

COMMISSIONER'S ORDER NO. 291-98

Natural Resources

A Commissioner's Order authorizing approval of Mille Lacs Band of Chippewa Indian Department of Natural Resources to enter into a Memorandum of 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 natural resources is under the jurisdiction of the Mille Lacs Band of Chippewa Indians Department of Natural Resources; and

WHEREAS, such management and protection includes 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 Memorandum of Agreement with the Mille Lacs Band's Department of Natural Resources on the the management and protection of the forest and natural resources on trust lands and Indian lands; and

WHEREAS, any government thereof shall construe nothing herein or the application, 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 §2002 and § 2003 the Commissioner of Natural Resources is empowered to execute 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 concur with the following Memorandum of Agreement for the management and protection will include forest and natural resources on trust lands and Indian lands.

**ANNUAL
WILDFIRE MANAGEMENT
MEMORANDUM OF AGREEMENT
BETWEEN THE
MILLE LACS BAND OF OJIBWE
Department of Natural Resources
AND
BUREAU OF INDIAN AFFAIRS**

I. Introduction:

The Mille Lacs Band of Ojibwe Department of Natural Resources (TRIBE) and the Bureau of Indian Affairs (BUREAU) agree that it is their joint responsibility to adequately manage and protect the forest and other natural resources on trust lands and Indian Lands belonging to the TRIBE. Indian Lands are those lands owned by the TRIBE within and outside the Mille Lacs Reservation and are not in trust.

I. Purpose:

The purpose of this agreement is to identify those functions necessary to carry out the BUREAU's trust responsibilities they relate to the Forestry Wildfire Management Program.

II. Scope and Authority:

This Memorandum of Agreement (MOA) is executed as an amendment to the TRIBE's Annual Funding Agreement (AFA) under the terms of the TRIBE's Self-Governance Compact, in accordance with the government to government relations between the TRIBE and the United States of America.

III. Term:

This MOA is effective for the term of the TRIBE's AFA and shall be annually renewed, subject to negotiated amendment.

IV. Definitions:

For definitions of wildfire terminology, refer to the "Glossary of Wildland Fire Terminology", PMS 205, NFES 1832, November 1996.

V. The TRIBE Agrees to:

1. Preparedness:

a. The TRIBE will assist the BUREAU in the preparation of the Alternative Analysis (AA) of the Fire Management Preparedness Analysis (FMPA).

b. The TRIBE will annually notify the BUREAU for their necessary needs of non-recurring funds, i.e., capitalized equipment, prescribed burns, facility, and subsidiary funds.

c. The TRIBE will prepare their local mobilization plan and submit it to the BUREAU for approval before each spring wildfire season.

d. The TRIBE will annually review and update cooperative wildfire agreements with the BUREAU and Minnesota Department of Natural Resources (DNR).

e. The TRIBE prior to each spring wildfire season, will ensure contracts, rental agreements, and blanket purchase arrangements are in place for the wildfire season.

f. The TRIBE will be responsible for maintenance and repair of their tools, vehicles, and equipment. The TRIBE will be responsible for purchasing personal firefighting equipment for their firefighters.

g. The TRIBE will be responsible for costs for attending wildland wildfire training courses. The TRIBE will be responsible for issuing wildfire qualification cards for their wildfire personnel and insuring such personnel meet National Wildfire Coordinating Group (NWCG) interagency standards. Other Federal/State wildfire organizations that meet NWCG standards, may certify Tribal personnel for wildfire positions. Refresher firefighting training will be done prior to each spring wildfire season. The TRIBE has agreed to let the BUREAU represent the TRIBE on the Minnesota Incident Command System (MNICS). MNICS is an interagency organization that includes; Bureau of Indian Affairs, Minnesota DNR, U.S. Fish & Wildlife Service, Voyageurs National Park, St. Croix National Scenic

Riverway, Isle Royal National Park, Superior and Chippewa National Forests, Northeast State & Private Forestry, and Minnesota Department of Emergency Management, all whom work together in state wildfire issues.

h. The TRIBE has agreed to let the BUREAU represent the TRIBE on the Eastern Area Geographic Board (EACG). EACG is an interagency organization of all firefighting agencies in the twenty Northeastern States. Agencies include; Bureau of Indian Affairs, National Park Service, U.S. Fish and Wildlife Service, U.S. Forest Service, Northeastern Area State and Private Forestry, Great Lakes Compact, Mid-West Compact, Big Rivers Compact and Northeast Forest Fire Protection Commission. The EACG conducts wildfire business on a regional and national basis.

i. The TRIBE will investigate wildfire starts and process wildfire trespass cases through their tribal court system and/or submit the case to the BUREAU for prosecution through the federal magistrate.

j. The TRIBE will be responsible for preparing prescribed burn plans with technical assistance from the BUREAU. The TRIBE will submit prescribed burn plans to the BUREAU for approval. The TRIBE will meet minimum NWCG prescribed wildfire qualifications. The TRIBE can request additional qualified prescribed wildfire personnel through the BUREAU or other MNICS Agencies.

k. The TRIBE will develop and implement a wildfire prevention program with assistance from the BUREAU.

l. **Suppression:**

a. **Initial Attacks Fires** - The TRIBE will respond to initial attack wildfires in district I (Mille Lacs/Isle Lake Area) on the Mille Lacs Reservation. The TRIBE has negotiated a cooperative agreement for the Minnesota DNR to take initial action on wildfires in District II (Sandy Lake/East Lake Area) and District III (Hinckley/Lake Lena Area).

b. **Extended Attack, Large Wildfire and Numerous Wildfire Incidents** - The BUREAU will coordinate suppression of extended attack, large wildfire and numerous wildfire incidents and the federal government will pay all direct expenses on extended attack, large

wildfire and numerous wildfire incidents, in accordance with the "Cooperative Wildfire Agreement between the Mille Lacs Band of Chippewa Indians and Bureau of Indian Affairs for the Reimbursement of Wildfire Suppression Costs Incurred by the Mille Lacs Band of Chippewa Indians". The TRIBE will notify the BUREAU of any wildfire that has potential of becoming an extended attack wildfire, large wildfire incident, or where there are numerous wildfire incidents.

c. The TRIBE will prepare individual wildland fire reports (form 1202) and submit them to the BUREAU within 30 days of occurrence. The TRIBE will notify the BUREAU's Agency Fire Management Officer by 9:00 a.m. the next day following a wildfire so it can be included in the daily wild fire situation report.

d. The TRIBE will monitor their fuel conditions going into the wildfire season and notify tribal members of the wildfire danger when conditions are above normal conditions.

e. The TRIBE will staff and maintain initial attack forces, detection systems, communications, and supplies, as identified in wildfire plans and as conditions warrant.

f. The TRIBE will submit an invoice for their suppression costs in a timely manner to be reimbursed by the BUREAU through the emergency suppression account (92310). For specific information on invoicing and reimbursement, see Section VII, 2 (b).

g. The TRIBE can request additional resources from the BUREAU, State or other federal agency through normal dispatch procedures.

h. The TRIBE will use the "Interagency Business Management Handbook" as a guide for management of suppression activities.

i. The TRIBE and BUREAU will prepare a Wildland Fire Situation Analysis (WFSA) when a wildfire exceeds the extended attack status.

VII. The BUREAU Agrees to:

1. Preparedness:

- a. The BUREAU will prepare the Mille Lacs AA document with assistance from the TRIBE. The BUREAU will be responsible for compiling the self-governance Tribes and Minneapolis Area Agencies FMPA documents and submitting them to the National Interagency Fire Center (NIFC).
- b. The BUREAU will provide the TRIBE with information on any changes in wildfire program (i.e., federal wildfire policy, equipment changes, etc.).
- c. The BUREAU will review and approve the Tribal mobilization plan and provide assistance in preparation.
- d. The BUREAU will assist the TRIBE in preparation of mutual aid and wildland wildfire reimbursable agreements, contracts, and/or memorandums of understandings.
- e. The BUREAU will provide a list of wildland and prescribed wildfire training courses and provide assistance in training coordination.
- f. The BUREAU will maintain records of the wildfire and prescribed wildfire qualifications, training, and experiences of specified Mille Lacs wildfire personnel through Shared Application Computer System (SACS) in Boise.
- g. The BUREAU will submit wildfire trespass cases to the Department of Justice for prosecution and the federal magistrate.
- h. The BUREAU will keep the TRIBE informed of MNICS's and EACG activities.
- i. The BUREAU will assist the TRIBE in preparing prescribed burn plans and executing prescribed burn plans.

1. Suppression:

- a. The BUREAU will provide resources when requested by the TRIBE.

The BUREAU will coordinate extended attack, large wildfire and numerous wildfire incidents. The federal government will pay all direct expenses related to an extended attack, large wildfire, and numerous wildfire incidents in accordance with the parent interagency wildfire agreement.

- a. The BUREAU will assist the TRIBE in the preparation of the WFSA.
- b. The TRIBE will provide a resource advisor to assist the BUREAU in the suppression of large wildfire and numerous wildfire incidents.
- c. Any and all Tribal employees involved in an extended attack, large wildfire, and numerous wildfire incidents, including the resource advisor, will be under the direction and control of the lead federal agency during such time as the large wildfire suppression activities continue and shall be paid as and in all other ways be treated as federal employees, in accordance with the "Interagency Fire Business Management Handbook".
- d. The BUREAU will reimburse the TRIBE for their wildfire suppression costs for fighting wildfires on and off the Reservation. The TRIBE may submit their wildfire invoice(s) on a monthly, quarterly, or semi-annual basis. The wildfire suppression account (92310) is a cost reimbursable account and only individual wildfire suppression costs identified for each specific wildfire report, will be included in the TRIBE's invoice, i.e., overtime, hazard pay, holiday pay, equipment costs, equipment rented, repair costs associated with each individual wildfire.

In WITNESS WHEREOF, the parties hereto have executed this agreement on the dates shown below:

By: _____
Title: Commissioner of Natural Resources

Date

Approved: _____
Minneapolis Area Director
Bureau of Indian Affairs

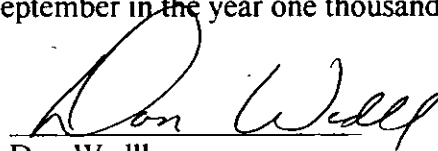
Date

Appendix 1

LANDS IDENTIFIED
FOR
FIRE PROTECTION

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; S1/4 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

DATED at Vineland, Minnesota this 18th day of September in the year one thousand nine hundred and ninety-eight.



Don Wedll
Commissioner of Natural Resources

APPROVED AND NUMBERED AS TO
FORM AND EXECUTION



Jim Genia
Solicitor General

OFFICIAL SEAL OF THE BAND