



THE MILLE LACS BAND OF
OJIBWE INDIANS

Legislative Branch of Tribal Government

RESOLUTION 10-02-17-03

**A RESOLUTION ADOPTING NEW FIVE-YEAR TREATY FISHERIES
MANAGEMENT PLAN FOR MINNESOTA 1837 CEDED TERRITORY;
AND AMENDING THE TRIBE'S MINNESOTA 1837 CEDED
TERRITORY CONSERVATION CODE.**

WHEREAS, the Mille Lacs Band of Ojibwe and other Chippewa Bands hold rights to hunt, fish and gather on land and waters ceded in the Treaty of 1837, 7 Stat. 536 which were adjudicated by the Federal District Court for the District of Minnesota in Mille Lacs Band v. State of Minnesota, No. 3-94-1226, and Fond du Lac Band v. Carlson, No. 5-92-159; and

WHEREAS, to implement the Bands' rights in accordance with the Court's orders, the Mille Lacs Band of Ojibwe adopted the Interim Treaty Fisheries Management Plan for the 1837 Minnesota Ceded Territory for the years 1998-2002 ("Fisheries Management Plan"); and

WHEREAS, the Fisheries Management Plan will expire at the end of 2002 and, in accordance with the Fisheries Management Plan and the Court's order in these cases, the Bands must adopt a second multi-year Fisheries management plan; and

WHEREAS, all of the Bands desire to adopt the new Treaty Fisheries Management Plan for the Minnesota 1837 ceded Territory for the years 2003-2007 to succeed the Fisheries Management Plan that will expire at the end of 2002; attachment A five year plan and

WHEREAS, the Band have provided the required notice of their proposed second multi-year Fisheries Management Plan to the State of Minnesota and have undertaken the required consultation with the State as provided in the current Fisheries Management Plan; and

WHEREAS, the Bands desire to amend certain provisions of their Minnesota 1837 Ceded Territory Conservation Codes to implement two changes consistent with the new Fisheries Management Plan, and have provided notice of these proposed changes to the State of Minnesota in accordance with the Court's orders.

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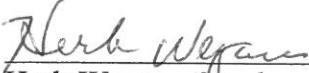
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NOW, THEREFORE, BE IT RESOLVED, that the Mille Lacs Band of Ojibwe hereby: Adopts Minnesota 1837 Ceded Territory Conservation Codes for the years 2003-2007 to succeed the Fisheries Management Plan that will expire at the end of 2002; and

WE DO HEREBY CERTIFY, that the foregoing resolution was duly concurred with and adopted at a special session of Band Assembly in Legislative Council assembled, a quorum of Legislators being present held on the 17th, day of December 2002 at Hinckley, Minnesota by a vote of 3 FOR, 0 AGAINST, 0 SILENT.

IN WITNESS WHEREOF, we, the Band Assembly affix the Signature of the Speaker of the Assembly to this resolution and forward to the Chief Executive for concurrence.



Herb Weyaus, Speaker of the Assembly

OFFICIAL SEAL OF THE BAND

1. Adopts the Treaty Fisheries Management Plan for the Minnesota 1837 Ceded Territory for the Years 2003-2007 (December 2002) (a copy of which is attached to this Resolution) to succeed the Fisheries Management Plan that will expire at the end of 2002, provided that this adoption shall be effective upon the adoption of the new Plan by all of the plaintiff and plaintiff-intervenor Bands in the *Mille Lacs* and *Fond du Lac* cases.
2. Amends, effective as of January 1, 2003, the Tribe's Minnesota 1837 Ceded Territory Conservation Code in the following respects (deletions are indicated by ~~strikeout~~ and additions are indicated by highlight, and in all other respects the Code remains the same):
 - a. Chapter 9 - Fishing Permits⁴ - Amend Section 9.04:

9.04 Fishing Permits.

(1) No member shall fish pursuant to this ordinance without possessing a valid fishing permit. Such a permit may be the member's tribal identification card required by Section 3.20(2).

(2) No member shall fish with the use of a spear, except while ice fishing, or net pursuant to this ordinance without possessing a spearing or netting permit bearing the member's Band identification number and valid for the date on which and the location at which the member is spearing or netting.

- b. Chapter 9 - Commercial Fishing Provisions - Amend Section 9.21:

9.21 Commercial Harvest of Game Fish Regulated.

(1) The purpose of this section is to establish the regulations governing the commercial harvest of game fish.

(2) No member shall engage in the commercial harvest of game fish without a permit authorizing such commercial harvest and tagging all fish to be sold commercially in accordance with subs. (3) and (4).

(3) The Department of Natural Resources may issue permits for the commercial harvest of game fish, which shall incorporate all provisions of Chapter 9, including the provisions of Sections 9.06 [Spearing Regulations], 9.07 [Dip Nets, Fyke nets and Seines Regulated], and 9.08 [Gillnets Regulated], provided that: (i) the Department shall not permit the use of gillnets in any lakes other than Mille Lacs Lake from March 2 to May 31 for commercial harvests; and (ii) the Department may authorize the use of gillnets for commercial harvests in Mille Lacs Lake only with the following maximum length, depth and bar sizes:

⁴Double check the proper sections in your Tribe's 1837 Code for each of these changes.

DATES	MAXIMUM ALLOWABLE LENGTH	MAXIMUM DEPTH	MAXIMUM BAR SIZE
March 2 to May 31	100 feet	4 feet	1.75 inches
June 1 to March 1	300 feet	6 feet	1.75 inches

(4) The Department of Natural Resources shall issue sequentially numbered tags after the fish are landed for all game fish to be sold commercially on the following conditions:

(a) Each whole game fish sold must be tagged prior to being sold;

(b) If filleted prior to sale, all fillets from a game fish must be tagged together or otherwise packaged together with one tag prior to sale. The tags shall be of the locking variety and designed so that when packaged together the tag cannot be used again.

4. Directs the Tribe's attorney and [Conservation Department/Department of Natural Resources]⁵ to work with the other Bands and the Great Lakes Indian Fish and Wildlife Commission to ensure that proper notice of the Tribe's actions taken in this Resolution is provided to all necessary parties.

CERTIFICATION

⁵Provide the correct name of your Tribe's conservation department or other appropriate official who will be responsible for providing notice of this resolution.

**TREATY FISHERIES MANAGEMENT PLAN
FOR THE 1837 MINNESOTA CEDED TERRITORY
FOR THE YEARS 2003-2007**

December 2002

Part I: Introduction.

The purpose of this plan is to set forth the management intent of the Mille Lacs, Fond du Lac, Bad River, Lac Courte Oreilles, Lac du Flambeau, Mole Lake (Sokaogon), Red Cliff and St. Croix Bands (the Bands) for the exercise of treaty fishing rights in the Minnesota portion of the 1837 ceded territory during the period 2003-2007. The Bands have adopted and are revising Minnesota 1837 Treaty Conservation Codes ("Conservation Codes") that include (in chapter 9) provisions regulating their members' fishing activities in the Minnesota ceded territory. This management plan complements the Conservation Codes.

The treaty rights of the Bands to hunt, fish and gather in the 1837 ceded territory were confirmed in August 1994, March 1996, and January 1997 by the federal district court in Mille Lacs Band v. State of Minnesota, No. 3-94-1226, and in March 1996 by the federal district court in Fond du Lac v. Carlson, No. 5-92-159, and were affirmed on appeal by the United States Court of Appeals for the Eighth Circuit (124 F.3d 904 (8th Cir. 1997)) and the United States Supreme Court (526 U.S. 172 (1999)).

This plan replaces the Bands' Interim Treaty Fisheries Management Plans for the 1837 Minnesota Ceded Territory for the Years 1998-2002 ("Interim Plans"). The Bands have been generally satisfied with the Interim Plans and desire to make only limited modifications to them. The principle changes relate to the Bands' total annual walleye quota for Mille Lacs Lake and the allocation of that quota among the Bands. The Bands will limit their annual walleye quota to 100,000 pounds, only allowing a quota increase of 5,000 pounds per year beginning in 2004 if they collectively harvest 85 percent or more of their previous year's quota. The maximum total Band allocation of Mille Lacs Lake walleye in any year would be 115,000 pounds in 2007. This will provide an opportunity for the Bands to slightly increase their harvests based upon demonstrated harvest of the existing quota. Also, the Bands have adjusted their inter-Band allocations of the Mille Lacs Lake walleye quota to achieve a better utilization of the total Band quota in response to the needs and demonstrated harvest capabilities of Band members.

The courts in the Mille Lacs and Fond du Lac cases have not made a judicial allocation of fishery resources in the Minnesota 1837 ceded territory. Like the Interim Plans, this management plan does not purport to provide for the full harvest of what the Bands believe to be their full treaty share of such resources. The Bands' management approach, as set forth in this plan, is intended to provide for the continuing gradual development of treaty fisheries in the Minnesota 1837 ceded

territory during its five year term, commensurate with the interests, needs, and desires of Band members. This management approach is not intended to limit, waive or modify the Bands' full treaty entitlement, and any such construction of this plan is improper and unauthorized.

It is the Bands' intent to prepare another multi-year plan to replace this plan upon its expiration. At the beginning of year 5 under this plan, the Bands will provide a draft of the next plan to the State, and will seek to reach agreement with the State on the management measures incorporated therein before implementing it. The Bands propose that disputes (if any) regarding the next plan be resolved in accordance with the dispute resolution procedure adopted by the court in the Mille Lacs and Fond du Lac cases.

Part II. Mille Lacs Lake.

The following management measures will be adopted for Mille Lacs Lake.

A. Hook and Line, Spearing, Setline, Set or Bank Poles, and Harpooning and Archery Equipment.

1. The Conservation Codes authorize fishing in Mille Lacs Lake by hook and line, spearing, setline, set or bank poles, and harpooning and archery equipment. Except for harpooning and archery equipment, these methods can be used to harvest largemouth and smallmouth bass, walleye, northern pike, muskellunge, rock bass, bluegill, crappie, pumpkinseed, yellow perch, cisco (tullibee), and rough fish. Harpooning and archery equipment may be used to take rough fish only.

2. Except for open-water spearing of walleye, northern pike and muskellunge, the Bands intend to manage these fisheries in accordance with the bag limits and other applicable regulatory provisions in the Conservation Codes. The Bands will require an open-water spearing permit in all instances but may authorize the use of a valid Tribal Identification Card in lieu of a general fishing permit for all other methods (except netting as provided in Section II.B below) on Mille Lacs Lake. The Bands' experience under the Interim Plans shows that Band member harvest using methods other than open-water spearing and netting has been minimal, and they do not anticipate this will change. The Bands will rely upon the processes and procedures of the Minnesota 1837 Ceded Territory Fisheries Committee to evaluate effort and catch in these fisheries.

3. The Bands will not authorize open-water spearing of northern pike or muskellunge during the term of this plan. Open-water spearing of walleye is subject to the additional management provisions described in Section II.B below.

B. Open-Water Spearing for Walleye and Netting.

1. The Conservation Codes also authorize netting in Mille Lacs Lake. In addition to the applicable regulatory provisions in the Codes, the Bands intend to manage open-water spearing for walleye and netting in accordance with the provisions set forth in this section.

2. For purposes of this interim five-year plan, the Bands' principal objectives for these fisheries in Mille Lacs Lake are to provide for the following:

- open-water spearing of walleye;
- netting of walleye;
- netting of yellow perch;
- netting of burbot; and
- netting of tullibee.

3. To meet these objectives, the Bands intend to manage open-water spear and net fisheries for walleye, and net fisheries for yellow perch, burbot and tullibee, on the basis of annual quotas for each Band for each species, in addition to other applicable provisions of the Conservation Codes. When a Band's quota for one of these species is taken, fishing by that Band for that species by these methods will be closed, unless another Band releases a portion of its own quota to that Band. Moreover, all gillnetting (for any species) by a Band will be closed when that Band's quota for any of these species or the cap on its harvest of northern pike is taken, unless another Band releases a portion of its quota or cap to that Band. As set forth above, the Bands will not authorize open-water spearing for northern pike or muskellunge. Except when fishing for tullibee, the Bands will require that all gillnets have a minimum mesh size of 1.25 inches (bar measure), in addition to the provisions for maximum mesh sizes in the Conservation Codes. The Bands will require the use of a minimum mesh size of 1.75 inches (bar measure) when fishing for tullibee with gillnets.

4. The annual quotas for each Band for walleye, yellow perch, burbot and tullibee will be determined in accordance with the Inter-tribal Protocol set forth in Part V below, subject to the following limitations on the total annual quotas for these species for all Bands:

a. The total annual quotas for all Bands for walleye will not exceed the lesser of: (i) 50 percent of the Agreed Target Harvest Level¹ for walleye, less the amount reasonably anticipated to be harvested in the fisheries described in Part II.A above; or (ii) 100,000 pounds, provided that beginning in 2004, if the Bands collectively harvest 85 percent of their total quota in any year, their total quota will be increased by 5,000 pounds in the following year, with a maximum total quota of 115,000 pounds in 2007.

¹The "Agreed Target Harvest Level" for a species is the total (treaty and non-treaty) target harvest level determined by the Bands' and State's technical representatives on the basis of the methodology agreed to by the Bands and the State, provided the State actively manages non-treaty fisheries to stay within that level minus the treaty harvests provided for pursuant to this plan.

b. The total annual quotas for all Bands for yellow perch, burbot and tullibee will not exceed 50 percent of the Agreed Target Harvest Level for these species, less the amount reasonably anticipated to be harvested in the fisheries described in Part II.A above.

5. The annual cap for each Band's northern pike harvest in net fisheries will be determined in accordance with the Inter-tribal Protocol set forth in Part V below, provided that the total annual cap on northern pike harvests by all Bands in these fisheries shall not exceed 50 percent of the Agreed Target Harvest Level for northern pike, less the amount reasonably anticipated to be harvested in other treaty fisheries provided for in Part II.A above.

6. The Bands will not authorize open-water spearing or netting for muskellunge under this plan. The Bands will require that all muskies in nets (including gillnets) that are capable of surviving when the net is lifted be released, and require that all muskies not capable of surviving be surrendered in accordance with Section 9.16 of the Conservation Codes. If the numbers of muskellunge in nets exceed five (5) percent of the estimated muskellunge population, the Bands will initiate time and/or area closures to reduce further capture of muskellunge in nets.

7. The Bands will limit soak times and/or fishing effort to avoid exceeding the annual quotas or caps which are established under this plan. For gillnet fisheries, as a Band's cumulative catch of a species approaches its quota or cap, the Biological Services Director of the Great Lakes Indian Fish and Wildlife Commission ("Biological Services Director") will estimate the harvest per hundred feet of gillnet on the basis of the harvest in the three most recent fishing days and other relevant harvest trend data, and limit the number of permits issued for the next day such that the anticipated harvest will not exceed the amount remaining under the quota or cap.

8. The Bands will monitor all open-water spear and net harvests in accordance with the provisions of the Conservation Codes. All fish taken by open-water spearing and netting will be identified to species, counted and weighed in the aggregate. For spearing, length and sex will be taken from the first 100 walleye and from all walleye in the last boat per designated landing. For gillnetting, length and sex will be collected from walleye landed by a randomly selected gillnetter per mesh size fished on each day of gillnet fishing. The Bands will seek to obtain such data from 50 walleye per mesh size fished per day, and if necessary, will select a second gillnetter if less than 50 walleye are typically landed. Additional fish may be measured upon request by law enforcement personnel.

Part III: Other Lakes.

A. Management of Treaty Fishing by Hook and Line, Ice Spearing, Setline, Set or Bank Poles and Harpooning and Archery Equipment.

1. The Conservation Codes authorize fishing in lakes other than Mille Lacs Lake by hook

and line, spearing through the ice, setline, set or bank poles, and harpooning and archery equipment. Except for harpooning and archery equipment, these methods can be used to harvest large and smallmouth bass, walleye, northern pike, lake sturgeon, muskellunge, salmonids, white, yellow and rock bass, bluegill, crappie, pumpkinseed, yellow perch, catfish, cisco (tullibee) and whitefish, and rough fish. Harpooning and archery equipment may be used to take rough fish only.

2. The Bands intend to manage these fisheries in accordance with the bag limits and other applicable regulatory provisions in the Conservation Codes, provided that only the St. Croix River below Taylor's Falls will be open to harvests of lake sturgeon. The Bands will require an open-water spearing permit in all instances but may authorize the use of a valid Tribal Identification Card in lieu of a general fishing permit for all other methods (except netting as provided in Section III.B below). The Bands' experience under the Interim Plans shows that Band member harvest using methods other than open-water spearing and netting has been minimal, and they do not anticipate this will change. The Bands will rely upon the processes and procedures of the Minnesota 1837 Ceded Territory Fisheries Committee to evaluate effort and catch in these fisheries.

B. Management of Treaty Fishing by Open-Water Spearing and Netting.

1. The Conservation Codes also authorize open-water spearing, dip netting, fyke netting and seining in all waters and gillnetting in all lakes in excess of 1000 acres as well as Shakopee, Ogechie, Whitefish, Grindstone, Eleven, Pine, Razor, and South Stanchfield Lakes. In addition to the applicable regulatory provisions in the Codes, the Bands intend to manage these fisheries in accordance with the provisions set forth in this section.

2. The Bands' principal objective is to provide opportunities for open-water spearing and netting for walleye, open-water spearing of other species, and netting of tullibee in these lakes.

3. The Bands will not authorize open-water spear or net fisheries that exceed the threshold level set forth below unless a standard gillnet survey has been conducted on the lake within 24 months before the beginning of the fishing year and a quota has been established. The threshold level is:

-- for lakes over 1,000 acres, either (a) 3 standard 100-foot gillnet sets per 100 surface acres per year; (b) 0.2 walleye per surface acre taken by open-water spear fishing per year; or (c) a percentage of each component, provided the sum of the percentages does not exceed 100 percent;

-- for lakes under 1,000 acres, either (a) 2 standard 100-foot gillnet sets per 100 surface acres per year; (b) 0.2 walleye per surface acre taken by open-water spear fishing per year; or (c) a percentage of each component, provided the sum of the percentages does not exceed 100 percent;

-- the number of gillnet sets will be rounded up to the nearest integer (for

example, in a 1,210 acre lake, the threshold level would be 37 since $3 \times 12.1 = 36.3$).

When a Band's walleye quota in a particular lake is taken, fishing by that Band for walleye in that lake and all gillnetting by that Band for any species in that lake will be closed, unless another Band releases a portion of its own quota to that Band. The Bands will manage open-water spear and net fisheries for species other than walleye in accordance with the hook and line bag limits and other applicable regulatory provisions in the Conservation Codes and the provisions set forth herein. Accordingly, fish in nets in excess of such bag limits must be released if capable of surviving or surrendered under Section 9.16 of the Conservation Codes if they are not capable of surviving. The Bands will also require that, in lakes over 1,000 acres, all gillnets have a minimum mesh size of 1.5 inches (bar measure), in addition to the provision for maximum mesh size (1.75 inches) in the Conservation Codes. In lakes under 1,000 acres, the Bands will require that gillnets have a mesh size of 1.75 inches (bar measure). The Bands will not authorize commercial harvests of tullibee in these lakes unless an Agreed Target Harvest Level or other effort limitation is established for tullibee harvests, and will require the use of a minimum mesh size of 1.75 inches (bar measure) when fishing for tullibee with gillnets.

4. The annual walleye quotas for each Band in each lake will be determined in accordance with the Inter-tribal Protocol set forth in Part V below, provided that the total quota for all Bands in a given lake will not exceed 50 percent of the Agreed Target Harvest Level² for that lake, less the amount reasonably anticipated to be harvested in the fisheries described in Part III.A above.

5. If necessary to provide further assurance that management errors or enforcement problems do not jeopardize stocks, the Bands will adopt additional protective measures on a lake-by-lake basis. These measures may include, but are not limited to, time and area closures of spear and net fisheries during the spring spawning season as well as shorter soak times than those authorized in the Conservation Codes. The Bands will in any event limit soak times and/or fishing effort as described in Part II.B.7 above to avoid exceeding their quotas.

6. The Bands do not anticipate any significant incidental catch of muskellunge or sturgeon in gillnet fisheries. The Bands will prohibit gillnetting for muskies and sturgeon, require that all muskies and sturgeon captured in gillnets that are capable of surviving when the net is lifted be released, and require that all muskies and sturgeon not capable of surviving be surrendered under the Conservation Codes Section 9.16. If incidental harvest of muskies or sturgeon becomes a

²As described in note 1 above, the Agreed Target Harvest Level will be jointly determined by the Bands and the State. The Bands' intent to manage for quotas that do not exceed 50 percent of the Agreed Target Harvest Level is conditioned upon the State's management of non-treaty fisheries so that walleye harvests do not exceed the Agreed Target Harvest Level minus the treaty harvests provided for pursuant to this plan. If the State intends to permit larger non-treaty harvests on the theory that a portion of those harvests comprise immature fish, then adjustments in the methodology for determining treaty harvest limits will be necessary.

problem, the Bands will limit soak times to facilitate their release while they are still capable of surviving. The Bands will also impose time and area restrictions to avoid incidental harvest of muskies and sturgeon if necessary. The Bands will close gillnet fishing on a lake when the harvest of northern pike over 23 inches in gillnets exceeds 1.15 pounds per acre for that lake.

7. The Bands will monitor all open-water spear and net fisheries in accordance with the provisions of the Conservation Codes. All fish taken by open-water spearing and netting will be identified to species, counted and weighed in the aggregate. For walleye, length and sex will be taken from first 100 fish per night and from all fish taken by the last boating party of the night for each lake. Additional fish may be measured upon request by law enforcement personnel.

Part IV: Rivers

A. Management of Treaty Fishing by Hook and Line, Ice Spearing, Setline, Set or Bank Poles and Harpooning and Archery Equipment.

1. The Conservation Codes authorize fishing in rivers by hook and line, spearing through the ice, setline, set or bank poles, and harpooning and archery equipment. Except for harpooning and archery equipment, these methods can be used to harvest large and smallmouth bass, walleye, northern pike, muskellunge, lake sturgeon, salmonids, white, yellow and rock bass, bluegill, crappie, pumpkinseed, yellow perch, catfish, cisco (tullibee) and whitefish, and rough fish. Harpooning and archery equipment may be used to take rough fish only.

2. The Bands intend to manage these fisheries in accordance with the bag limits and other applicable regulatory provisions in the Conservation Codes, provided that only the St. Croix River below Taylor Falls will be open to lake sturgeon harvests. The Bands will require an open-water spearing permit in all instances but may authorize the use of a valid Tribal Identification Card in lieu of a general fishing permit for all other methods (except netting as provided in Section IV.B below). The Bands' experience under the Interim Plans shows that Band member harvest using methods other than open-water spearing and netting has been minimal, and they do not anticipate this will change. The Bands will rely upon the processes and procedures of the Minnesota 1837 Ceded Territory Fisheries Committee to evaluate effort and catch in fisheries on rivers.

B. Management of Treaty Fishing by Open-Water Spearing and Netting.

1. The Conservation Codes also authorize open water spearing, dip netting, fyke netting and seining in all rivers and gillnetting in the approximately five miles of the Rum River connecting Ogechie, Onamia and Shakopee Lakes and in the first 20 miles of the St. Croix River downstream of the point where the river commences as the border between Minnesota and Wisconsin. For purposes of this five-year plan, the Bands intend to limit the use of these methods in rivers to open-water spearing and fyke netting and will close all waters except the St. Croix River below Taylor Falls to harvests of lake sturgeon.

2. These fisheries (open-water spearing and fyke netting in rivers) will be managed in accordance with the applicable regulatory provisions in the Conservation Codes (including angling bag limits). In addition, during the spawning season, the Bands will open river segments to open-water spearing on alternate days only.

3. The Bands will monitor all open-water spear and net fisheries in accordance with the provisions of the Conservation Codes. In addition, all fish taken by spearing and netting will be identified to species and counted. For walleye, length and sex will be taken from first 100 fish per night and from all fish taken by the last boating party of the night for each river segment. Additional fish may be measured upon request by law enforcement personnel.

4. The Bands will limit the harvest of muskellunge in the Mississippi River to no more than ten (10) fish per year.

Part V: Inter-tribal Protocol.

1. As set forth in the Conservation Codes, Section 1.04, no member of any Band may fish within the area depicted in Figure 1 thereto, which includes the southwestern portion of Mille Lacs Lake, the eastern half of Whitefish Lake, Ogechie, Shakopee and Onamia Lakes, and the portion of the Rum River connecting Mille Lacs, Ogechie, Shakopee and Onamia Lakes, without permission of the Mille Lacs Band. The Mille Lacs Band agrees to make its lands available to members of the Wisconsin Bands to launch their boats into Mille Lacs Lake.

2. No later than January 15 of each year the Biological Services Director shall notify each of the Bands of the total annual quotas and caps for all Bands for open-water spearing and netting for the upcoming year, as determined in accordance with this plan.

3. No later than February 15 of each year the Bands shall convene a meeting and designate their desired harvest in each open-water spear and net fishery for which a total quota or cap has been established. At their initial meeting and at such further meetings as they may deem advisable, the Bands shall consider such accommodations and adjustments as may harmonize their respective harvest designations and shall consider any policy questions.

4. The Bands' harvest designations for Mille Lacs Lake shall be subject to the following special provisions:

a. Base Allocations of Mille Lacs Lake Walleye (amount available to each Band for harvest or transfer in accordance with existing sharing provisions):

Mille Lacs	25,000 pounds
Bad River	7,143 pounds
Fond du Lac	7,143 pounds
Lac Courte Oreilles	7,143 pounds

Lac du Flambeau	7,143 pounds
Red Cliff	7,143 pounds
Sokaogon (Mole Lake)	7,143 pounds
St. Croix	<u>7,143 pounds</u>
Total	75,001 pounds

If the total tribal allocation is increased under Part II.B.4 above, the increased amount will be added to the Bands' Base Allocations in proportion to the Base Allocations set forth in this paragraph.

b. Mille Lacs Band Reserve Allocation of Mille Lacs Lake Walleye: 25,000 pounds.

i. Qualifying Allocations: A portion of the Mille Lacs Band Reserve Allocation will be available to each Band that harvests 90% of its Base Allocation in the previous year, to be divided equally or as otherwise agreed by Qualifying Bands, as follows:

<u>Year</u>	<u>Total Amount</u>
2002	10,000 pounds
2003-2007	15,000 pounds

ii. In-Season Reserve: An additional, non-transferable portion of the Mille Lacs Band Reserve will be available to each Band that harvests its Base Allocation and Qualifying Allocation, if any, as follows:

<u>Year</u>	<u>Total Amount</u>	<u>Amount Per Band</u>
2002	15,000 pounds	1,875 pounds
2003-2007	10,000 pounds	1,250 pounds

iii. Reversion to Mille Lacs Band: Any portion of Mille Lacs Band Reserve Allocation not harvested by May 15 reverts to Mille Lacs Band.

c. Northern Pike: 55 % of the Agreed Target Harvest Level will be allocated to the Mille Lacs Band, and the remaining 45 % will be allocated equally to all other Bands (approximately 6.4% each).

5. At the conclusion of their meeting(s), but in no case later than March 15, the Bands shall file and publish their Final Report and Declaration on Open-Water Spearing and Netting in the Minnesota Ceded Territory for the upcoming fishing year (Final Report). The Final Report shall set forth the quotas and caps for each Band's harvest in each open-water spear and net fishery which is subject to quota management for the upcoming year, which collectively shall not exceed the total quotas and caps for all Bands in such fisheries as determined under this plan.

6. The Biological Services Director is authorized to make pro rata reductions in Band designations if necessary to complete the Final Report in compliance with Parts 4 and 5 above and other applicable provisions of this plan.

7. The Final Report shall conclusively establish those bodies of water in the Minnesota ceded territory open for those open-water spear and net fisheries which are subject to quota management during the upcoming fishing year and the amounts of fish to be harvested by the Bands using those methods. At any time during the fishing year, a Band may re-allocate its open-water spearing and netting sub-declarations provided it does not exceed its total declaration. In addition, any Band may transfer any portion of its declaration to any other Band.

8. All Bands shall manage their fisheries to comply with the provisions of the Final Report. The Biological Services Director is authorized to close fishing by members of any Band or implement other management measures authorized by this plan or the Conservation Codes to prevent that Band from exceeding the harvest levels in the Final Report or in any other manner violating the provisions of the Final Report.

9. The Biological Services Director shall promptly transmit a copy of the Final Report upon its completion to the Minnesota Department of Natural Resources ("MDNR").

10. Prior to June 1, the Biological Services Director shall notify the MDNR no later than noon of the bodies of water which the Bands have designated for open-water spearing that night and of the bag limits for each species in each body of water to be fished. The Biological Services Director also shall notify the MDNR no later than noon during the spring fishery of the Band spearing harvest which occurred the previous night. After May 31, the Biological Services Director shall provide similar advance notice to the MDNR of the bodies of water designated for spearing and the bag limits for each such body of lakes, and shall report the harvest to the MDNR monthly. Each of the Bands will provide the Director with the information needed to provide the notices specified in this paragraph.

11. The Biological Services Director shall promptly notify the MDNR of the issuance and provisions (including location) of any gillnet permit. Each of the Bands will provide the Director with the information needed to provide the notices specified in this paragraph.

12. The allocation of treaty harvest opportunities among the Bands as set forth in this plan is the product of compromise and negotiation among the Bands, and shall be effective only for the duration of this plan. The Bands reserve all rights and claims they may have vis-a-vis one another with respect to the allocation of treaty harvest opportunities in the future, and nothing herein shall limit, prejudice or otherwise affect the assertion of such rights or claims upon the expiration of this plan, or create a precedent for future inter-tribal allocations. Any use or construction of this plan to limit, prejudice or otherwise affect such rights or claims or as such a precedent is unauthorized and improper.