Mille Lacs Band's Department of Natural Resources on the taking of migratory birds; 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 Memorandum of Understanding 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 concur with the following Memorandum of Understanding for the taking of migratory birds.

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

WHEREAS: the United States Fish and Wildlife Service (FWS) is a Federal agency responsible for managing migratory birds and enforcing the provisions of the Migratory Bird Treaty Act, 16 U.S.C.S. 703 et seq. ;

WHEREAS: the Mille Lacs Band (MLB) of Chippewa Indians negotiated various treaties with the United States including the Treaty of 1855 which established their reservation. The MLB's Department of Natural Resources (DNR) is responsible for managing migratory birds and enforcing hunting regulations on its reservations (11 MLBSA § 2003, and 2 MLBSA § 1153, et seq.);

WHEREAS: the MLB is a Federally recognized Chippewa Indian Band that has the authority, capability and intent to manage migratory birds on its reservation lands in accordance with sound principles of wildlife management; and,

WHEREAS: the parties to this Agreement determine that, for purposes of the Migratory Bird Treaty Act, the taking of migratory game birds by Native Americans on their Indian Reservations should be regulated by the band governing body in a manner consistent with the terms specified in this Agreement;

THEREFORE, the parties agree that:

1. The MLB-DNR will maintain a scientifically-sound management program for migratory birds within its Reservation or lands under its jurisdiction where reserved hunting rights are recognized and will actively and effectively enforce its migratory bird regulations. The FWS will cooperate with the MLB-DNR in the development of data needed for sound management of migratory birds and will, at the request of the Band, assist in law enforcement efforts.
2. The MLB-DNR will adopt migratory game bird hunting regulations, which apply to hunting by Band members while on the Reservation or on lands under the jurisdiction of the MLB where reserved hunting rights have been recognized, consistent with the following frameworks:

BASIC REGULATIONS

Shooting hours: one-half hour before sunrise to sunset.

Steel shot: Steel shot will be used exclusively by all waterfowl hunters in zones nominated by the Band and described in Federal regulations.

Other basic regulations: Indian and non-Indians hunting on the Mille Lacs Indian Reservation or on lands under the jurisdiction of the MLB will observe all other Federal basic waterfowl regulations found in 50 CFR 20 except Indian hunters are excluded from 20.2 (b) and 20.21 (b) referring to the purchase of Federal duck stamps and plugging of repeater shotguns respectively. Basic Federal regulations, adopted as and incorporated into , Title 5 MLBSA as amended or promulgated pursuant to Commissioner's Order may be concurrently enforced and prosecuted in the Band's Court of Central Jurisdiction.

MLB Indians may outfit and guide non-Indian waterfowl hunters on their reservation and on lands under their jurisdiction only after the State waterfowl season opens. Such non-Indian hunters must abide by State, Band and Federal regulations while hunting on the reservation.

DUCKS

Outside dates: Between September 12 and November 30.

Hunting season: 55 days

Daily bag limit: six ducks daily including no more than 3 mallards, 2 mallard hen, 4 wood ducks, 1 canvasback, 1 redhead, 2 pintails, and 1 hooded merganser.

Possession limit: Two times the daily bag limit.

GEESE

Outside dates: Between September 12 and November 30.

Hunting season: 60 days

Daily bag limit: six geese daily including no more than 2 white-fronted geese and 2 Canada geese.

Possession limit: two times the daily bag limit.

COOTS

Outside dates: Between September 1 and November 30.,

Hunting season: 60 days

Daily bag limit: 20

Possession limit: 40

COMMON SNIPE

Outside dates: Between September 1 and November 30.,

Hunting season: 60 days

Daily bag limit: 10

Possession limit: 20

MOURNING DOVES

Outside dates: Between September 1 and November 30.

Hunting season: 60 days

Daily bag limit: 18

Possession limit: 36

WOODCOCK

Outside dates: Between September 1 and November 30.

Hunting season: 60 days

Daily bag limit: 6

Possession limit: 12

RAILS

Outside dates: Between September 1 and November 30.

Hunting season : 60 days

Daily bag limit: 30

Possession limit: 60

The MLB-DNR will notify the FWS of its final migratory game bird hunting regulations on or before August 20 of each hunting season.

3. Nothing in this Agreement prevents the MLB from adopting regulations on the taking of migratory birds by members on the reservation or lands under the jurisdiction of the MLB that are more restrictive than the frameworks set out in paragraph 2, above.
4. The taking of migratory birds for commercial purposes and the sale of migratory birds shall be strictly prohibited by the MLB-DNR and the FWS. Nothing herein is intended to authorize or restrict federal prosecutions of band members for commercial taking or sales of migratory birds in violation of the Migratory Bird Treaty Act, Endangered Species Act, Lacey Act, or other Federal wildlife law.
5. By entering this Agreement, neither party intends to surrender jurisdiction, or the right to assert jurisdiction, over the hunting of migratory birds within the boundaries of the Mille Lacs Indian Reservation or on lands under jurisdiction of the MLB where reserved hunting rights have been recognized (see attachment).
6. While this Agreement is in force, the FWS will not promulgate regulations under the Migratory Bird Treaty Act that apply to the noncommercial taking of migratory game birds by members of the MLB while hunting within the boundaries of the Mille Lacs Indian Reservation or on lands under jurisdiction of the MLB or to the transportation of birds taken under this agreement.
7. This Agreement may be modified by mutual consent of the parties.
8. At the conclusion of each harvest season, the parties will analyze the results of the harvest and other relevant management data to determine whether amendments to this Agreement are necessary. This Agreement, including any agreed-upon modifications, may be reaffirmed for the subsequent harvest season, if the parties, at least 30 days in advance of the upcoming season, notify each other in writing of their intent to renew this Agreement.
9. Either party may revoke this Agreement if the other party fails to comply with the terms stated herein. Notice of revocation shall be given in writing and delivered to the party's representative, or his successor, who has signed this Agreement. Revocation will not take effect until 30 days after notice thereof has been received by the other party. During this 30 days period following the receipt of a revocation notice, the parties will attempt, in good faith, to resolve their differences and to conform their actions to the stipulation of this Agreement.
10. This Agreement applies only to the taking, possession, or transportation of migratory game birds by members of the MLB while within their reservation or to and from lands under jurisdiction of the MLB where reserved hunting rights have been recognized. It does not apply to or affect any authority the Secretary of the Interior may have under any federal fish and wildlife conservation law other than the Migratory Bird Treaty Act. It does not apply to or affect any sovereign rights held by the Mille Lacs Band of Chippewa Indians established independently or through treaties.

LANDS IDENTIFIED
FOR
MIGRATORY BIRD HUNTING

Mille Lacs County: T43N-R27
T42N-R27
T42 - R26
T42 - R25

Crow Wing County: T136N-R25W - 4th P.M. Section 18, Gov't Lot 1, 2, 3 (Dean Lake)

Aitkin County T43N-R24 Section 31 SW 1/4
T45N-R27 Section 3 Lot 1
T46N-R25W - 4th P.M. Section 26, Lots 10 and 11 (Swamp Lake)
T47N-R23W Section 17 NE 1/4 NW 1/4
Section 20 NE 1/4 NW 1/4
Section 21 NE 1/2 SW 1/4
Section 23 SW1/4; SE1/4 NW1/4
Section 29 SW 1/4 SW 1/4
Section 32 SW 1/4 SE 1/4
T49N-R23W Section 16 NW 1/4 SE 1/4; S 1/2 SE 1/4
Section 32 NE 1/4 SE 1/4 and Lot 5 NW 1/4 SW 1/4
T50N-R23W Section 22 Gov't Lot 3, N1/2 SW 1/4, SW 1/4 SW 1/4
Section 32 Gov't Lot 2 and 3

Pine County: T40N - R20 Section 25 W 1/2 SW 1/4, SE 1/4 SW 1/4
Section 26 E 1/2 SW 1/4
Section 35 NE 1/4 NE 1/4
T41N-R16W Section 10 W 1/2 SW 1/4
T41N-R17W Section 2 S 1/2 N 1/2; N1/2 NW1/4; NW1/4 SW1/4
Section 3 SE 1/4 NW 1/4, N1/2 SE 1/4; NE 1/4
Section 6 E 1/2 NW 1/4
Section 8 W 1/2 NE 1/4
Section 18 Lot 1 - 19
T41N-R20W Section 11 SW1/4 SW1/4
Section 14 NW1/4 NW1/4; S3/4
Section 15 NE 1/4
Section 23 NE1/4 NW1/4; NE1/4; N1/2 SE1/4
Section 30 SE 1/4, E 1/2 NE 1/4, SW 1/4 NE 1/4

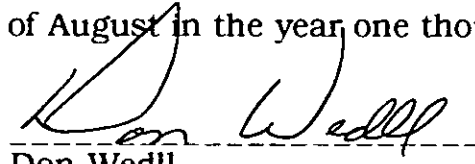
Morrison County: T42N-R28W Section 36 W1/2 SW1/4
T41N-R28W Section 1
Section 2 E1/2
Section 11 E1/2
Section 12 & 13 & 14 E1/2
Section 23 East half North of Railroad line
Section 24 All land East of Railroad line

DONE, this the _____ day of _____.

Regional Director
U.S. Fish and Wildlife Service

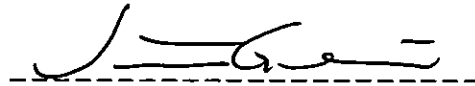
Commissioner,
Department of Natural Resources
Mille Lacs Band of Chippewa Indians

DATED at Vineland, Minnesota this 28th day of August 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

OFFICIAL SEAL OF THE BAND