



THE MILLE LACS BAND OF  
**OJIBWE INDIANS**  
*Legislative Branch of Tribal Government*

**RESOLUTION 19-04-74-21**

**A RESOLUTION AUTHORIZING THE MILLE LACS LAKE LAND USE COOPERATIVE AGREEMENT BY AND BETWEEN THE STATE OF MINNESOTA AND THE BAND FOR THE PREVENTION OF THE SPREAD OF AQUATIC INVASIVE SPECIES**

WHEREAS, the Mille Lacs Band Assembly (“Band Assembly”) is the duly-elected legislative body of the Non-Removable Mille Lacs Band of Ojibwe (“Band”), a federally-recognized Indian Tribe; and

WHEREAS, pursuant to 3 MLBS § 3 (d), the Band Assembly has the power to adopt resolutions to promote the general welfare of the people of the Band; and

WHEREAS, under Minn. Stat. § 471.59, the State of Minnesota (“State”) and the Band are authorized to enter into agreements to jointly or cooperatively exercise common powers; and

WHEREAS, the State and the Band have determined that a portable Clean, Drain, Dry, and Dispose Unit (“CD3 Unit”), for the prevention of the spread of aquatic invasive species on Mille Lacs Lake is of high importance; and

WHEREAS, the State and the Band intend to enter into the Mille Lacs Lake Land Use Cooperative Agreement setting forth the mutually acceptable terms and conditions governing the State’s and Band’s duties and responsibilities pertaining to the portable CD3 watercraft cleaning stations to be placed at public water access sites for Mille Lacs Lake.

NOW, THEREFORE, BE IT RESOLVED, that the Band Assembly does hereby recognize that the Mille Lacs Land Use Cooperative Agreement is in the best interest of the Band and authorizes the Band to enter into this Cooperative Agreement with the State for an effective term beginning immediately after the State obtains all required signatures under Minn. Stat. §16C.05, subd. 2 and ending December 31, 2031.

WE DO HEREBY CERTIFY, that the foregoing resolution was duly concurred with and adopted at a regular session of the Band Assembly in Legislative Chambers, a quorum of legislators being present held on the 14th day of July, 2021 at Nayahshing, Minnesota by a vote of 3 FOR, 0 AGAINST, 0 SILENT.

**DISTRICT I**

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**DISTRICT II**

36666 State Highway 65 • McGregor, MN 55760  
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**DISTRICT IIA**

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**URBAN OFFICE**

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IN WITNESS WHEREOF, we, the Band Assembly hereunto cause to have set the signature of the Speaker of the Assembly to be affixed to this resolution.



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Sheldon Boyd, Speaker of the Assembly

**OFFICIAL SEAL OF THE BAND**



**MILLE LACS LAKE  
LAND USE COOPERATIVE AGREEMENT BETWEEN THE  
STATE OF MINNESOTA AND THE MILLE LACS BAND OF OJIBWE**

This agreement, between the State of Minnesota, acting by and through the Commissioner of the Department of Natural Resources, hereinafter referred to as the “State”, and the Mille Lacs Band of Ojibwe, hereinafter referred to as the “Band.”

**WITNESSETH:**

WHEREAS, Under Minnesota Statutes § 471.59, the State and the Band are authorized to enter into agreements to jointly or cooperatively exercise common powers; and

WHEREAS, the State has the authority, duty, and responsibility under Minnesota Statutes Section 97A.141 to provide public water access on lakes and rivers; and

WHEREAS, the State and the Band have determined that a portable CD3 unit, for the prevention of the spread of aquatic invasive species on Mille Lacs Lake is of high importance; and

WHEREAS, the State owns several public water access sites on Mille Lacs; North Garrison, Pikes Point, Cove Bay, Father Hennepin State Park, Cedar Creek, Liberty Beach, Malmo, Wealthwood and Isle Bay, of which a map is attached and incorporated into this agreement as **Exhibit A**; and

WHEREAS, the State and the Band desire to cooperate in the placement of the portable CD3 unit; and

WHEREAS, a resolution or copy of the Band Assembly meeting minutes authorizing the Band to enter into this agreement is attached and incorporated into this agreement as **Exhibit B**; and

In consideration of the mutual benefit to be derived for the benefit of the public, the parties agree as follows:

**I. STATE’S DUTIES AND RESPONSIBILITIES**

- A. The State shall permit the Band to place the portable CD3 watercraft cleaning station as needed for each public water access site. The State shall review and approve the location for the portable CD3 unit as proposed by the Band.
- B. The State shall assist in providing all boating related informational signs and/or stencils for the area around the portable CD3 unit such as traffic safety and invasive species signs consistent with State water access program guidelines and best management practices.
- C. The State shall participate in an annual meeting with the Band to review the CD3 operations at the end of the open water season.
- D. The State reserves the right to inspect the facility at any time to ensure that the Band is in compliance with this agreement.

**II. BAND’S DUTIES AND RESPONSIBILITIES**

- A. The Band shall comply with all local, state and federal laws, regulations, rules and ordinances which may apply to the management, operation, and maintenance of said premises.
- B. The Band shall construct, operate, and maintain all facilities and programs in compliance with all state and federal accessibility laws, regulations, and guidelines including the Guidelines for Outdoor

Developed Areas. Information on compliance with the Americans with Disabilities Act is available at U.S. Access Board.

- C. The CD3 Unit and related services shall be free to the public.
- D. The Band shall move the portable CD3 unit to any of the various public water access sites at their convenience, as long as the CD3 unit does not remain at one location more than seven (7) days. A permit for possessing and transporting prohibited invasive species, issued by the State, will be in possession of the person moving the portable CD3 units.
- E. The Band shall participate in an annual meeting with the State to review the CD3 operations at the end of the open water season.
- F. The Band is responsible for the winterization of the portable CD3 unit at the end of each season. The portable CD3 unit will be removed from the public water access sites for the winter (ice on) season.
- G. The Band may place or install appropriate signage for the CD3 unit as approved in writing by the State.
- H. Maintenance is solely the responsibility of the Band. The Band shall maintain the portable CD3 unit and keep it in good and sanitary order. The Band shall place the unit in a way that ensures the public's safety at all times. The Band will resolve (make safe) any safety issues within 24 hours and all other maintenance issues within one week of a report. If safety or maintenance issues are not corrected or continue to reoccur with frequency, the Band may be requested to remove the unit.
- I. The Band shall maintain the facilities and keep them in good and sanitary order in accordance with the Band's established practices for maintenance of Band facilities. Additionally, the Band shall provide all necessary routine maintenance and minor repairs including, but not limited to, the repair or replacement of decking and railings. The State shall assist the Band with major structural repairs subject to the availability of funding according to the provisions of Article II.
- J. The Band must follow Minnesota DNR's Operational Order 113, ((What is Operational Order 113? Do you have a problem with complying with it?)) which requires preventing or limiting the introduction, establishment and spread of invasive species during activities on public waters and DNR-administered lands. Operational Order 113 is incorporated into this agreement by reference and can be found at [http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder\\_113.pdf](http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder_113.pdf). Duties listed are in Op Order 113 under Sections II and III (p. 5-8).
  - a. The Band shall prevent invasive species from entering into or spreading within a project site by cleaning equipment and clothing prior to arriving at the project site.
  - b. If equipment or clothing arrives at the project site with soil, aggregate material, mulch, vegetation (including seeds) or animals, it shall be cleaned with tools or equipment furnished by the Band (such as brush/broom, compressed air or pressure washer) at the staging area.
  - c. The Band shall dispose of material and debris cleaned from equipment and clothing at an appropriate location. If the material cannot be disposed of onsite, then the material must be secured prior to transport (such as a sealed container, covered truck, or wrap with tarp) and legally dispose of offsite.
  - d. The Band shall ensure that all equipment and clothing used for work in public waters has been adequately decontaminated for aquatic invasive species. All equipment and clothing including but not limited to waders, vehicles and boats that are exposed to any public water of the State must be thoroughly cleaned and drained of all water before transport to another location, unless a permit for possession and transportation is obtained from the State.

- K. Work performed and use of the facility should, to the maximum extent possible, be conducted in a manner that adheres to applicable Minnesota Occupational Safety and Health Standards, the Minnesota Department of Health and CDC Guidelines, and State executive orders. All work completed for this agreement must adhere to the conditions in State executive orders related to COVID 19 until they are rescinded or expired.
- III. FUNDING
- The State shall provide funding for its responsibilities under Article I through the standard internal purchasing process including, but not limited to a separate requisition in which funds will be encumbered.
- The total obligation of the State for its responsibilities under Article I shall be limited to the amount of funds legislatively appropriated and administratively allocated to this project. No additional funding will be provided, unless agreed upon by all parties and an amendment to this Agreement is completed and executed.
- IV. TERM
- Effective Date: May 1, 2021** or the date the State obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, whichever is later. The Band shall not begin work under this Agreement until it is fully executed and the Band has been notified by the State's authorized representative to begin the work.
- Expiration Date: December 31, 2031** (10 years) or until all obligations have been satisfactorily fulfilled, whichever occurs first. The agreement can be extended with a written amendment as agreed upon and signed by both parties per article XIII.
- V. LIABILITY
- Each party agrees that it will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other party and the results thereof. The State's liability shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes Section 3.736, and other applicable law.
- VI. AUDIT
- Under Minnesota Statutes Section 16C.05, sub. 5, the books, records, documents and accounting procedures and practices of the Band relevant to the agreement shall be subject to examination by the Commissioner of Natural Resources, the Legislative Auditor and the State Auditor for a minimum of six (6) years from the end of this agreement.
- VII. ANTITRUST
- The Band hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this Agreement resulting from antitrust violations that arose under the antitrust laws of the United States and the antitrust laws of the State of Minnesota
- VIII. FORCE MAJEURE
- Neither party shall be responsible to the other or considered in default of its obligations within this Agreement to the extent that performance of any such obligations is prevented or delayed by acts of God, war, riot, disruption of government, or other catastrophes beyond the reasonable control of the party unless the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party relying on this provision to excuse performance must provide the other party prompt written notice of inability to perform and take all necessary steps to bring about performance as soon as practicable.

**IX. CANCELLATION**

This Agreement may be cancelled by the State at any time with cause or as necessary as provided in Article II, upon thirty (30) days written notice to the Band.

This Agreement may also be cancelled by the State if it does not obtain funding from the Minnesota Legislature, or other funding sources, or if funding cannot be continued at a level sufficient to allow for the payment of services covered under this agreement. The State will notify the Band by written or fax notice. The State will not be obligated to pay for services provided after the notice is given and the effective date of cancellation. However, the Band shall be entitled to payment, determined on a pro-rated basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the agreement is cancelled because of a decision of the Minnesota Legislature, or other funding source, not to appropriate the necessary funds. The State shall provide the Band notice of lack of funding within a reasonable time of the State's receiving that notice.

**X. GOVERNMENT DATA PRACTICES**

The State must comply with the Minnesota Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the State under this agreement. The civil remedies of Minn. Stat. 13.08 apply to the release of the data referred to in this clause by the State.

**XI. PUBLICITY AND ELECTRONIC ACCESSIBILITY**

Any publicity regarding the subject matter of this agreement must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Band individually or jointly with others, or any subcontractors, with respect to the program and services provided from this agreement.

All publicity shall be provided in an accessible format per Minnesota Statute 16E.03, sub. 9. State of Minnesota guidelines for creating accessible electronic documents can be found at the following URL: <https://mn.gov/mnit/programs/accessibility/>.

**XII. COMPLETE AGREEMENT**

This agreement contains all negotiations and agreements between the State and the Band. No other understanding regarding this agreement, whether written or oral, may be used to bind either party. Any amendment to this agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original agreement, or their successors in office.

**XIII. AUTHORIZED REPRESENTATIVES**

Any notice, demand or communication under this Agreement by either party to the other shall be deemed to be sufficiently given or delivered if it is dispatched by mail, postage prepaid, or by email to:

The State's Authorized Representative is Wade Miller, Area Supervisor, 1601 Minnesota Drive, Brainerd, MN 56401, 218-203-4447, wade.miller@state.mn.us or his successor.

The Band's Authorized Representative is Chad Weiss, Water Resource Manager, address, 320-532-7445, chad.weiss@millelacsband.com, or his successor.

**XIV. SOVEREIGN IMMUNITY.** Nothing in this contract will be construed or interpreted to affect a waiver of the Band's sovereign immunity.

IN WITNESS WHEREOF, the parties have caused the Agreement to be duly executed intending to be bound thereby.

DEPARTMENT OF NATURAL RESOURCES

MILLE LACS BAND

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

DEPARTMENT OF ADMINISTRATION  
Delegated to Materials Management Division

MILLE LACS BAND

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

(Effective Date)

**STATE ENCUMBERANCE VERIFICATION**

Individual certifies that funds have been encumbered as req. by Minn. Stat. 16A.15 and 16C.05.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Contract: \_\_\_\_\_