



# MILLE LACS BAND OF OJIBWE

*Executive Branch of Tribal Government*

## COMMISSIONER'S ORDER 002-15

### A COMMISSIONER'S ORDER RESTRICTING GILL NETTING ON MILLE LACS LAKE

WHEREAS, the Mille Lacs Band of Ojibwe ("MLB" or "Band") has entered into several treaties with the government of the United States of America, which represent the supreme law of the United States, U.S. CONST., art. VI, cl. 2, and the Band, 2 MLBSA § 1002, and;

WHEREAS, the Band has reserved unto itself "the privilege . . . of fishing . . . upon . . . the rivers and the lakes included in the territory ceded" to the United States in 1837, including Mille Lacs Lake, Treaty with the Chippewa (Treaty of St. Peters), July 29, 1837, art. 5, 7 Stat. 536, 537; *see also* 2 MLBSA § 1007 (identifying ceded territory), and;

WHEREAS, the United States Supreme Court has confirmed the continuing "right to hunt, fish, and gather in the ceded territory" subject to "state authority to impose reasonable and necessary nondiscriminatory regulations . . . in the interest of conservation," *Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172, 204 (1999), and;

WHEREAS, the MLB Band Assembly concurs with the responsibility of exercising tribal usufructuary rights "in accordance with culturally established principles of conservation," 2 MLBSA § 1005, and;

WHEREAS, individual usufructuary rights are governed by the provisions appearing within the Natural Resource Protection Code incorporated in Title 11 – Environment, Natural Resources, Animals & Plants, 2 MLBSA § 1103, and;

WHEREAS, "[t]he Commissioner of Natural Resources shall have the power to issue Commissioner's Orders for the purpose of promulgating all rules and regulations for the exercise of usufructuary rights by Band members in all the territory ceded by the Treaty of 1837 regardless of state boundaries and borders," 2 MLBSA § 1107, and;

WHEREAS, the Commissioner of Natural Resources maintains authority to impose reasonable restrictions upon gill netting activities pursuant to a commissioner's order for the purpose of facilitating the preservation and protection of a natural resource, provided that any such restriction comports with the advice of a Band spiritual advisor, 11 MLBSA §§ 2002(a, e), 2003(c-d), 2108-09, and;

#### DISTRICT I

43408 Oodena Drive • Onamia, MN 56359  
(320) 532-4181 • Fax (320) 532-4209

#### DISTRICT II

36666 State Highway 65 • McGregor, MN 55760  
(218) 768-3311 • Fax (218) 768-3903

#### DISTRICT IIA

2605 Chiminissing Drive • Isle, MN 56342  
(320) 676-1102 • Fax (320) 676-3432

#### DISTRICT III

45749 Grace Lake Road • Sandstone, MN 55072  
(320) 384-6240 • Fax (320) 384-6190

#### URBAN OFFICE

1433 E. Franklin Avenue, Ste. 7c • Minneapolis, MN 55072  
(612) 872-1424 • Fax (612) 872-1257

WHEREAS, the Commissioner of Natural Resources regards the issuance of a commissioner's order as necessary to fully effectuate the recently publicized determination of Chief Executive Melanie A. Benjamin, which she rendered after receiving direction from respected Band spiritual advisors, 4 MLBSA § 2, and;

WHEREAS, the instant commissioner's order will not preclude the ability to secure a gill netting permit for the taking of fish for religious or ceremonial purposes, 11 MLBSA § 2007.

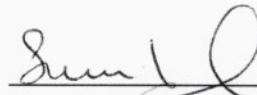
NOW THEREFORE BE IT RESOLVED that the Commissioner of Natural Resources pronounces the following reasonable and necessary restriction regarding the exercise of fishing rights:

**Band members are strictly prohibited from gill netting on Mille Lacs Lake from August 17, 2015, throughout the 2016 calendar year, subject to a limited ceremonial exception as described above.**

**DATED**, at Vineland, Minnesota this 17 day of August in the year two thousand and fifteen.

Effective Date: August 17, 2015

Expiration Date: December 31, 2016

  
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Susan M. Klapek, Comm'r of Natural Res.