

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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LAC COURTE OREILLES BAND OF LAKE  
SUPERIOR CHIPPEWA INDIANS, RED CLIFF  
BAND OF LAKE SUPERIOR CHIPPEWA INDIANS;  
SOKAOGAON CHIPPEWA INDIAN COMMUNITY,  
MOLE LAKE BAND OF WISCONSIN; ST. CROIX  
CHIPPEWA INDIANS OF WISCONSIN; BAD  
RIVER BAND OF THE LAKE SUPERIOR CHIPPEWA  
INDIANS; and LAC DU FLAMBEAU BAND OF LAKE  
SUPERIOR CHIPPEWA INDIANS,

Plaintiffs,

v.

Case No. 74-C-313-C

STATE OF WISCONSIN, WISCONSIN NATURAL  
RESOURCES BOARD; CARROLL D. BESADNY;  
JAMES T. ADDIS; and GEORGE MEYER,

Defendants.

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STIPULATION FOR TECHNICAL, MANAGEMENT AND OTHER UPDATES:  
SECOND AMENDMENT OF THE STIPULATIONS INCORPORATED  
IN THE FINAL JUDGMENT

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The Amended Judgment entered by this Court on June 13, 2001, authorized the parties, by mutual agreement, to modify the stipulations which the Court had incorporated into the final judgment, published as *Lac Courte Oreilles Indians v. State of Wis.*, 775 F. Supp. 321 (W.D.Wis. 1991), and there referred to as docket numbers 330, 911, 912, 913, 914, 1167, 1222, 1271, 1289, 1568, 1607 and Joint Exhibit P-54 from the December 1985 Trial. In accordance with the Amended Judgment, the parties therefore desiring to establish technical, management and other updates hereby stipulate to amend their prior stipulations, referred to as docket numbers 911, 914, 1167, 1222, 1289, 1568, and 1607 in the following respects:

**Stipulation on Biological and Certain Remaining Issues in Regard to the Tribal Harvest of Walleye and Muskellunge (Docket Number 911); Stipulation on Enforcement and Tribal Court Issues in regard to the Tribal Harvest of Walleye and Muskellunge (Docket Number 914); Stipulation in regard to the Tribal Harvest of the White Tailed Deer (Docket Number 1167); Stipulation and Consent Decree in Regard to the Tribal Harvest of Wild Rice on Issues Related to the Biology of Wild Rice, Tribal Enforcement and Preemption of State Law, and Management of Wild Rice (Docket Number 1222); Stipulation in regard to the Tribal Harvest of Fisher, Furbearers and Small Game (Docket Number 1289); Stipulation and Consent Decree in regard to the Tribal Harvest of Fish Species Other than Walleye and Muskellunge (Docket Number 1568); Stipulation and Consent Decree in regard to Tribal Harvest of Black Bear, Migratory Birds and Wild Plants (Docket Number 1607, subpart1); Stipulation and Consent Decree in regard to Tribal Harvest of Miscellaneous Species and Other Regulatory Matters (Docket Number 1607, subpart 2).**

I. MEETINGS OF THE AGENCY LEADERSHIP

A. The parties agree that in fulfillment of these *Stipulations* and *Section 11* of the *Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory*, the language of each of the following stipulations, i.e., *Section 7* of the *Stipulation on Biological and Certain Remaining Issues* (Docket Number 911); *Sections 12* and *13* of the *Stipulation on Enforcement* (Docket Number 914); *Sections A* and *C* of the *Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2); *Sections A* and *C* of the *Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1); *Sections B* and *E* of the *Stipulation for the Deer Trial* (Docket Number 1167); *Sections B* and *C* of the *Stipulation for the Wild Rice Trial* (Docket Number 1222); *Sections B* and *C* of the *Stipulation for Fisher, Fur Bearers, and Small Game* (Docket Number 1289); *Sections A* and *B* of the *Stipulation for Fish Species other than*

*Walleye and Muskellunge* (Docket Number 1568) will be amended to include the following provision:

1. The parties agree that the agency leadership, through the Executive Administrator of the Great Lakes Indian Fish and Wildlife Commission and the Secretary of the Department of Natural Resources, shall make good faith efforts to coordinate regarding their respective management and regulatory activities.

## II BIENNIAL STIPULATION REVIEW

- A. The parties agree that in fulfillment of these *Stipulations* and *Section 11* of the *Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory*, the language of: *Section 7* of the *Stipulation on Biological and Certain Remaining Issues* (Docket Number 911); *Sections 12* and *13* of the *Stipulation on Enforcement* (Docket Number 914); *Sections A* and *C* of the *Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2); *Sections A* and *C* of the *Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1); *Sections B* and *E* of the *Stipulation for the Deer Trial* (Docket Number 1167); *Sections B* and *C* of the *Stipulation for the Wild Rice Trial* (Docket Number 1222); *Sections B* and *C* of the *Stipulation for Fisher, Fur Bearers, and Small Game* (Docket Number 1289); *Sections A* and *B* of the *Stipulation for Fish Species other than Walleye and Muskellunge* (Docket Number 1568), all will be amended as follows:

1. The parties agree to make good faith efforts to coordinate discussion of proposed management and regulatory issues pertaining to the amendment of the *Lac Courte Oreilles Indians v. State of Wis.*, stipulations as established in the parties' 2001 joint motion to amend the final judgment. To facilitate the cooperative intent of this paragraph and to provide a regular schedule for stipulation review and possible amendment, the parties shall try to review and propose appropriate changes to the stipulations no less than biennially. Where the parties agree on particular stipulation amendments, they will first seek approval of those amendments by their respective legal counsel, and after legal counsel have executed a stipulation proposing such amendment, the parties will seek approval by the court.
2. The parties agree to make good faith efforts to: exchange a list of potential stipulation amendment issues in the first six months of a given biennium; to conduct an initial meeting to discuss the issues during the first summer of the biennium; to refer issues to study committees as necessary during the second six months of the biennium; and to follow the foregoing with further negotiations during the third six month period of the biennium. New issues may be added for discussion at any time during the first three six month periods of the biennium or as otherwise mutually agreed upon by the parties.

### III. TECHNICAL UPDATES AND AMENDMENTS

A. The parties agree that the language of: *Section 7 of the Stipulation on Biological and Certain Remaining Issues*; *Section 7 of the Stipulation on Enforcement* (Docket Number 911); *Section C of the Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2); *Section C of the Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 2); *Section E of the Stipulation for the Deer Trial* (Docket Number 1167); *Section C of the Stipulation for the Wild Rice Trial* (Docket Number 1222); *Section C of the Stipulation for Fisher, Fur Bearers, and Small Game* (Docket Number 1289); and *Section B of the Stipulation for Fish Species other than Walleye and Muskellunge* (Docket Number 1568) will all be amended as follows:

1. Upon the issuance of a Commission Order under parts III.A.2. or III.B. of this stipulation, unless a Tribe chooses to adopt more restrictive measures, the regulations established therein shall be the Tribe's regulations as provided in that Tribe's Code.
2. The Great Lakes Indian Fish and Wildlife Commission Executive Administrator may, after consultation with the State and upon agreement of the parties (where consent may not be unreasonably withheld), issue a Commission Order to provide tribal members more treaty harvest opportunities consistent with those available under state law to state harvesters, subject to the stipulations previously filed in this matter and

the law of this case, pertaining to other fish and game-related regulatory amendments of the Model Code.

- B. The parties agree that the Tribes will amend § 3.33 of the Model Code in the manner reflected in attached Appendix A regarding this technical update amendment.
- C. The parties agree that nothing in a Commission Order is intended to, or shall be construed to, limit the authority of each Tribe to establish regulations or other measures that are more restrictive than what is provided in a Commission Order, thereby reserving each Tribe's authority.

**Stipulation on Biological and Certain Remaining Issues in Regard to the Tribal Harvest of Walleye and Muskellunge (Docket Number 911).**

IV. ADJACENT SPAWNING STREAM SEGMENTS

- A. The parties agree to amend *Section 3.f.(iv)* of the *Stipulation on Biological and Certain Remaining Issues* (Docket Number 911) to establish the following:
  - 1. An “adjacent spawning stream segment,” shall mean that section of a tributary stream or river where a discrete fish population of a lake moves into that section of a tributary stream or river to spawn;
  - 2. The parties agree to amend the comprehensive tribal document entitled: *Designated Tribal River and Stream Segments in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: October 2010* (attached in Appendix C) which may be further amended to add or amend adjacent spawning stream segments upon agreement of the parties and through the

issuance of a Commission Order, to include the following adjacent spawning stream segments:

- a. The Yellow River from its confluence with Yellow Lake (Burnett County) upstream to the highway 35 bridge;
  - b. The Totogatic River from its confluence with the Minong Flowage (Douglas County) to its confluence with Bergen Creek.
3. The tribal conservation department may issue an open water spearing permit to a member for an adjacent spawning stream segment, provided the permit shall authorize spearing only on adjacent spawning stream segments that are contained in the comprehensive tribal document entitled: *Designated Tribal River and Stream Segments in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: October 2010* (attached in Appendix C).
  4. The Tribes designated “lake” declaration (quota) for a fishing year will be deemed to apply both to the “lake” and the “adjacent spawning stream segment” that is contained in the comprehensive tribal document entitled: *Designated Tribal River and Stream Segments in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: October 2010* (attached in Appendix C).
  5. The regulations that apply to spearing in the “lake” shall also apply to spearing in the “adjacent spawning stream segment” that is contained in the comprehensive tribal document entitled: *Designated Tribal River and*

*Stream Segments in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: October 2010* (attached in Appendix C).

6. The tribal conservation department may impose such other terms and conditions as it deems necessary or appropriate (including biological monitoring requirements) to the level of harvest activity on an adjacent spawning stream segment that is contained in the comprehensive tribal document entitled: *Designated Tribal River and Stream Segments in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: October 2010* (attached in Appendix C).

B. The parties agree that the Tribes will amend §9.06(10) and §9.06(11) of the Model Code in the manner reflected in Appendix A to implement these changes pertaining to adjacent spawning stream segment regulation as contained in the comprehensive tribal document entitled: *Designated Tribal River and Stream Segments in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: October 2010* (attached in Appendix C).

V. DESIGNATED RIVER AND STREAM SEGMENTS DOCUMENT ESTABLISHED

A. The parties agree to amend *Section 3.f.(iii) and (iv) of the Stipulation on Biological and Certain Remaining Issues* (Docket Number 911) to establish the following comprehensive tribal document (attached in Appendix C) in order to provide the tribes with an administrative mechanism which may be amended upon agreement of the parties, entitled:



1. *Designated Tribal River and Stream Segments in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [October 2010].*

B. The parties agree that Tribes will amend § 3.27, of the Model Code in the manner reflected attached in Appendix A as follows:

1. The *Designated Tribal River and Stream Segments in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [October 2010]* documents will be added to § 3.27 [Tribal Administrative Documents Established] of the Model Code.

VI. DESIGNATED RIVER AND STREAM SEGMENTS REGULATION – SIX YEAR JOINT STUDY

A. The parties agree to amend *Section 3.f.(iii) and (iv) of the Stipulation on Biological and Certain Remaining Issues* (Docket Number 911) to establish the following six year joint study, which may be further amended upon agreement of the parties, as follows:

1. The study will allow for the harvest of sixty (60) walleye per segment per day without restrictions on the number of boats or spearers, and without the five fish daily bag limit, while maintaining the one hundred twenty (120) fish total annual harvest per segment with a maximum of two days allowed for harvest.

2. The study will allow for the harvest of four (4) muskellunge per segment per day without restrictions on the number of boats or spearers, and without the one fish per boat daily bag limit, while maintaining the eight

(8) fish total annual harvest per segment with a maximum of two days allowed for harvest.

3. The study will allow for the harvest of one (1) sturgeon per segment per day without restrictions on the number of boats or spearers, while maintaining the two (2) fish total annual harvest per segment with a maximum of two days allowed for harvest.

4. The study will allow for the harvest of walleye, muskellunge, and sturgeon by the use of spear or any net except gillnets.

5. Absent an agreement by the parties on the setting of harvest limits for other rare species, the parties agree that there is no change to the designated river and stream segment regulations by the use of spear or any net except gillnets.

B. Upon agreement by the parties, the tribes may extend, amend, and/or make permanent the provision of sec. A, above, through the issuance of a Commission Order.

## VII. ADDITIONAL DESIGNATED RIVER AND STREAM SEGMENTS – SIX YEAR JOINT STUDY

A. The parties agree to amend *Section 3.f.(iii) and (iv) of the Stipulation on Biological and Certain Remaining Issues* (Docket Number 911) to establish the following six year joint study:

1. The study will allow the following stream segments to be added to the *Designated Tribal River and Stream Segments in the Wisconsin portion of*

*the 1837 and 1842 Ceded Territories, Version 1: October 2010* (attached in Appendix D):

- a. Maintowish River, US Hwy 51 downstream to the confluence with the Flambeau River, excluding Benson Lake;
  - b. North Fork Flambeau River, Turtle Dam downstream to Holt Landing;
  - c. Somo River, Somo Dam Road downstream to its confluence with the Little Somo River;
  - d. Turtle River, Rice Lake downstream to Pike Lake; and
  - e. Wisconsin River, Otter Rapids Dam downstream to its confluence with Sugar Camp Creek.
- B. Upon agreement by the parties, the tribes may extend, amend, and/or make permanent the provision of sec. A, above, through the issuance of a Commission Order.

#### VIII. CALCULATION OF SAFETY FACTORS

- A. The parties agree to amend *Section 3.h* of the *Stipulation on Biological and Certain Remaining Issues* (Docket Number 911) to establish the following:
  1. The parties agree to try to review the data, method and calculation for the appropriate safety factors to be used in setting walleye and muskellunge safe harvest levels pursuant to *Lac Courte Oreilles Indians v. State of Wis.*, 707 F. Supp. 1034, 1059-1060, (W.D. Wis 1989) (“*LCO VI*”) approximately every ten (10) years, unless both parties agree to meet

earlier for that purpose or agree that such ten (10) year review is unnecessary or impractical. If such a review is conducted it should include an exchange of data, an initial meeting to discuss any issues, referral to study committees as necessary, and further discussions if necessary.

IX. TRIBAL GILLNET MESH SIZES – SIX YEAR JOINT STUDY

- A. The parties agree to amend *Section 3.c* of the *Stipulation on Biological and Certain Remaining Issues* (Docket Number 911) to establish the following six year joint study which stipulation may be further amended upon agreement of the parties, as follows:
1. For lakes larger than 1,000 acres with no current length data (which otherwise would not be open to gillnetting), the allowable gillnet mesh size will be 3.0 inch for lakes with walleye recruitment codes used in the NR model, and 3.5 inch for lakes with recruitment codes used in the ST and NR2/REM models.
  2. For all lakes larger than 1,000 acres with an allowable gillnet mesh size of 3.0 inches, 4.0 inches, and 4.5 inches (including lakes with no current data as described in section A above), 3.5 inch mesh nets may also be used. However, for lakes larger than 1,000 acres with an allowable mesh size of 3.0 inches the following will apply whenever 3.5 inch mesh nets are used:
    - a. If an adult population estimate is conducted during spring of the year that gillnetting takes place, the walleye quota will be determined by §9.03 of the Model Code and administered pursuant

to §9.08(2) of the Model Code. The Inland Fisheries Technical Working Group (TWG) will continue to evaluate the effects of using 3.5 inch mesh on the number of walleye 20 inches and larger in these lakes.

b. If an adult walleye population estimate is not conducted during spring of the year that gillnetting takes place, the walleye quota determined by §9.03 of the Model Code and administered pursuant to §9.08(2) of the Model Code will be further reduced by twenty four percent (24%). This reduction would on average, keep the harvest of walleye 20 inches and larger the same as what it would have been using 3.0 inch mesh gillnets.

3. No other mesh size may be used on lakes with an allowable mesh size of 2.5 inches.

B. Upon agreement by the parties, the tribes may extend, amend, and/or make permanent the provision of sec. A, above through the issuance of a Commission Order.

C. The parties agree that the Tribes will amend §9.08 of the Model Code in the manner reflected in attached Appendix A to implement the foregoing restrictions pertaining to allowable tribal gillnet sizes.

X. ALTERNATIVE MONITORING OF WALLEYE HARVEST ON CERTAIN LAKES ESTABLISHED

- A. The parties agree to amend *Section 3.e* of the *Stipulation on Biological and Certain Remaining Issues* (Docket Number 911) to establish the following comprehensive tribal document (attached in Appendix C) in order to provide the tribes with an administrative mechanism which may be amended upon agreement of the parties, entitled:
1. *Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010]*.
- B. The parties agree that the *Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010]* document shall entail the following principles:
1. The tribes shall recommend that tribal prosecutors charge in such a way so that tribal members caught in violation of this provision receive a minimum of a one year revocation of their treaty reserved harvesting rights upon successful prosecution.
  2. Any tribe seeking to designate for spring spearing a water body listed in the *Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010]* shall provide notice to the DNR of the bodies of water listed in the document which tribes have designated for spring spearing that night and of the walleye bag limit for each body of water to be fished in accordance with Sec. 5.00 of the Voigt Intertribal Task Force Protocol on Walleye and Muskellunge Harvest Levels.

3. Any tribe seeking to designate for spring spearing a water body listed in the *Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010]* shall provide notice to the DNR no later than 6:00 p.m. of that same day of those bodies of water listed in the document, if any, for which no spearing permits have been issued by that time in accordance with Sec. 5.01 of the Voigt Intertribal Task Force Protocol on Walleye and Muskellunge Harvest Levels.
4. Each tribe may only designate for spring spearing, two (2) water bodies per night that are listed in the *Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010]* document. However, after reviewing appropriate data and information and studying the compliance and enforcement of this stipulation, and upon agreement of the parties, the tribes may incrementally increase the list of water bodies designated per night by each tribe to ten (10) water bodies that are listed in the *Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010]* document.
5. The *Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010]* document may only initially contain lakes that possess a maximum quota of seventy-five (75) walleye. After reviewing appropriate

data and information and studying the compliance and enforcement of this stipulation, and upon further written agreement of the parties, the tribes may incrementally increase the list of water bodies to eventually contain lakes that possess a maximum quota of two hundred (200) walleye.

6. Any tribe seeking to designate for spring spearing a water body listed in the *Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010]* shall designate a creel team to be present at a specific location or at the tribal registration station provided:
  - a. The specific location shall be determined at the time the permit is issued.
  - b. The creel team shall remain on duty until the alternative monitored permit(s) the creel team is responsible for is turned in and the fish harvested are creeled or notice is provided by the Biological Services Division or Conservation Enforcement Division that the creel team is released for the night.
7. A tribal member may not be issued an alternative monitoring permit for spring spearing walleye harvest on a water body listed in the *Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010]* for a given night if the tribal member has already been issued a monitored spring spearing or netting permit or permits for that night.



- a. For the purpose of this section “night” shall be defined as the time between one hour after sunset on one day and one hour before sunrise on the following day; and the time of sunset and sunrise shall be ascertained according to the mean solar time of the ninetieth meridian west from Greenwich, commonly known as central time, as given in any almanac.
8. At any one time a tribal member may only possess one (1) alternative monitoring permit for a water body listed on the *Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010]* document; a tribal member possessing such an alternative monitoring permit may not be in the simultaneous possession of any other outstanding spring spearing or netting permit.
- C. The parties agree that the Tribes will amend §9.06 (attached in appendix A) of the Model Code as follows:
  1. The tribal conservation department shall not issue a spearing permit under this section for a particular body of water unless a biological monitoring team will be present at that body of water to monitor the spearing harvest, or the particular body of water is listed in the *Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010]* document.

D. The parties agree that Tribes will amend § 3.27, (attached in appendix A) of the Model Code as follows:

1. The *Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010]* document will be added to § 3.27 [Tribal Administrative Documents Established] of the Model Code.

E. Upon written agreement by the parties, the tribes may extend, amend, or terminate the provision of sec. B, above through the issuance of a Commission Order.

**Stipulation in regard to the Tribal Harvest of the White Tailed Deer (Docket Number 1167); Stipulation in regard to the Tribal Harvest of Fisher, Furbearers and Small Game (Docket Number 1289); Stipulation and Consent Decree in regard to Tribal Harvest of Black Bear, Migratory Birds and Wild Plants (Docket Number 1607, subpart 1).**

XI. WILDLIFE QUOTAS / BAG LIMITS – THRESHOLDS

A. Antlerless Deer Threshold

1. The parties agree that upon the Tribes' adoption of the amendments to the *Voigt Intertribal Task Force Protocol on Noodawaawaashkeshiwe (Antlerless Deer Harvesting) Levels and State Park Hunter Density Levels* (attached in Appendix B), *Sections B.13 and E.2* of the *Stipulation for the Deer Trial* (Docket Number 1167) shall be amended to establish the following:

a. A threshold value shall be established for the number of antlerless deer available for tribal harvest in each tribal deer management unit. As long as tribal harvest is below that harvest threshold, there shall be no need for a harvest declaration on the part of the

tribes and there shall be no need to limit tribal harvest. However, if tribal harvest in any tribal deer management unit exceeds the threshold harvest value in one year, then the next year the tribes must issue a harvest declaration for that unit and establish a tribal quota with the ability to control harvest to stay within that quota.

- b. There shall be no limit on the number of antlerless deer available for tribal harvest unless an antlerless deer harvest threshold has been reached in the previous year and a quota has been declared, provided:
  - (1) Once the number of antlerless deer harvested in a tribal deer management unit approaches fifty percent (50%) of the total allocation available for that unit, the Tribes shall consult with the State about whether and when to order closure of the unit for tribal antlerless deer hunting. In the event of such consultation, the parties agree that a consensus approach shall be utilized and agree to make all reasonable efforts to reach a consensus on those issues.
- c. Tribal members will be limited to possessing four (4) carcass tags at any one time, unless otherwise authorized by §6.19 of the Model Code.
- d. Registration shall continue to be required (within 3 working days of harvest).

- e. Carcass tags shall continue to be required even if a quota is triggered because registration shall be mandatory for harvest.
  - f. There shall be no hunting of antlerless deer in those areas which have been closed to tribal antlerless deer hunting.
  - g. The threshold for each tribal deer management unit shall be the following based on the previous year's harvest data: Bow doe harvest + first-time hunter education graduates antlerless harvest + military antlerless harvest + disabled hunter antlerless harvest + crop damage antlerless harvest + 15% of the gun antlerless harvest.
  - h. In the course of the annual deer quota setting process referred to in section *E.2* of the *Stipulation for the Deer Trial* (Docket Number 1167), the parties will discuss whether in the following year either a threshold system or a quota system will be employed to regulate the tribal harvest of antlerless deer in each tribal deer management unit.
2. The parties agree that the Tribes will amend §6.03 of the Model Code in the manner reflected in attached Appendix A to implement the above mentioned restrictions.

**B. Black Bear Threshold**

- 1. The parties agree that upon the Tribes' adoption of the amendments to the *Voigt Intertribal Task Force Protocol on Noodamakwe (Bear Harvesting) Levels* (attached in Appendix B), *Sections C.1* of the *Stipulation for Black*

*Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1)

shall be amended to establish the following:

- a. A threshold value shall be established for the number of bear available for tribal harvest in each tribal bear management zone. As long as tribal harvest is below that harvest threshold, there shall be no need for a harvest declaration on the part of the tribes and there shall be no need to limit tribal harvest. However, if tribal harvest in any tribal bear management zone exceeds the threshold harvest value in one year, then the next year the tribes must issue a harvest declaration for that unit and establish a tribal quota with the ability to control harvest to stay within that quota.
- b. There shall be no limit on the number of bear available for tribal harvest unless a bear harvest threshold has been reached in the previous year and a quota has been declared, provided:
  - (1) Once the number of bear harvested in a tribal bear management zone approaches fifty percent (50%) of the total allocation available for that zone, the Tribes shall consult with the State about whether and when to order closure of the unit for tribal bear harvesting. In the event of such consultation, the parties agree that a consensus approach shall be utilized and agree to make all reasonable efforts to reach a consensus on those issues.

- c. Tribal members will be limited to possessing one (1) carcass tag at a time, unless otherwise authorized by §7.25 of the Model Code.
- d. Registration shall continue to be required (within 3 working days of harvest).
- e. Carcass tags shall continue to be required even if a quota is triggered because registration shall be mandatory for harvest.
- f. There shall be no hunting of bear in those areas which have been closed to tribal bear hunting.
- g. The threshold for the number of bear available for tribal harvest in each tribal bear management zone shall be equal to 15% of the previous year's state harvest.
- h. In the course of the annual bear quota setting process referred to in section *Sections C.1* of the *Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1), the parties will discuss whether in the following year either a threshold system or a quota system will be employed to regulate the tribal harvest of bear in each tribal bear management zone.

- 2. The parties agree that the Tribes will amend §7.05 of the Model Code in the manner reflected in attached Appendix A to implement the above mentioned restrictions.

C. Furbearer (Otter, Bobcat, and Fisher) Threshold

- 1. The parties agree that upon the Tribes' adoption of the amendments to the *Voigt Intertribal Task Force Protocol on Noodawayaanike:*

*Noodanigigwe, Noodagidagaa-bizhiwe igaye Noodajigwe (Furbearer: Otter, Bobcat and Fisher Harvesting) Levels* (attached in Appendix B), *Section C.1 of the Stipulation for Fisher, Fur Bearers, and Small Game* (Docket Number 1289) shall be amended to establish the following:

a. Threshold Concept Established

- (1) A threshold value shall be established for the number of otter or bobcat available for tribal harvest. As long as tribal harvest is below that harvest threshold, there shall be no need for a harvest declaration on the part of the tribes and there shall be no need to limit tribal harvest. However, if the tribal harvest of otter or bobcat exceeds the threshold harvest value in one year, then the next year the tribes must issue a harvest declaration for that species and establish a tribal quota with the ability to control harvest to stay within that quota.
- (2) A threshold value shall be established for the number of fisher available for tribal harvest in each tribal fisher management zone. As long as tribal harvest is below that harvest threshold, there shall be no need for a harvest declaration on the part of the tribes and there shall be no need to limit tribal harvest. However, if tribal harvest in any tribal fisher management zone exceeds the threshold harvest value in one year, then the next year the tribes must

issue a harvest declaration for that unit and establish a tribal quota with the ability to control harvest to stay within that quota.

b. There shall be no limit on the number of otter, bobcat or fisher available for tribal harvest unless an otter, bobcat or fisher harvest threshold has been reached in the previous year and a quota has been declared, provided:

(1) Once the number of otter or bobcat harvested approaches fifty percent (50%) of the total allocation available, the Tribes shall consult with the State about whether and when to order the closure of tribal otter or bobcat harvesting. In the event of such consultation, the parties agree that a consensus approach shall be utilized and agree to make all reasonable efforts to reach a consensus on those issues.

(2) Once the number of fisher harvested in a tribal fisher management zone approaches fifty percent (50%) of the total allocation available for that zone, the Tribes shall consult with the State about whether and when to order closure of the unit for tribal fisher harvesting. In the event of such consultation, the parties agree that a consensus approach shall be utilized and agree to make all reasonable efforts to reach a consensus on those issues.



- c. Tribal members will be limited to possessing one (1) carcass tag at a time, unless otherwise authorized by §8.20 of the Model Code.
- d. Registration shall continue to be required (within 3 working days of harvest).
- e. Carcass tags shall continue to be required even if a quota is triggered because registration shall be mandatory for harvest.
- f. There shall be no hunting or trapping of otter, bobcat or fisher in those areas which have been closed to tribal otter, bobcat or fisher hunting or trapping.
- g. Threshold Value Established
  - (1) The threshold for the number of otter or bobcat available for tribal harvest shall be equal to 15% of the previous year's state harvest.
  - (2) The threshold for the number of fisher available for tribal harvest in each tribal fisher management zone shall be equal to 15% of the previous year's state harvest.
- h. Annually Meeting of the Parties
  - (1) In the course of the annual otter and bobcat quota setting process referred to in *Section C.1* of the *Stipulation for Fisher, Fur Bearers, and Small Game* (Docket Number 1289), the parties will discuss whether in the following year either a threshold system or a quota system will be

employed to regulate the tribal harvest of otter or bobcat in the ceded territory.

(2) In the course of the annual fisher quota setting process referred to in *Section C.1* of the *Stipulation for Fisher, Fur Bearers, and Small Game* (Docket Number 1289), the parties will discuss whether in the following year either a threshold system or a quota system will be employed to regulate the tribal harvest of fisher in each tribal fisher management zone.

2. The parties agree that the Tribes will amend §8.06 of the Model Code in the manner reflected in the attached Appendix A to implement the above mentioned restrictions.

**Stipulation and Consent Decree in regard to Tribal Harvest of Black Bear, Migratory Birds and Wild Plants (Docket Number 1607, subpart 1)**

**XII. TRIBAL GATHERING ON STATE LANDS – TWO YEAR JOINT ASSESSMENT**

A. The parties agree that the language of *Section C.3* of the *Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1) shall be amended as follows to create a new subsection entitled, *Section C.3.m.*:

1. The parties agree that the harvesting rights pertaining to miscellaneous forest products extend to the following as defined:

a. “Miscellaneous Forest Products” means any undomesticated species, or part thereof, of the plant and fungi kingdoms occurring in both forested and non-forested natural ecosystems including:

non-timber forest products, wild plants, gathering products, endangered or threatened plant species, as defined in §2.01(4) of the Model Code, and Species of Special Concern, as defined in the §12.06(2) of the Model Code, but for the purposes of this Stipulation excludes wild rice and timber.

- b. “Non-Timber Forest Products” means any of the following miscellaneous forest products: bark, boughs, firewood, lodgepoles, and sap as further defined:
- (1) “Bark” means the tough outer covering of the woody stems and roots of trees, shrubs, and other woody plants. It includes all tissues outside the vascular cambium.
  - (2) “Bough” means any branch of a tree less than two (2) inches in diameter.
  - (3) “Firewood” means any dead tree or part thereof, either standing or downed, which is harvested for and is to be used as fuel.
  - (4) “Lodgepoles” means any tree that is less than or equal to five (5) inches DBH (diameter at breast height).
  - (5) “Sap” means the watery fluid that circulates through a tree or plant, carrying food and other substances to the various tissues.
- c. “Wild plant” means miscellaneous forest products that are not trees, such as herbaceous plants and shrubs.

- d. “Gathering Products” means all products of miscellaneous forest products other than non-timber forest products including:  
branchlets, roots, berries, fruits, nuts, and seeds.
  - e. “Timber” means any tree that is not a lodgepole, as defined in this section.
- 2. The parties agree that the Tribes will amend § 2.01, (attached in appendix A) of the Model Code pertaining to the definition of miscellaneous forest products, as defined in this stipulation.
  - 3. The parties agree that the Tribes are precluded from exercising a treaty right to harvest timber as set forth in *Lac Courte Oreilles Indians v. State of Wis.*, 758 F. Supp. 1262 (W.D. Wis. 1991), and for that reason the tribes agree that Chapter 11 of the Model Code shall be repealed in the manner indicated in attached Appendix A.
  - 4. The parties agree that the Tribes shall amend Chapter 12 of the Model Code in the manner reflected in the attached Appendix A to govern the tribal harvest of miscellaneous forest products on the following State properties as identified in the *Tribal Gathering on State Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Public Lands Open to Tribal Gathering, Version 1: [November 2010]*: Brule River State Forest, Flambeau River State Forest, Governor Knowles State Forest, Northern Highland – American Legion State Forest, Big Bay State Park, Copper Falls State Park, Willow Flowage Scenic Waters Area, Crex

Meadow Wildlife Area, Powell Marsh Wildlife Area, and Eddy Creek Fishery Area, for a two year joint study.

5. If, upon completion of a two year joint study and assessment, the parties agree that the implementation of tribal management and regulatory provisions for tribal gathering of miscellaneous forest products has been consistent with the management objectives of the various DNR properties, and agree that the tribes' harvest related activities do not pose a serious threat to the resource, the parties may agree in writing to extend the provisions of *Section C.3.m. of the Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1) to other state properties and/or make permanent the provisions of *Section C.3.m. of the Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1), which extensions may be implemented by the tribes upon the issuance of a Commission Order. The parties agree that a consensus approach shall be utilized in their discussions of any such extensions and agree to make all reasonable efforts to reach a consensus on such issues. If either of the parties determines that there is insufficient data or information to allow the parties to reach consensus on whether to extend the provisions of *Section C.3.m. of the Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1), to other State properties and/or make permanent the provisions of *Section C.3.m. of the Stipulation for Black Bear, Migratory Birds, and Wild Plants*

(Docket Number 1607, subpart 1), the parties may agree to continue the joint study and assessment process.

6. The parties agree that during the two year joint study and assessment period:
  - a. The parties will attempt to prevent dual prosecution in tribal and State forums stemming from conduct regulated by Chapter 12 of the Model Code in the manner reflected in the attached Appendix A governing the acts of harvesting non-timber forest products, as defined in this stipulation.
  - b. Except as provide in subsection c, any conduct or act which is an alleged violation of a Chapter 12 (attached in appendix A) of the Model Code governing the acts of harvesting non-timber forest products shall be administered and prosecuted in accordance with the provisions of the Model Code, provided:
    - (1) The Model Code is in force (*i.e.*, has been adopted by the alleged violator's tribe) at the time of the alleged violation;  
and
    - (2) The Tribe maintains a tribal court with jurisdiction to enforce the Model Code.
  - c. After consultation with the affected Tribe, however, the State of Wisconsin may initiate a State enforcement action where the underlying conduct is egregious considering: the type of conduct involved; the amount of natural resources illegally taken; the

nature and extent of the natural resource damages caused by the illegal act; considerations for specific and general deterrence; and considerations for compensating those persons or entities harmed or damaged by the conduct or act.

7. The parties agree that upon permanent establishment of *Section C.3.m.* of the *Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1), and with respect to all State lands or as agreed by the parties upon any individual portions of State lands, that the defendants shall be enjoined from prosecuting in any State forum pertaining to violation of State or tribal regulations governing the acts of harvesting non-timber forest products against a member of a Tribe maintaining a court and code of regulations as described in this Stipulation, except as provided for in this Stipulation.
8. The parties agree that once a particular State property, or portion of such a property is open and available for harvest by the parties, existing miscellaneous forest product harvesting rights shall apply to those portions of the beds of any streams which the State owns as a stream riparian, and the beds of any flowages owned by the State of Wisconsin or any of its Departments, except as may be specifically provided in this Stipulation.
9. The parties agree that to facilitate on-going communication and the resolution of outstanding issues during the two year joint study and assessment period or any successive joint study and assessment periods,

they or their authorized representatives through a joint DNR/VITF work group, shall make a good faith effort to meet at least annually:

- a. To facilitate on-going communication;
- b. To review progress made and discuss issues arising under this Stipulation and actions taken by the wild plant management and policy committee;
- c. To facilitate the faithful and effectively implementation of this Stipulation and its terms;
- d. To discuss trends, issues or other matters that may effect the Stipulation; and
- e. To discuss specific harvest restrictions that may be implemented according to §12.04 of the Model Code.

10. The parties agree that a consensus approach shall be used and agree to make all reasonable, good faith efforts to reach a consensus in all committees or processes outlined in this Stipulation.

11. The parties agree that the use of vehicles and mechanical equipment such as a farm tractor or rubber tired skidder, off existing roads shall be prohibited without written permission from the Tribe after consultation with and prior approval of the land manager.

B. The parties agree that the language of *Section C.3* of the *Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1) will be amended to apply to all miscellaneous forest products, as defined in this Stipulation.



- C. The parties agree that the language of *Section C.6* of the *Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1) will be amended to apply to all miscellaneous forest products, as defined in this Stipulation.
- D. The parties agree that the Tribes may exercise their treaty harvesting rights consistent with the following comprehensive tribal documents (copies of which are attached in Appendix C) in order to provide the Tribes with an administrative mechanism that, upon the parties' joint agreement, will eliminate the parties' need to engage in the Stipulation Review Process for each minor change:
1. *Tribal Gathering on State Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Tribal Species of Special Concern, Version 1: [October 2010];*
  2. *Tribal Gathering on State Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Tribal Designated Use, Tribal Research and Management Areas, and Tribal Closed Areas, Version 1: [November 2010];* and
  3. *Tribal Gathering on State Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Public Lands Open to Tribal Gathering, Version 1: [November 2010].*
- E. The parties agree that Tribes will amend § 3.27 of the Model Code in the manner reflected in the attached Appendix A as follows:
1. The *Tribal Gathering on State Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Tribal Species of Special*

*Concern, Version 1: [October 2010]; Tribal Gathering on State Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Tribal Designated Use, Tribal Research and Management Areas, and Tribal Closed Areas, Version 1: [November 2010]; and the Tribal Gathering on State Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Public Lands Open to Tribal Gathering, Version 1: [November 2010]* documents will be added to § 3.27 [Tribal Administrative Documents Established] of the Model Code.

- F. The parties agree that the language of *Section C.3.b* of the *Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1) will be amended to apply to all miscellaneous forest products, as defined in this Stipulation, and to recognize that the parties acknowledge: the importance of inventorying and monitoring the status of species and their habitats within State lands; evaluating the impacts of harvest on the resources subject to the Tribes' ceded territory treaty reserved rights; and evaluating the effects of other land management activities on those resources. With the input and recommendations of the wild plant management and policy committee, the parties agree to:
1. Review their respective existing research projects and administrative studies as needed for the purpose of encouraging research coordination.
  2. Establish and implement a program of research, monitoring and evaluation regarding the resources subject to the Tribes' ceded territory rights that specifically would:
    - a. Inventory species status and habitat requirements.

- b. Monitor the population dynamics and habitats of species as management objectives are implemented.
  - c. Determine the effects of land management activities, such as timber harvest, on species populations.
  - d. Determine the effects of wild plant harvest on the status of the species being harvested.
  - e. Evaluate other matters of their choosing that relate to the resources subject to the Tribes' ceded territory treaty reserved rights.
3. Develop monitoring questions for the evaluation of the tribal management and regulatory provisions, as detailed in this stipulation, to ensure that they are consistent with the management objectives of the various types of DNR properties detailed in this stipulation, and to ensure that the Tribes' harvest related activities do not pose a serious threat to the resource.
  4. Develop and review Tribal harvest guidelines (best management practices).
  5. Develop a joint report, at the end of the two year joint study and assessment period, evaluating the two year assessment and making necessary recommendations pertaining to the tribal management and regulatory provisions.
  6. Name co-chairs for the wild plant management and policy committee, one being from the WDNR and one being from GLIFWC.
- G. The parties agree that the language of *Section C.3.e* of the *Stipulation for Black*

*Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1) will be amended as follows:

1. The necessary permission to harvest wild plants and other miscellaneous forest products within any State park, State natural area or State wildlife area is hereby automatically provided upon agreement of the parties that the particular property is declared open and available for harvest.

H. The parties agree that the language of *Section C.5.p* of the *Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1) will be amended as follows:

1. The requirement that harvesting permits be obtained for the harvesting of more than four dozen prairie plants, two ounces of prairie plant seeds, or more than two hundred pounds of marsh hay during a 24 hour period is unnecessary and §12.03 of the Model Code shall be modified to remove this provision.

I. The parties agree that the language of *Section C.5.q* of the *Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1) will be amended as follows:

1. The requirement that the definition of “prairie plants,” “prairie plant seeds,” and “marsh hay” shall be included in §12.02 of the Model Code is unnecessary and §12.02 of the Model Code shall be modified to remove this provision.

- J. The parties agree that the language of *Section C.5.r* of the *Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1) will be amended as follows:
1. The requirement that the records of the commercial sale of ginseng specify the county in which the ginseng was harvested is unnecessary unless otherwise required under the provisions of GLIFWC's and the plaintiff Tribes' approved CITES export program and for these reasons §12.11 (originally §12.05) of the Model Code shall be modified to remove this provision.
- K. The parties agree that the Tribes will amend Chapter 11 of the Model Code in the manner reflected in the attached Appendix A by striking all provisions, thereby eliminating any provisions inconsistent with Chapter 12.
- L. The parties agree that this Stipulation shall not be interpreted to affect any rights or obligations for any county in the State of Wisconsin that is a party to *Lac Courte Oreilles Indians v. State of Wis.*, Case No. 74-C-313 (United States District Court, Western District of Wisconsin).

**Stipulation in regard to the Tribal Harvest of the White Tailed Deer (Docket Number 1167); Stipulation in regard to the Tribal Harvest of Fisher, Furbearers and Small Game (Docket Number 1289); Stipulation and Consent Decree in regard to Tribal Harvest of Black Bear, Migratory Birds and Wild Plants (Docket Number 1607, subpart1); Stipulation and Consent Decree in regard to Tribal Harvest of Miscellaneous Species and Other Regulatory Matters (Docket Number 1607, subpart 2).**

### XIII. TRIBAL MENTORED HUNTING REGULATIONS

- A. The parties agree that the language of *Section E* of the *Stipulation for the Deer Trial* (Docket Number 1167); *Section C* of the *Stipulation for Black Bear*,

*Migratory Birds, and Wild Plants* (Docket Number 1607, subpart1); *Section C* of the *Stipulation for Fisher, Fur Bearers, and Small Game* (Docket Number 1289); and *Section C* of the *Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2) will be amended to memorialize the following regulatory change:

1. Tribal Mentored Hunting Regulations. The following parameters for tribal mentored hunting shall apply unless changed pursuant to section III of this stipulation by a commission order or unless mandatory reversion is required:
  - a. Additional Exception to the Hunter Education Requirements and Restrictions on Hunting by Members. A member may hunt while possessing a firearm, bow and arrow or crossbow without having been issued a certificate of accomplishment from a tribal hunter education and firearm safety course when the member is hunting with a mentor who complies with the requirements as specified in this Order.
  - b. Requirements for Acting as a Mentored Hunter. No member may hunt with a mentor unless all of the following requirements are met:
    - (1) The mentored hunter must be at least 10 years of age;
    - (2) No member shall hunt without possessing a valid tribal off-reservation natural resources harvesting permit or such other permit as the Model Code may require validated for

the particular type of activity to be engaged in for the particular season in question;

- (3) No member shall hunt without possessing a valid carcass tag, except as otherwise provided in the Model Code;
- (4) The mentored hunter may only hunt while within arms reach of a mentor;
- (5) The mentored hunter must follow all other restrictions as provided in the Model Code;
- (6) A 10 and 11 year old tribal member may only hunt under these mentorship requirements, even if they have completed hunter education.

c. Requirements for Acting as a Mentor. No adult may serve as a qualified mentor for a hunter unless all of the following requirements are met:

- (1) The adult must be a parent or guardian of the mentored hunter for whom he or she is serving as a mentor or is an adult member authorized by the parent or guardian to serve as a mentor;
- (2) At all times while serving as mentor, the mentor must be in arm's reach of the person for whom he or she is serving as a mentor;
- (3) If born on or after January 1, 1977 the mentor must have been issued a certificate of accomplishment under a tribal

hunter education and firearm safety course, unless one of the exceptions as specified in the Model Code applies;

(4) The mentor must possess a valid tribal off-reservation natural resources harvesting permit or such other license as required by law.

d. Requirement for Both the Mentored Hunter and the Mentor. Only one firearm, bow, or crossbow can be possessed jointly between the mentored hunter and the mentor.

B. The parties agree that the Tribes will amend §3.17 of the Model Code in the manner reflected in the attached Appendix A to implement the above mentioned restrictions.

**Stipulation in regard to the Tribal Harvest of the White Tailed Deer (Docket Number 1167).**

XIV. DEER UNIT GOAL REVIEW

A. The parties agree that the language of *Section E.2.b* of the *Stipulation for the Deer Trial* (Docket Number 1167) shall be amended as follows:

1. A comprehensive review of over winter deer population goals and deer management unit boundaries will be conducted at least once every five years.

**Stipulation in regard to the Tribal Harvest of the White Tailed Deer (Docket Number 1167); Stipulation and Consent Decree in Regard to the Tribal Harvest of Wild Rice on Issues Related to the Biology of Wild Rice, Tribal Enforcement and Preemption of State Law, and Management of Wild Rice (Docket Number 1222); Stipulation in regard to the Tribal Harvest of Fisher, Furbearers and Small Game (Docket Number 1289); Stipulation and Consent Decree in regard to the Tribal Harvest of Fish Species Other than Walleye**



**and Muskellunge (Docket Number 1568); Stipulation and Consent Decree in regard to Tribal Harvest of Black Bear, Migratory Birds and Wild Plants (Docket Number 1607, subpart1); Stipulation and Consent Decree in regard to Tribal Harvest of Miscellaneous Species and Other Regulatory Matters (Docket Number 1607, subpart 2).**

XV. COMMITTEE UPDATES

A. The parties agree to amend *Section E* of the *Stipulation for the Deer Trial* (Docket Number 1167); *Section C* of the *Stipulation for the Wild Rice Trial* (Docket Number 1222); *Section C* of the *Stipulation for Fisher, Fur Bearers, and Small Game* (Docket Number 1289); *Section B* of the *Stipulation for Fish Species Other than Walleye and Muskellunge* (Docket Number 1568); *Section C* of the *Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart1); and *Section C* of the *Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2) to establish the following:

1. The parties agree that the following DNR committees are established with a recognized tribal representative as an official member:
  - a. Bureau of Wildlife Management
    - (1) Bear
    - (2) Deer
    - (3) Elk
    - (4) Furbearer
    - (5) Invasives
    - (6) Marten Advisory
    - (7) Migratory Game Bird
    - (7) Pheasant

- (8) Prairie Grouse
- (9) Ruffed Grouse / Woodcock
- (10) Turkey
- (11) Upland Small Game (Sub-committee of Pheasant Committee)
- (12) Wild Plant Management and Policy Committee
- (13) Wildlife Health
- (14) Wolf
- b. Bureau of Fisheries Management
  - (1) Bass
  - (2) Lake Sturgeon
  - (3) Muskellunge
  - (4) Northern Pike
  - (5) Panfish
  - (6) Sturgeon
  - (7) Trout
  - (8) Walleye
- c. Bureau of Endangered Resources
  - (1) Marten

2. The parties agree that a tribal representative shall be recognized as an official member of any current or future DNR committees that are formed to address management issues of any treaty reserved resource.

3. The parties agree that a consensus approach shall be used and agree to make all reasonable efforts to reach a consensus in all committees or processes outlined in this Stipulation.
4. The parties agree that this section shall not affect the established and/or stipulated management responsibilities of any of the following: any committee listed in Sec. A, the Inland Fisheries Technical Working Group (TWG) or the Biological Issues Group.

**Stipulation in regard to the Tribal Harvest of the White Tailed Deer (Docket Number 1167); Stipulation and Consent Decree in regard to Tribal Harvest of Miscellaneous Species and Other Regulatory Matters (Docket Number 1607, subpart 2).**

XVI. TRIBAL STATE PARK HUNTING DOCUMENT ESTABLISHED

- A. The parties agree that the language of the *Stipulation for the Deer Trial* (Docket Number 1167) and the *Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2) as these stipulations were previously amended by the *Stipulation for Technical, Management, and Other Updates: First Amendment of the Stipulations Incorporated in the Final Judgment* and filed with the Court electronically on March 5, 2009, will be amended to include the following provisions:
  1. The parties agree that the tribes may exercise their treaty reserved harvesting rights consistent with the following comprehensive tribal document (a copy of which is attached in Appendix C) in order to provide the tribes with an administrative mechanism that, upon the parties' joint

agreement, will eliminate the parties' need to engage in the Stipulation Review Process for each minor change:

a. *Tribal State Park Hunting Opportunities in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010].*

2. The parties agree that the *Tribal State Park Hunting Opportunities in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010]* document shall entail the following principles:

- a. The tribal season length pertaining to hunting in each State Park shall be the same as established by the State of Wisconsin;
- b. The tribal weapon restrictions pertaining to hunting in each State Park shall be the same as established by the State of Wisconsin;
- c. The tribal open/closed area available to hunting in each State Park shall be the same as established by the State of Wisconsin;
- d. The tribal annual declaration pertaining to the number of allowable hunters in each State Park shall be no more than fifty percent (50%) of the total allowable hunters in each state park;
- e. Tribal hunting in each State Park shall not be limited by the number of a species that may be harvested or by the sex of the species that may be harvested;
- f. The use of State Park stickers shall not be required for tribal hunting in each State Park;

- g. The tribal annual declaration process pertaining to the number of allowable hunters in each State Park shall be incorporated into the *Voigt Intertribal Task Force Protocol on Noodawaawaashkeshiwe (Antlerless Deer Harvesting) Levels and State Park Hunter Density Levels* and the *Voigt Intertribal Task Force Protocol on Noodamizisewe (Wild Turkey Harvesting) Levels and State Park Hunter Density Levels*
- B. The parties agree that Tribes will amend § 3.27 of the Model Code in the manner reflected in the attached Appendix A as follows:
  - 1. The *Tribal State Park Hunting Opportunities in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010]* document will be added to § 3.27 [Tribal Administrative Documents Established] of the Model Code.
- C. The parties agree that Tribes will amend § 6.14 of the Model Code in the manner reflected in the attached Appendix A as it pertains to the prohibition exception for tribal deer hunting in each state park available for hunting.
- D. The parties agree that Tribes will amend § 8.11 of the Model Code in the manner reflected in the attached Appendix A as it pertains to the prohibition exception for tribal wild turkey hunting in each state park available for hunting.

**Stipulation in regard to the Tribal Harvest of Fisher, Furbearers and Small Game  
(Docket Number 1289).**

XVII. CITES EXPORT PROGRAM

- A. The parties agree that the language of *Section C.6 of the Stipulation for Fisher, Furbearers and Small Game* (Docket Number 1289) regarding the requirements of CITES (Convention on International Trade in Endangered Species) tags will be amended as follows:
1. The plaintiffs shall require their members to notify their respective tribal registration stations of any otter or bobcat taken by the end of the third tribal working day from the day it was reduced to possession and shall require their members to present such otter or bobcat for registration at the time designated by the registering official. CITES (Convention on International Trade in Endangered Species) tags will be issued by the tribe or GLIFWC at tribal registration stations unless otherwise required under the provisions of GLIFWC's and the plaintiff Tribes' approved CITES export program.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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## Appendix A

### Amended Provisions of the Model Off-Reservation Conservation Code

**Amendments to the Model Off-Reservation Conservation Code amendments (old text indicated by ~~strikeout~~; new text indicated by **redline**):**

#### **2.01 General Definitions.**

[Subsections (1) - (9) unchanged]

(10) **“Miscellaneous Forest Products”** means any undomesticated species, or part thereof, of the plant and fungi kingdoms occurring in both forested and non-forested natural ecosystems including: non-timber forest products as defined in Section 12.02(12) of this ordinance; wild plants as defined in Section 12.02(18) of this ordinance; gathering products as defined in Section 12.02(7) of this ordinance; endangered or threatened plant species as defined in Section 2.01(4), and includes species of special concern, as defined in the §12.02(16) of this ordinance, but for the purposes of this ordinance excludes wild rice and timber.

(11) ~~(10)~~ **“Off-Reservation”** means all lands and waters lying outside the exterior boundaries of a Wisconsin Chippewa Tribe's Reservation but lying within the ceded territory as defined in Section 2.01(2) of this ordinance.

(12) ~~(11)~~ **“Possession”** means having killed, harvested, or otherwise obtained or acquired any wild animal or wild plant subject to the provisions of this ordinance.

(13) ~~(12)~~ **“Protected”** when used in reference to any wild animal or wild plant means that the hunting, fishing, trapping or gathering of such animal or plant is expressly prohibited except as authorized or regulated by this ordinance.

(14) ~~(13)~~ **“Signatory Tribe”** means an Indian tribe which is a signatory to either the Treaty of 1837 or the Treaty of 1842, or such tribe's successor in interest.

(15) ~~(14)~~ **“Trapping”** includes the taking of, or attempting to take, any wild animal by means of setting or operating any device, mechanism or contraption that is designed, built or made to close upon, hold fast, or otherwise capture a wild animal or animals. When the word "trap" is used as a verb, it shall have the same meaning as the word "trapping" as defined herein.

(16) ~~(15)~~ **“Tribe”** means the \_\_\_\_\_.

(17) ~~(16)~~ **“Tribal Conservation Department”** means the conservation department of the Tribe, or, as circumstances indicate, of another signatory Tribe.

(18) ~~(17)~~ **“Unprotected”** when used in reference to any wild animal or wild plant, means that the hunting, fishing, trapping or gathering of such animal or plant is not expressly

prohibited by this ordinance.

(19) ~~(18)~~ **"Wild animal"** means any mammal, bird, fish, or other creature of a wild nature endowed with sensation and the power of voluntary motion.

(20) ~~(19)~~ **"Wildlife"** means all varieties of wild animals or birds.

~~(20) **"Wild Plant"** means any undomesticated species, and fruit or part thereof, of the plant kingdom occurring in the natural ecosystem, and includes wild rice, maple sap, ginseng, birch bark and timber.~~

[Subsection (21) unchanged]

### **3.17 Hunter Education Requirements and Restrictions on Hunting by Members Under 16 years of Age.**

(1) (a) Certificate of Accomplishment Required. Except as provided in subs. (b), no member born on or after January 1, 1977 may hunt while possessing a firearm, bow and arrow or crossbow unless the member has been issued a certificate of accomplishment under a tribal hunter education and firearm safety course.

(b) Exceptions. A member may hunt while possessing a firearm, bow and arrow or crossbow without having been issued a certificate of accomplishment from a tribal hunter education and firearm safety course when:

(i) the member has a certificate, license or other evidence indicating that he or she has completed a hunter safety course offered by another tribe, state or province and the course is substantially similar to the Tribe's hunter safety course; or

(ii) the member has successfully completed basic training in the U.S. Armed Forces, Reserves or National Guard; or

(iii) the member is hunting with a mentor who meets the requirements as specified in subs. (3) and complies with the requirements as specified in subs. (2).

(2) Additional Restrictions on Hunting by Members Under 14 Years of Age.

(a) Persons Under ~~12~~ 10 Years of Age. No member under ~~12~~ 10 years of age may hunt while possessing a firearm, bow and arrow or crossbow.

(b) Persons 10 to 12 Years of Age. No member 10 years of age or older but under 12 years of age may hunt while possessing a firearm, bow and arrow or crossbow unless at all times while hunting, the person is a mentored hunter who meets the

requirements as specified in subs. (3);

(c) Persons 12 to 14 Years of Age. No member 12 years of age or older but under 14 years of age may hunt while possessing a firearm, bow and arrow or crossbow unless he or she is accompanied by a parent, guardian or other adult member designated by a parent or guardian.

~~(d)~~(e) Persons 14 to 16 Years of Age. No member 14 years of age or older but under 16 years of age may hunt while possessing a firearm, bow and arrow or crossbow unless he or she:

(i) is accompanied by a parent, guardian or other adult member designated by a parent or guardian; or

(ii) has been issued a certificate of accomplishment under a tribal hunter education and firearm safety course or a similar certificate issued by another tribe, state or province;

~~(e)~~(d) Parental Obligation. No parent, guardian or other member shall authorize or knowingly permit or encourage a child under 16 years of age to violate this section.

### (3) Mentored Hunting Restrictions.

(a) Requirements for Acting as a Mentored Hunter. No member 10 years of age or older may hunt with a mentor unless all of the following requirements are met:

(i) No member shall hunt without possessing a valid tribal off-reservation natural resources harvesting permit or such other permit as this ordinance may require validated for the particular type of activity to be engaged in for the particular season in question;

(ii) No member shall hunt without possessing a valid carcass tag, except as otherwise provided in this ordinance.

(iii) The mentored hunter may only hunt while within arms reach of a mentor;

(iv) The mentored hunter must follow all other restrictions as provided in the ordinance;

(v) A 10 and 11 year old tribal member may only hunt under these mentorship requirements, even if they already completed hunter education.

(b) Requirements for Acting as a Mentor. No adult may serve as a qualified mentor for a hunter unless all of the following requirements are met:



(i) The adult must be parent or guardian of the mentored hunter for whom he or she is serving as a mentor or is an adult member authorized by the parent or guardian to serve as a mentor.

(ii) At all times while serving as mentor, the mentor must be in arm's reach of the person for whom he or she is serving as a mentor.

(iii) If born on or after January 1, 1977 the mentor must have been issued a certificate of accomplishment under a tribal hunter education and firearm safety course, unless one of the exceptions as specified in subs. (1) applies.

(iv) The mentor must possess a valid tribal off-reservation natural resources harvesting permit or such other license as required by law.

(c) Requirement for both the Mentored Hunter and the Mentor. Only one firearm, bow, or crossbow can be possessed jointly between the mentored hunter and the mentor.

### **3.27 Tribal Administrative Documents ~~Wild Animal Refuges Established.~~**

(1) The following Commission documents, as they may be amended from time to time, are hereby adopted and incorporated as if fully set forth herein:

(a) Tribal Fish Refuges, Version 1: [November 15, 1985];

(b) Tribal Wildlife Refuges and Closed Areas, Version 2: [July, 1989];

(c) Tribal Fish Management Experiments; and

(d) Tribal Management Units and Zones in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1.2: [August 2008];

(e) Tribal Gathering on State Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Tribal Species of Special Concern, Version 1: [October 2010];

(f) Tribal Gathering on State Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Tribal Designated Use, Tribal Research and Management Areas, and Tribal Closed Areas, Version 1: [November 2010];

(g) Tribal Gathering on State Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Public Lands Open to Tribal Gathering, Version 1: [November 2010];

(h) Tribal State Park Hunting Opportunities in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010];

(i) Designated Tribal River and Stream Segments in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [October 2010]; and

(j) Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010].

(2) No member shall fail to comply with the closures and other restrictions established by the documents adopted by subs. (1).

### **3.33 Technical Updates.**

(1) The Tribal Conservation Department is authorized to amend from time to time, this \_\_\_\_\_ Off-Reservation Conservation Code under the following circumstances:

(a) Basis Standard: The Voigt Final Order Stipulations and Model Code as entered into between the tribal and state parties to Lac Courte Oreilles Band, et al. v. State of Wisconsin, et al., Case No. 74-C-313 (United States District Court, Western District of Wisconsin) provide for the basis regulation standard;

(b) Technical Amendments: The Great Lakes Indian Fish and Wildlife Commission Executive Administrator may, without consultation with the State, issue a Commission Order to provide tribal members more treaty harvest opportunities in line with state harvesters subject to the Voigt Stipulations and Case parameters **pertaining to the following: age restrictions, disability exemptions, method restrictions, equipment restrictions, hunting hours, season length, new places to hunt, or caliber restrictions;**

**(c) Other Liberalization Amendments: The Great Lakes Indian Fish and Wildlife Commission Executive Administrator may, after consultation with the State and upon agreement of the parties (where consent may not be unreasonably withheld), issue a Commission Order to provide tribal members more treaty harvest opportunities in line with state harvesters subject to the Voigt Stipulations and Case parameters pertaining to other fish and game related regulatory amendments of the Model Code;**

**(d) ~~(c)~~-Mechanism for Amendment: A Commission Order can be administered detailing the technical amendment to be updated in the tribal off-reservation conservation code;**

**(e) ~~(d)~~-Consultation: The Tribes agree that they will inform the State of the issuance of a Commission Order.**

~~(f)~~ ~~(e)~~ **Voluntary Amendment Implementation:** Each Tribe may voluntarily implement the Commission Order as they find appropriate, subject to their own ratification principles. **Unless a Tribe has adopted more restrictive measures, the regulations established above in a Commission Order shall be that Tribe's regulations as provided in that Tribe's Code.**

~~(g)~~ ~~(f)~~ **Mandatory Reversion:** Each Tribe must mandatorily revert **through the issuance of a subsequent Commission Order issued** simultaneously with the State as if and when State regulations revert toward the basis regulation standard. If the Tribes dispute the basis for the State's reversion, they may object, in which case the formal stipulation review process should be followed.

[Subsections (2) unchanged]

### **6.03 Number of Antlerless Deer Available for Harvest.**

~~(1)~~ **Unless a tribal antlerless deer quota system is triggered by the provisions of subs. (2) of this Section, there shall be no limit on the number of antlerless deer available for harvest under this ordinance.**

~~(2)~~ **The Commission's Biological Services Director, or his or her designate, is hereby delegated the authority to implement the provisions of *Section XI.A of the Stipulation for Technical, Management and other Updates: Second Amendment of Stipulations Incorporated Into Final Judgment* [hereafter referred to in this Section as "Stipulation"] entered into between the tribal and state parties in *Lac Courte Oreilles Band, et al. v. State of Wisconsin, et al.*, Case No. 74-C-313 (United States District Court, Western District of Wisconsin) regarding the implementation of a quota management system for antlerless deer.**

~~(3)~~ **When a tribal antlerless deer quota is required in a particular tribal deer management unit, the number of antlerless deer which shall be available for harvest in each deer management unit pursuant to this ordinance for each twelve month period commencing July 1 and ending June 30 shall be limited to the number established pursuant to the Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory. For the purposes of this ordinance, this number shall be termed the tribal quota.**

~~(2)~~ ~~(4)~~ **When a tribal antlerless deer quota is required, no** ~~No~~ member shall hunt antlerless deer in any deer management unit ~~in which no tribal quota has been made available pursuant to subs. (1) or~~ which has been closed to further antlerless deer hunting pursuant to Section 6.21.

~~(3)~~ ~~(5)~~ **Deer Management Units as set forth in the Commission's document entitled Tribal Management Units and Zones in the Wisconsin portion of the 1837 and 1842 Ceded Territories that is incorporated into this ordinance pursuant to Section 3.27 are hereby established.**

## 6.14 Hunting on Certain Public Lands Prohibited.

[Subsections (1) - (3) unchanged]

(4) (a) All state parks except *as described in the following comprehensive tribal document: Tribal State Park Hunting Opportunities in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010].* the following in accordance with the provisions of subs. (4)(b):

~~(i) Big Bay State Park;~~

~~(ii) Interstate State Park;~~

~~(iii) Tuscobia-Park Falls State Trail;~~

~~(iv) Brunet Island State Park;~~

~~(v) Council Grounds State Park; and~~

~~(vi) Governor Thompson State Park.~~

~~(b) (i) For Interstate State Park and Tuscobia-Park Falls State Trail, an open deer hunting season for firearms, bows and crossbows is hereby established from the Saturday preceding the Thanksgiving Day holiday through the close of the deer “regular season.”~~

~~(ii) For Big Bay State Park, the following open deer hunting seasons and closed areas are hereby established:~~

~~1) Bow and Crossbow Season: From October 15 through the close of the deer “regular season.”~~

~~2) Firearms Season: From the fourth Saturday preceding the Thanksgiving Day holiday through the close of the deer “regular season.”~~

~~3) Closed Area: No member shall hunt in the area posted as “closed to hunting” that is commonly known as the “point area” of Big Bay State Park which lies east of a line that corresponds with Haines Road, and that begins at the intersection of Haines Road and Hagen Road and extends in a northerly direction to the Lake Superior Shore.~~

~~(iii) For Brunet Island State Park, an open deer hunting season is hereby established as follows:~~

~~1) Muzzleloader Season (No Open Season for other Firearms) = Commencing on the Saturday preceding the Thanksgiving Day holiday and remaining open for 16 consecutive days thereafter.~~

~~2) Bow and Crossbow Season = Commencing on the Saturday preceding the Thanksgiving day holiday and remaining open through the close of the deer "regular season."~~

~~3) Brunet Island State Park Deer Hunting Permit Required in accordance with the provisions of subs. (4)(b)(v).~~

~~(iv) For Council Grounds State Park, an open deer hunting season is hereby established as follows:~~

~~1) Shotgun Season = Commencing on the Saturday preceding the Thanksgiving Day holiday and remaining open for 9 consecutive days thereafter;~~

~~2) Muzzleloader Season [No Open Season for other Firearms besides shotgun as outlined in 4(b)(iv)(1)] = Commencing on the Saturday preceding the Thanksgiving day holiday and remaining open for 16 consecutive days thereafter; and~~

~~3) Bow and Crossbow Season = Commencing on the Saturday preceding the Thanksgiving day holiday and remaining open through the close of the deer "regular season."~~

~~4) Council Grounds State Park Deer Hunting Permit Required in accordance with the provisions of subs. (4)(b)(v).~~

~~(v) For Brunet Island State Park and Council Grounds State Park, the following requirements are hereby established:~~

~~1) Permit Required = In addition to all other permits required, no member shall hunt deer in either Brunet Island State Park or Council Grounds State Park without possessing a permit valid for the particular Park in question. The permit may be issued no more than 14 days preceding the opening of the deer hunting season in these State Parks, and shall be valid from the Saturday prior to the Thanksgiving day holiday or from the date of issue, whichever is later, through the close of the deer "regular season." A member who harvests an antlerless deer in either of these State Parks must slit or punch the antlerless deer permit in the appropriate management unit to indicate the particular Park where the deer was taken.~~

2) Number of Permits Available – The number of permits which may be issued for Brunet Island State Park and Council Grounds State Park for each twelve month period commencing July 1 and ending June 30 shall be limited to the number established pursuant to the Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory and the Voigt Intertribal Task Force Protocol Waawaashkeshikewin (Antlerless Deer Harvest) Levels and State Park Hunter Density Levels, which was originally adopted on May 26, 1989, pursuant to that Agreement.

3) Permit Conditions – Unless otherwise specifically provided in these specific rules for these two State Parks, or unless otherwise specifically provided by the tribal conservation department, deer hunting in these State Parks shall be subject to the same deer hunting permit, carcass tag, and registration requirements otherwise imposed by this ordinance:

(vi) For Governor Thompson State Park, an open deer hunting season is hereby established as follows:

1) Gun Season – Commencing on the Saturday preceding the Thanksgiving day holiday and remaining open until the Sunday thereafter.

[Subsection (5) unchanged]

#### **7.05 Number of Bear Available for Harvest.**

(1) Unless a tribal bear quota system is triggered by the provisions of subs. (2) of this Section, there shall be no limit on the number of bear available for harvest under this ordinance.

(2) The Commission's Biological Services Director, or his or her designate, is hereby delegated the authority to implement the provisions of *Section XI.B of the Stipulation for Technical, Management and other Updates: Second Amendment of Stipulations Incorporated Into Final Judgment* [hereafter referred to in this Section as "Stipulation"] entered into between the tribal and state parties in *Lac Courte Oreilles Band, et al. v. State of Wisconsin, et al.*, Case No. 74-C-313 (United States District Court, Western District of Wisconsin) regarding the implementation of a quota management system for bear.

(3) When a tribal bear quota is required in a particular tribal bear management zone, the number of bear (tribal quota) which shall be available for harvest in each bear management zone pursuant to this ordinance for each twelve month period commencing July 1 and ending June 30 shall be limited to the number established pursuant to the Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights

in the Ceded Territory.

~~(2)~~ (4) When a tribal bear quota is required, no member shall hunt bear in any bear management zone in which no bear have been made available for tribal harvest pursuant to subs. (1) or which has been closed to further bear hunting pursuant to Section 7.27.

#### **8.06 Small Game Quotas.**

(1) Unless a tribal otter, bobcat and fisher quota system is triggered by the provisions of subs. (2) of this Section, there shall be no limit on the number of otter, bobcat and fisher available for harvest under this ordinance.

(2) The Commission's Biological Services Director, or his or her designate, is hereby delegated the authority to implement the provisions of *Section XI.C of the Stipulation for Technical, Management and other Updates: Second Amendment of Stipulations Incorporated Into Final Judgment* [hereafter referred to in this Section as "Stipulation"] entered into between the tribal and state parties in *Lac Courte Oreilles Band, et al. v. State of Wisconsin, et al.*, Case No. 74-C-313 (United States District Court, Western District of Wisconsin) regarding the implementation of a quota management system for otter, bobcat and fisher .

(3) When a tribal otter and/or bobcat quota is required, or a tribal fisher quota is required in a particular tribal fisher management zone, the number of otter, bobcat and fisher (tribal quota) which shall be available for harvest pursuant to this ordinance for each twelve month period commencing July 1 and ending June 30 shall be limited to the number established pursuant to the Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory.

(4) ~~(2)~~ (a) When a tribal otter and/or bobcat quota is required, no member shall hunt or trap otter and/or bobcat in the ceded territory when it has been closed to further otter and/or bobcat harvest pursuant to Section 8.24.

(b) When a tribal fisher quota is required, no member shall hunt or trap fisher in any fisher zone in which no fisher have been made available for tribal harvest pursuant to subs. (1) or which have been closed to further fisher harvest pursuant to Section 8.24.

#### **8.11 Hunting and Trapping on Certain Public Lands Prohibited.**

[Subsections (1) - (3) unchanged]

(4) All state parks except as described in the following comprehensive tribal document: *Tribal State Park Hunting Opportunities in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010].* for those state parks that are included in the Tribal Management Units and Zones in the Wisconsin portion of the 1837 and 1842 Ceded Territories document, pursuant to section 3.27 [Wild Animal Refuges and Management Units / Zones

Established] and are opened for hunting or trapping.

(a) For Interstate State Park, the following requirements are hereby established:

~~(i) Permit Required~~—In addition to all other permits required, no member shall hunt wild turkey in Interstate State Park without possessing a permit valid for the particular Park in question. The permit may be issued no more than 14 days preceding the opening of the spring wild turkey hunting season in this State Park, and shall be limited to the time period, indicated on the permit.

~~(ii) Number of Permits Available~~—The number of permits which may be issued for Interstate State Park shall be limited to the number established pursuant to the Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory and the Voigt Intertribal Task Force Protocol Mizisekewin (Wild Turkey Harvest) Levels and State Park Hunter Density Levels, which was originally adopted on May 26, 1989, pursuant to that Agreement.

~~(iii) Permit Conditions~~—Unless otherwise specifically provided in these specific rules for this State Park, or unless otherwise specifically provided by the tribal conservation department, wild turkey hunting in this State Park shall be subject to the same wild turkey hunting permit and registration requirements otherwise imposed by this ordinance.

## 9.06 Spearing Regulated.

[Subsections (1) - (7) unchanged]

(8) The tribal conservation department shall not issue a spearing permit under this section for a particular body of water unless a biological monitoring team will be present at that body of water to monitor the spearing harvest, *or the particular body of water is listed in the Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010] document.*

(9) The tribal conservation department may issue an open water spearing permit to a member for a designated stream segment, as identified in Section 9.06(10), provided:

(a) The permit shall authorize spearing only on a stream segment *listed in the Designated Tribal River and Stream Segments in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [October 2010] document* designated by the Commission's Biological Services Division as available for open water spearing;

~~(b) No more than four boats and twelve spearers per day shall be permitted to fish on any designated stream segment;~~



~~(e)~~ No designated stream segment shall be speared for a particular species for more than two days in a fishing year;

~~(c)~~ ~~(d)~~ No spearing shall be authorized in any fish refuge located within the designated stream segment;

~~(d)~~ ~~(e)~~ The permit requires the use of designated landings for ingress to and egress from the designated stream segment;

~~(e)~~ ~~(f)~~ Spearing in a designated steam segment may take place from a boat or while wading;

~~(f)~~ ~~(g)~~ The permit imposes the following bag limits for the species indicated:

(i) Sturgeon - One per day per designated stream segment (All boats)

(ii) Muskellunge - **Four per day per designated stream segment (All boats)**  
~~One per boat per day~~

(iii) Walleye - **Sixty per day per designated stream segment (All boats)**  
~~Five per person per day; and~~

~~(g)~~ ~~(h)~~ The tribal conservation department may impose such other terms and conditions as it deems necessary or appropriate, including biological monitoring requirements in addition to those contained in Section 9.06(8) appropriate to the level of harvest activity on a designated stream segment.

(10) For the purpose of this section, “designated stream segment” means a **section of stream or river that has** a discrete in-stream population of a particular species as opposed to an “**adjacent spawning stream segment,**” **which means a section of a tributary stream or river that has** a discrete fish population of a lake which moves into a tributary stream **or river** to spawn.

**(11) The tribal conservation department may issue an open water spearing permit to a member for an adjacent spawning stream segment, as identified in Section 9.06(10), provided:**

**(a) The permit shall authorize spearing only on an adjacent spawning stream segment listed in the comprehensive tribal document entitled: *Designated Tribal River and Stream Segments in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [October 2010 ]*.**

**(b) The Tribes' designated "lake" declaration (quota) for a fishing year will be deemed to apply to both the "lake" and to the "adjacent spawning stream segment" as defined in Section 9.06(11)(a).**

(c) The regulations that apply to spearing in the "lake" shall also apply to spearing in the "adjacent spawning stream segment;" as defined in Section 9.06(11)(a).

(d) The tribal conservation department may impose such other terms and conditions as it deems necessary or appropriate, including biological monitoring requirements in addition to those contained in Section 9.06(8) appropriate to the level of harvest activity on an adjacent spawning stream segment as defined in Section 9.06(11)(a).

## **9.08 Gillnets Regulated.**

[Subsections (1) unchanged]

(2) The tribal conservation department may issue a gillnetting permit for any lake **open to gillnetting**, except for the southern basin of Trout Lake (Vilas County) so long as the lake trout harvest by state anglers is prohibited on that water body, provided:

(a) An open season exists for the species to be fished;

(b) The permit shall be valid for no more than 1 day for any species;

(c) The permit establishes the respective daily bag limits for walleye and muskellunge which may be less than but shall not exceed the respective tribal quota for walleye and muskellunge remaining in that lake;

(d) Except as provided in subs. (14), any number of permits may be issued at any one time for any lake but the total length in feet of all gillnets authorized for all permits on any one lake shall not exceed the number of walleye remaining available for harvest in that lake multiplied by 10;

(e) Gillnetting for all species is limited to one body of water for the duration of the permit;

(f) No gillnetting permit issued pursuant to this section, no spearing permit issued pursuant to Section 9.06 or netting permit issued pursuant to Section 9.07 shall be simultaneously valid for any body of water;

(g) The permit requires the member's signature;

(h) Except as provided in subs. (14), the permit establishes the maximum length in feet and the mesh size of the gillnet which is authorized as determined from the spring walleye population average length and the following chart:

<u>Spring Length (Stretched)</u>	<u>Maximum Allowable Mesh Size</u>
13.5"	2.5"
13.5 - 16.49"	3.0"
No Length Data (NR Model)	3.0"
No Length Data (ST and NR2/ REM Model)	3.5"
16.5 - 18.49"	3.5"
18.5 - 20.49"	4.0"
20.5" and under	4.5"

~~(i) No gillnetting shall be authorized for any body of water unless the spring average length of walleye has been determined that year for that body of water.~~

(i) For lakes with no current length data (which otherwise would not be open to gillnetting), the allowable gillnet mesh size will be 3.0 inch for lakes with walleye recruitment codes used in the NR model, and 3.5 inch for lakes with recruitment codes used in the ST and NR2/REM models.

(ii) For all lakes with an allowable gillnet mesh size of 3.0 inches, 4.0 inches, and 4.5 inches (including lakes with no current data as described in section A above), 3.5 inch mesh nets may also be used. However, for lakes with an allowable mesh size of 3.0 inches the following will apply whenever 3.5 inch mesh nets are used:

1) If an adult population estimate is conducted during spring of the year that gillnetting takes place, no reduction to the remaining walleye quota will occur. The Inland Fisheries Technical Working Group (TWG) will continue to evaluate the effects of using 3.5 inch mesh on the number of walleye 20 inches and larger in these lakes.

2) If an adult walleye population estimate is not conducted during spring of the year that gillnetting takes place, the remaining walleye quota will be reduced by twenty four percent (24%). This reduction would on average, keep harvest the harvest of walleye 20 inches and larger the same as what it would have been using 3.0 inch mesh gillnets

(iii) No other mesh size may be used on lakes with an allowable mesh size of 2.5 inches.

(iv) In determining the spring average length of walleye, data gathered by the use of any appropriate gear, such as fyke nets, electro-shocking or spearing, may be utilized provided that an accurate assessment of walleye size can be accomplished.

(j) The tribal conservation department or the Commission may impose such other terms and conditions as it deems appropriate or necessary, including such biological monitoring requirements appropriate to the level of harvest activity on any body of water.

[Subsections (3) - (14) unchanged]

## **9.18 Fishing in Certain Locations Prohibited or Restricted.**

[Subsections (1) unchanged]

(2) No member shall fail to comply with the closures and other restrictions with respect to fish refuges and fish management experimental bodies of water established pursuant to Section 3.27 [~~Tribal Administrative Documents~~ Wild Animal Refuges Established].

## **CHAPTER 11 – [Open] ~~TIMBER HARVESTING REGULATIONS~~**

### **11.01 ~~Definitions.~~**

~~For the purposes of this Chapter, the following terms shall be construed and apply as follows:~~

- ~~(1) "Annual cutting schedule" means a landowner's timber cutting and removal schedule for public lands for each year.~~
- ~~(2) "Appraised value" means the monetary value of timber designated for cutting and removal.~~
- ~~(3) "Bucking" means cutting felled trees into shorter lengths.~~
- ~~(4) "Designated timber" means timber described in a timber gathering management plan and marked or otherwise designated for cutting and removal.~~
- ~~(5) "Establish" or "Established" means the setting up of a tract of timber for cutting by designation of the timber to be cut and determination of cutting specifications and conditions.~~
- ~~(6) "Felling" means the cutting of a standing tree.~~
- ~~(7) "Firewood" means any tree or part thereof, either standing or downed, which is either:
  - ~~(a) marked by the landowner as firewood; or~~
  - ~~(b) is in a location designated by the landowner as a woodlot.~~~~

(8) "**Gathering**" means felling, bucking, or otherwise harvesting timber, but does not include skidding, piling, or hauling timber.

(9) "**Landowner**" means any owner or other entity responsible for the management of any public land.

(10) "**Lopping**" means cutting slash to reduce its height above the ground.

(11) "**Mediation Committee**" means a committee comprised of an equal number of tribal and landowner representatives established to resolve factual disputes over whether the permittee has complied with the timber harvesting permit or timber gathering management plan and the damages, if any, for which the permittee should be responsible when damages are alleged by the landowner.

(12) "**Permittee**" means the member, group of members or the Tribe which has been issued a timber harvesting permit pursuant to the provisions of this chapter.

(13) "**Permitting authority**" means the person(s), entity or body authorized by the Tribe to issue timber harvesting permits pursuant to the provisions of this chapter.

(14) "**Public lands**" means those lands located within the ceded territory owned by the State of Wisconsin, or any of their political subdivisions or Departments.

(15) "**Public offering**" means the advertisement or offer by the landowner of a tract of its timber to the public for sale.

(16) "**Skidding**" means dragging or otherwise moving timber to the site of loading for hauling.

(17) "**Slash**" means any tree tops, limbs, bark, abandoned forest products, windfalls or other debris left on the land after timber has been cut.

(18) "**Sustained yield**" means perpetual recurring harvestable crops of commercially valuable timber resulting from the specifically prescribed management practices generally accepted in the professional forestry community.

(19) "**Timber**" means any tree or any product derived from a tree, including bark, branches, boughs, chips, roots, and sap, but not including the fruit, seeds or berries of the tree.

(20) "**Timber harvesting permit**" means the document issued by the permitting authority which authorizes the gathering of timber on public land in compliance with the landowner's timber gathering management plan and which specifies the name, address, and tribal affiliation of the permittee and the location of the gathering.

(21) "**Timber type**" means a classification of a forest stand based on the tree species comprising the majority of the trees present.

(22) "**Timber management plan**" means the landowner's timber harvest plan for silviculturally sound timber harvest which addresses the estimated volume of timber available, the proper time of harvest, proper harvest methods, designation of trees suitable for harvest and other conditions on harvest necessary to conserve the timber resource.

(23) "**Tract**" means a specific description or area established for timber cutting and removal.

(24) "**Treaty offering**" means the advertisement or offering prior to a public offering by a landowner of a tract of its timber for harvest by the Tribe or its members.

(25) "**Utilization**" means the specified degree to which each tree must be cut and removed.

(26) "**Year**" means the calendar year.

(27) "**Zone**" means a specific area or portion of a tract.

#### **11.02 Timber Harvesting Permit -- Generally.**

(1) — (a) No member shall gather any timber on public land without possessing a valid timber harvesting permit issued by the permitting authority.

(b) Where a timber harvesting permit is issued to a group of members or to the Tribe, each member or tribal representative must possess a duplicate of the permit when engaged in the harvest of timber pursuant to the permit.

(2) In addition to other requirements imposed by the provisions of the chapter, a timber harvesting permit shall indicate the name, address and tribal affiliation of the permittee, the type and location of the material to be gathered, the volume, if applicable, of the material to be gathered, and such conditions on the harvest of the material which the Tribe, permitting authority or landowner deems necessary for the conservation of the material involved or for public safety.

(3) No permittee shall gather timber contrary to the terms and conditions of a timber harvesting permit, including any applicable timber gathering management plan.

(4) A timber harvesting permit issued pursuant to this section may incorporate by reference the landowner's timber gathering management plan into the permit without restating the requirements and conditions of that plan in the permit.

(5) The permitting authority shall issue no timber harvesting permit for a particular

~~activity or in a particular area where the landowner has notified the Commission's Biological Services Director, or his or her designate, that:~~

~~(a) a particular activity is contrary to the area's general plant and timber management plan or system; or~~

~~(b) a particular area is closed to gathering under the area's general plant and timber management plan or system.~~

~~(6) The permitting authority shall notify the affected landowner of any timber harvesting permit issued and the identity of the permittee.~~

### **11.03 Application for Timber Harvesting Permits:**

~~(1) (a) Except as provided in subs. (2), any member, group of members, or, when the Tribe desires to be the permittee, any authorized representative of the Tribe may apply to the appropriate permitting authority as designated in subs. (1)(b) for a timber harvesting permit:~~

~~(b) The Tribe hereby designates \_\_\_\_\_ as the permitting authority for issuing timber harvesting permits for timber harvesting activities except that permits issued in response to a treaty offering and permits authorizing the harvest of firewood shall be issued by the authority designated in subs. (2)(b):~~

~~(2) (a) Permit for harvesting timber in response to a treaty offering shall be issued in accordance with the provisions of Sections 11.04, 11.05 and 11.06 by the permitting authority designated in subs. (2)(b):~~

~~(b) The Tribe hereby designates \_\_\_\_\_ as the permitting authority for issuing timber harvesting permits for harvest activities in response to a treaty offering and for harvesting firewood:~~

### **11.04 Notification of Treaty Offerings:**

~~(1) The Tribe hereby designates the Commission's Biological Services Director, or his or her designate, to receive notice of treaty offerings by public landowners.~~

~~(2) Within 24 hours after receiving notice of a treaty offering, the Commission's Biological Services Director, or his or her designate, shall notify the Tribe, or its designate, of the offering:~~

~~(3) Within 24 hours after receiving notice from the Commission's Biological Services Director, or his or her designate, of a treaty offering, the Tribe, or its designate, shall post notice of the offering to the Tribal membership and, if not already transmitted, shall transmit notice of~~

the offering to the permitting authority.

(4) The Tribe hereby designates \_\_\_\_\_ to receive and post notices of treaty offerings pursuant to this section.

**11.05 Response to Treaty Offerings:**

(1) The Tribe, a member, or a group of members shall not be eligible to receive a timber harvesting permit for the tract offered in a treaty offering unless the Tribe or member submits to the permitting authority within 30 days from the date the Tribe received notice pursuant to Section 11.04:

(a) an application for the permit on such forms as the permitting authority requires;

(b) a certification from the Tribe that the member or group of members is eligible to be issued such a permit; and

(c) the applicant has furnished an assurance bond in accordance with Section 11.08.

(2) — (a) If more than one Tribe, member, or group of members submits an application to harvest timber on a tract of land, the permitting authority shall select the party to harvest the timber and shall issue a timber harvesting permit to that party pursuant to Section 11.02.

(b) Under such circumstances, the permitting authority also shall select an alternate party eligible to receive a timber harvesting permit in the event the selected party declines the permit.

(3) Within 5 days of issuance of a timber harvesting permit, the permittee, or its representative, shall appear in person at the landowner's property manager to present the original permit, to obtain the timber gathering management plan for the tract and to acknowledge receipt of and acquiescence in the timber gathering plan by signing the plan.

(4) No later 45 days from which the Commission's Biological Services Director, or his or her designate, has received notice of the treaty offering from the landowner pursuant to Section 11.04, the permitting authority shall notify the landowner of any treaty offering either that a permit has been issued or that a no permit will be issued in response to that offering.

**11.06 Timber Harvest Permits Issued in Response to a Treaty Offering:**

In addition the requirements of Section 11.02, a timber harvest permit issued in response to a treaty offering shall include the requirements and conditions of the landowner's timber



gathering management plan and shall indicate:

~~(1) the timber which is authorized to be cut and removed and which shall be cut and removed either by describing the timber or the manner by which it has been or will be designated for cutting;~~

~~(2) cutting and utilization specifications as well as other conditions on the manner in which the timber shall be cut and removed;~~

~~(3) the time period or time periods within which the timber may or shall be cut and removed;~~

~~(4) conditions on the disposal or handling of slash and debris;~~

~~(5) conditions on construction and use of roads or landing areas;~~

~~(6) conditions on access;~~

~~(7) a description of cutting zones within the total tract subject to the gathering;~~

~~(8) the required progression of cutting of zones within the tract subject to the gathering and assurance bonding requirements; and~~

~~(9) any other conditions or requirements which the Tribe, the permitting authority or the landowner deem necessary or appropriate.~~

**11.07 Failure to Comply with the Timber Harvesting Permit or Timber Gathering Management Plan.**

In addition to any penalties imposed pursuant to Chapter 4 of this ordinance, any permittee who fails to present the original of the harvesting permit and to acknowledge receipt of the timber gathering management plan pursuant to Section 11.05(3), or who fails to comply with the conditions of the timber harvesting permit or of the timber gathering management plan, or who fails to comply with Section 11.08 [Assurance Bond] may be subject to any or all of the following sanctions as determined by the tribal court:

~~(1) no harvest of timber on the tract to which the permit applies;~~

~~(2) no harvest of timber in response to a treaty offering pursuant to this chapter for a period not to exceed 2 years; and~~

~~(3) liability for damages, if any, incurred by the landowner, as determined by the procedures established by Section 11.10.~~

**~~11.08 Assurance Bond.~~**

~~(1) During the first twelve (12) months of operation of this ordinance, no bond shall be required of any permittee.~~

~~(2) Any assurance bond required after that time shall be furnished in the form of cash, surety bond, letter of credit or certificate of deposit.~~

~~(3) For the first twelve (12) months when an assurance bond is required, the bond shall be equal to 1% of the landowner's appraised value and the bond shall increase by 1% each succeeding year up to 10% of the appraised value, as which level the bond requirement shall thereafter remain.~~

~~(4) If the Tribe elects to participate in the assurance bond fund established pursuant to Section 11.09:~~

~~(a) The assurance bond shall be furnished by the permitting authority from funds on account for that Tribe. Should funds on deposit for that Tribe be less than required for the assurance bond, the permittee shall be responsible for posting the remainder, the amount of such payment being deductible from the 5% permit fee assessed pursuant to Section 11.09; and~~

~~(b) The permitting authority shall include in the timber harvesting permit a statement of the amount of assurance bond on deposit for that permit and hold such amount on deposit for plus 30 days beyond completion of the cutting; and~~

~~(c) Upon notice of a properly certified damage assessment against a permittee pursuant to Section 11.10, the permitting authority shall disburse the assurance bond, or the required portion thereof, to the landowner within 10 days of such notice.~~

~~(5) If the Tribe elects not to participate in the assurance bond fund established pursuant to Section 11.09, the permittee shall be responsible for furnishing the assurance bond to the landowner.~~

**~~11.09 Assurance Bond Fund.~~**

~~Should the Tribe so elect and direct the permitting authority, the permitting authority shall establish an assurance bond fund in accordance with this section. Should such a fund be established, the permitting authority shall impose a permit fee as a condition for issuing a commercial timber harvesting permit to members of the electing Tribe. Said permit fee shall consist of 5% of the sale price of the timber, and shall be collected as a lien upon sale. Said fund shall be deposited in an interest-bearing, non-checking bank account, and for the first ten years when assurance bonds are required pursuant to Section 11.08 shall be used exclusively for purposes of furnishing bond for permittees of the electing Tribe.~~

#### **11.10 Settlement of Factual Disputes:**

(1) Factual disputes over compliance of a permittee with the timber gathering management plan or the amount of damages incurred by the landowner shall be resolved by the Mediation Committee.

(2) If the Mediation Committee cannot resolve the dispute after 30 days of negotiation or consideration, the dispute then shall be referred to the Tribal Court to be resolved in accordance with the applicable provisions of the Tribal Court Code.

(3) The decision of the Tribal Court shall be final and binding on the parties.

#### **11.11 Enforcement and Right of Inspection:**

(1) In addition to those persons authorized by Chapter 4 to enforce the provisions of this ordinance, representatives of the landowners also shall be and hereby are authorized to enforce the provisions of this chapter.

(2) Such authorized enforcement personnel and landowner representatives shall have unrestricted access to any timber harvesting area in the ceded territory in order to assure that harvesting activities are being conducted in accordance with the timber harvesting permit and the timber gathering management plan.

(3) No member shall fail to present upon request to a person authorized to enforce the provisions of this chapter the member's timber harvesting permit, the timber gathering management plan and the member's tribal identification card.

#### **11.12 Assistance by Non-Tribal Members:**

(1) No person who is not a member or a member of another signatory Tribe shall assist a Tribe or a member in the gathering of timber unless such person is a part of the member's immediate family or household.

(2) For the purposes of this section "assist" shall mean direct participation in the gathering of timber at the location where the gathering occurs.

#### **11.13 Restrictions on Timber Harvest -- Public Safety:**

(1) No permittee shall impair or obstruct developed recreational trails or special use areas. Any timber subject to harvest which may impede or impair use of those trails or other special use areas shall be removed immediately by the permittee.

(2) No permittee shall fail to comply with conditions of the timber harvesting permit or

~~the timber gathering management plan designated as necessary for public safety purposes.~~

#### ~~11.14 Sale of Timber Authorized.~~

~~(1) Nothing contained in this ordinance shall be construed to prohibit the Tribe or its members from selling timber lawfully harvested pursuant to this chapter provided a timber harvesting permit does not otherwise restrict the sale of the timber harvested.~~

~~(2) The provisions of Section 3.26 [Records of Commercial Transactions Required] shall not apply to the sale of timber lawfully harvested pursuant to this chapter.~~

### CHAPTER 12 - MISCELLANEOUS WILD PLANT **FOREST PRODUCT** HARVESTING REGULATIONS

#### **12.01 Purpose.**

The purpose of this chapter is to regulate the harvest of **miscellaneous forest products** ~~wild plants~~, or any parts thereof, which are not regulated pursuant to Chapter 5 [Wild Rice Harvesting Regulations] ~~or Chapter 11 [Timber Harvesting Regulations].~~

#### **12.02 Definitions.**

For the purposes of this chapter, the following terms shall be construed to apply as follows:

(1) **“Bark”** means the tough outer covering of the woody stems and roots of trees, shrubs, and other woody plants. It includes all tissues outside the vascular cambium.

(2) **“Bough”** means any branch of a tree less than 2 inches in diameter.

(3) **“Designated Tribal Sugarbush”** means a specific site identified and established by the tribal conservation department, in consultation with and approval of the land manager, which approval may not be unreasonably withheld, according to Section 12.04(5), of this ordinance, for which a site management plan has been developed and for which a sugarbush site permit has been issued.

(4) **“Designated Use Area”** means a specific site designated and maintained by the land manager for any activity or use as part of the operation and management of public land, and includes, but is not limited to offices, buildings, campgrounds, mowed areas, picnic areas, public beaches, parking lots, trails, access and maintenance roads.

(5) **“Firewood”** means any dead tree or part thereof, either standing or downed, which is harvested for and is to be used as fuel.

(6) (1) **“Gathering”** means to take or acquire or attempt to take or acquire possession of any miscellaneous forest product, ~~cutting, rooting up, severing, injuring, destroying, removing, or carrying away any wild plant or parts thereof.~~

(7) **“Gathering Products”** means all products of miscellaneous forest products other than non-timber forest products such as: branchlets, roots, berries, fruits, nuts, and seeds.

(8) (2) **“Ginseng”** means the roots, seeds or other parts of wild American ginseng (Panax quinquefolium or Panax quinquefolius).

(9) (3) **“Land Manager”** means any owner or other entity responsible for the management of any public land.

(10) **“Lodgepoles”** means any tree that is less than 5 inches DBH (diameter at breast height).

(11) **“Miscellaneous Forest Products”** means any undomesticated species, or part thereof, of the plant and fungi kingdoms occurring in both forested and non-forested natural ecosystems including: non-timber forest products, wild plants, gathering products, endangered or threatened plant species, as defined in Section 2.01(4), of this ordinance, and includes species of special concern, but for the purposes of this ordinance excludes wild rice and timber.

(12) **“Non-Timber Forest Products”** means any of the following miscellaneous forest products: bark, boughs, firewood, lodgepoles, and sap as further defined in this section.

(13) (4) **“Public lands”** means those lands, including the beds of any streams and flowages, located within the ceded territory owned by the State of Wisconsin or any of its political subdivisions or Departments.

(14) **“Sap”** means the watery fluid that circulates through a tree or plant, carrying food and other substances to the various tissues.

(15) **“Shrub”** means a woody perennial plant usually branched several times at or near the base giving it a bushy appearance, and is usually less than five meters tall.

(16) **“Species of Special Concern”** means any wild plant which is contained on the tribal species of special concern list.

(17) **“Timber”** means any tree that is not a lodgepole, as defined in Section 12.02(10), of this ordinance.

(18) **“Tree”** means a woody, perennial plant with a single trunk that is typically unbranched at or near the base, and is usually greater than five meters tall.

(19) ~~(5) “Wild plant” means miscellaneous forest products that are not trees, such as herbaceous plants and shrubs. any undomesticated species, and fruit or part thereof, of the plant kingdom occurring in the natural ecosystem, and includes endangered or threatened plant species, as defined in Section 2.01(4), of this ordinance, and ginseng, but excludes for the purposes of this chapter timber, as defined in Section 11.01(19) of this ordinance, and wild rice.~~

~~(6) “Prairie plants,” “prairie plant seeds,” and “marsh hay” shall be defined as and shall have the meaning agreed to by the Tribe and the Wisconsin Department of Natural Resources as formulated by the Wild Plant Management and Policy Committee established pursuant to the Stipulation for Black Bear, Migratory Birds and Wild Plants entered in the case Lac Courte Oreilles Band v. State of Wisconsin, Case No. 74-C-313 (United States District Court, Western District of Wisconsin). Once formulated, the definitions of these terms shall be and hereby are incorporated by reference into this section.~~

### **12.03 Wild Plant Miscellaneous Forest Product Harvesting Permits.**

(1) Generally. Except as provided in subs. (2) [~~Non-Timber Forest Products and Ginseng Prairie Plants and Marsh Hay Gathering Permits~~], no permit shall be required for the gathering of any wild plant, ~~or gathering product any part, fruit, seed or berry thereof,~~ on public land.

(2) Non-Timber Forest Products and Ginseng Prairie Plants and Marsh Hay Gathering Permits.

(a) No member shall harvest or gather non-timber forest products or ginseng pursuant to this ordinance without possessing a valid gathering permit issued by the tribal conservation department as follows:

(i) Small Scale Harvest Activity. For small scale activity, a tribal member may harvest the following non-timber forest products while possessing a valid gathering permit up to the following limits:

- |                |                              |
|----------------|------------------------------|
| 1) Bark;       | Twenty (20) Trees            |
| 2) Boughs;     | Two (2) Tons                 |
| 3) Firewood;   | Ten (10) Cords               |
| 4) Lodgepoles; | Seventy-Five (75) Lodgepoles |

(ii) Large Scale Harvest Activity. For large scale activity, a tribal member may harvest non-timber forest products while possessing a valid large scale harvest activity gathering permit above the limits established for small scale harvest activity as follows:

1) No member shall gather non-timber forest products on a large scale without a valid large scale harvest activity gathering permit valid for a designated area established by the tribal conservation department in consultation with and approval of the land manager, which approval may not be unreasonably withheld..

2) "Designated Area" means a specific site identified and established by the tribal conservation department, in consultation with and approval of the land manager, which approval may not be unreasonably withheld, for which a species harvestable surplus has been determined and for which the appropriate number of large scale harvest activity permits are available for the designated area.

3) The tribal conservation department may issue a large scale harvest activity permit to one or more members based upon the determined species harvestable surplus and may impose such terms and conditions as it deems necessary or appropriate.

4) No member shall fail to comply with the terms and conditions of a large scale harvest activity permit.

(b) No gathering permit is required of helpers of a permittee who participate only in the collection of the resource once it has been reduced to possession of a permittee.

(c) The tribal conservation department may impose such other terms and conditions as it deems necessary or appropriate, including biological monitoring requirements in addition to those contained in Section 12.07 of this ordinance.

~~(a) The tribal conservation department is authorized to issue permits which authorize the harvest of ginseng, prairie plants, prairie plant seeds and marsh hay to a member or a group of members in accordance with the provisions of this section.~~

~~(b) (i) A gathering permit is required for the gathering of more than forty-eight (48) prairie plants, two (2) ounces of prairie plant seeds, or more than two hundred (200) pounds of marsh hay during a 24 hour period. Otherwise a gathering permit is not required for these plants.~~

~~(ii) No member shall harvest more than forty-eight (48) prairie plants, two (2) ounces of prairie plant seeds, or more than two hundred (200) pounds of marsh hay during a 24 hour period without a valid gathering permit issued pursuant to this section.~~

~~(c) No ginseng gathering permit shall be issued and no member shall gather ginseng from November 1 through August 31.~~

~~(d) A gathering permit issued pursuant to this section shall:~~

~~(i) identify the permittee or permittees, including the name, address and tribal affiliation of all members authorized by the permit;~~

~~(ii) identify the amount and general location of the plants, or parts thereof, to be gathered; and~~

~~(iii) require that all members authorized by the permit must possess a duplicate of the permit while engaged in the gathering activity.~~

~~(e) A gathering permit issued pursuant to this section may:~~

~~(i) establish limits on the quantity of the plants which may be gathered;~~

~~(ii) define the specific area or areas where the gathering may occur;~~

~~(iii) define or limit the methods which may be employed to gather the plants; and~~

~~(iv) establish such other conditions or requirements deemed necessary or appropriate by the Tribe.~~

~~(f) No harvesting permit shall be issued pursuant to this section for a particular activity or in a particular area where the landowner has notified the Tribe that:~~

~~(i) a particular activity is contrary to the area's general plant management plan or system; or~~

~~(ii) a particular area is closed to gathering under the area's general plan and management plan.~~

~~(g) Prior to the issuance of a gathering permit pursuant to this section, the tribal conservation department shall consult the landowner of the area where the gathering will take place.~~

#### **12.04 Miscellaneous Forest Product Harvesting Restrictions.**

**(1) Conifer Boughs. No member shall:**

**(a) Cut down or kill a tree for the purpose of gathering conifer boughs;**

**(b) Remove boughs from the upper half of a tree; or**



(c) Gather for subsequent sale northern white cedar or hemlock boughs.

(2) Princess Pine. No member shall gather any *Lycopodium* species except by cutting the vertical above ground stems.

(3) Sheet Moss. No member shall harvest sheet moss except by harvesting no more than fifty percent (50%) of a species in any particular harvest area, including leaving the edges of the patch.

(4) Lodgepoles. No member shall harvest lodgepoles except by harvesting no more than fifty percent (50%) of a species in any particular harvest area, unless the location is a designated area as defined in Section 12.03(2)(a)(ii)(2) of this ordinance.

(5) Firewood.

(a) No member shall cut any live tree for firewood.

(b) No member shall cut any standing dead tree except those standing dead trees within 100 feet of any road or designated use area.

(c) No member shall gather any dead tree or portion of a dead tree where any portion of the dead tree is located below the ordinary high water mark.

(d) No member shall use a farm tractor, rubber tired skidder, or similar vehicle for gathering firewood without written permission from the Tribe after consulting with and approval of the land manager, which approval may not be unreasonably withheld.

(6) Ginseng. No member shall gather ginseng from November 1 through August 31.

(7) Maple Sap/Sugarbushes.

(a) No member shall gather maple sap without a sugarbush site permit valid for a designated tribal sugarbush or for such other location established by the tribal conservation department in consultation with and approval of the land manager, which approval may not be unreasonably withheld.

(b) "Designated tribal sugarbush" means a specific site identified and established by the tribal conservation department, in consultation with and approval of the land manager, which approval may not be unreasonably withheld, for which a site management plan has been developed and for which a sugarbush site permit has been issued.

(c) The tribal conservation department may issue a sugarbush site permit to one

or more members and may impose such terms and conditions as it deems necessary or appropriate.

(d) No member shall fail to comply with the terms and conditions of a sugarbush site permit.

(8) Unsustainable Harvest Activity. Member compliance with tribal harvest guidelines (bmp) shall be considered sustainable harvest activity, otherwise no member shall harvest any miscellaneous forest product in such a manner so as to impair the future viability and continued success of the miscellaneous forest product on the landscape or ecosystem from which the member is harvesting, as conditioned by the type of miscellaneous forest product, and must take reasonable precautions to prevent unsustainable harvest activity.

#### **12.05 Timber Harvesting Prohibition.**

(1) Except as specified in this ordinance, no member shall under authority of this ordinance cut down any live tree for any purposes or gather any salvage tree for the purposes of selling or causing to be sold all or part of it, or any product derived from it, as bolts, posts, logs, biomass, pulpwood, lumber, or other commercial timber resource.

(2) Except as specified in this ordinance, no member shall sell or cause to be sold under authority of this ordinance all or part of any tree, or any product derived from it, as bolts, posts, logs, biomass, pulpwood, lumber, or other commercial timber resource.

#### **12.06 Harvest of Certain Miscellaneous Forest Products Prohibited.**

(1) Endangered or Threatened Plant Species. No member shall gather any endangered or threatened plant species, as defined in Section 2.01(4), of this ordinance.

(2) Tribal Species of Special Concern. The following Great Lakes Indian Fish and Wildlife Commission document, as it may be amended from time to time, is hereby adopted and incorporated in this ordinance as if fully set forth herein, and no member shall fail to comply with the closures and other restrictions established by this document:

*Tribal Gathering on Public Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Tribal Species of Special Concern, Version 1: [October 2010].*

#### **12.07 Harvest Monitoring.**

No member to whom any permit has been issued under this ordinance shall fail or refuse to provide harvest information when requested by the tribal conservation department, any person authorized to enforce this ordinance, or the Great Lakes Indian Fish and Wildlife Commission.

#### **12.08 Emergency Closures.**

(1) Notwithstanding any other provision of this ordinance, the Director of the Biological Services Division of the Great Lakes Indian Fish and Wildlife Commission or the tribal conservation department may order the closure of the harvest activity of any miscellaneous forest product generally or with respect to a particular location, whenever the continuation of the harvest is likely to cause biological harm to the species involved.

(2) Every reasonable effort shall be made to consult with and obtain approval of the Tribe prior to ordering an emergency closure, but such closure may be ordered without consultation or approval if circumstances require.

(3) An emergency closure shall become effective immediately upon issuance or at such time or date as the closure order may direct. Such closure shall be communicated to the Tribe by the best and swiftest practical method.

(4) No member shall violate the terms, conditions or restriction of an emergency closure order issued pursuant to this section.

**12.09 ~~12.04~~ Harvest Location Restrictions on Wild Plant Gathering -- Public Safety.**

(1) Public Safety. No member engaged in the gathering of ~~wild plants~~ miscellaneous forest products pursuant to this chapter shall impair or obstruct developed recreational trails or designated special-use areas and any ~~wild plants~~ miscellaneous forest product subject to the gathering which may impede or impair the use of those trails or areas shall be removed immediately.

(2) Designated Use Areas. No member may gather miscellaneous forest products within *Tribal Designated Uses Areas*, unless established by the tribal conservation department in consultation with and approval of the land manager, as follows;

(a) No member shall gather miscellaneous forest products under authority of this ordinance on or within any designated use area.

(b) No member shall gather bark, conifer boughs, or lodgepoles within 100 feet of any designated use area.

(c) No member shall gather wild plants within 25 feet of any designated use area.

(d) It is the member's responsibility to be certain about a designated use area. Any uncertainty should be resolved by contacting the Tribal conservation department, Great Lakes Indian Fish and Wildlife Commission or the local office of the land manager.

(3) Tribal Research and Management Areas - Tribal Natural Areas. No member may gather miscellaneous forest products within *Tribal Research and Management Areas - Tribal Natural Areas*, unless established by the tribal conservation department in consultation with and approval of the land manager, as follows;

(a) No member shall gather miscellaneous forest products under authority of this ordinance on or within any tribal research and management areas - tribal natural areas.

(b) No member shall gather bark, conifer boughs, or lodgepoles within 100 feet of any tribal research and management areas - tribal natural areas.

(c) No member shall gather wild plants within 25 feet of any tribal research and management areas - tribal natural areas.

(d) It is the member's responsibility to be certain about a tribal research and management areas - tribal natural areas. Any uncertainty should be resolved by contacting the Tribal conservation department, Great Lakes Indian Fish and Wildlife Commission or the local office of the land manager.

(4) Tribal Research and Management Areas - Tribal Wild Resource Management Area. No member may use a motorized vehicles, motorized equipment, or mechanical transport within a tribal wild resource management area unless established by the tribal conservation department in consultation with and approval of the land manager.

(5) Tribal Research and Management Areas - Tribal Long-Term Research Area. No member may gather miscellaneous forest products within a tribal long-term research areas, unless established by the tribal conservation department in consultation with and approval of the land manager, as follows;

(a) No member shall gather miscellaneous forest products under authority of this ordinance on or within any tribal long-term research areas.

(b) No member shall gather bark, conifer boughs, or lodgepoles within 100 feet of any tribal long-term research areas.

(c) No member shall gather wild plants within 25 feet of any tribal long-term research areas.

(6) Tribal Research and Management Areas - Tribal Native Community Management Area. No member may gather firewood within a tribal native community management areas, unless established by the tribal conservation department in consultation with and approval of the land manager, as follows;

(a) No member shall gather firewood under authority of this ordinance on or within any tribal native community management areas.

(b) No member shall gather firewood within 25 feet of any tribal native community management areas.

(7) Closed Gathering Areas. No member may gather miscellaneous forest products within *Tribal Closed Areas*, unless established by the tribal conservation department in consultation with and approval of the land manager, as follows;

(a) No member shall gather bark, conifer boughs, or lodgepoles within 100 feet from any Class A road, pond, lake, stream or river .

(b) No member shall gather bark, conifer boughs, or lodgepoles within and 50 feet from and Class B road.

(c) There shall be no distance limit pertaining to the gathering of bark, conifer boughs, or lodgepoles from any Class C road.

(d) No member shall gather wild plants within 25 feet of any road.

(8) Closed Gathering and Entry Restriction Areas. No member shall enter or gather miscellaneous forest products within the following *Tribal Closed Areas* unless established by the tribal conservation department in consultation with and approval of the land manager:

(a) Big Bay State Park Tribal Closed Areas: Closed Year Round

(b) Copper Falls State Park Tribal Closed Areas: Closed Year Round

(c) Crex Meadows Wildlife Area Tribal Closed Areas: Closed Seasonally - September 1 through December 31.

(d) Powell Marsh Wildlife Area Tribal Closed Areas: Closed Seasonally - September 1 through December 31.

(9) Tribal Designated Use, Tribal Research and Management and Tribal Closed Areas Established.

*Tribal Gathering on State Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Tribal Designated Use, Tribal Research and Management Areas, and Tribal Closed Areas, Version 1: [November 2010].*

(10) Non-Public Lands. No member shall gather miscellaneous forest products under authority of this ordinance on any land within the ceded territory except public land identified as

being open to tribal gathering in the following Great Lakes Indian Fish and Wildlife Commission document, as it may be amended from time to time, which is hereby adopted and incorporated in this ordinance as if fully set forth herein, and no member shall fail to comply with the closures and other restrictions established by this document:

*Tribal Gathering on State Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Public Lands Open to Tribal Gathering, Version 1: [November 2010];*

#### **12.10 Harvest of Miscellaneous Forest Products Subject to a Timber Sale Contract or Located Within a Timber Sale Contract Area.**

(1) No member shall gather any miscellaneous forest product under authority of this ordinance without a permit issued pursuant to subs. (3) that is subject to the harvest rights of another in a valid timber sale contract. Sometimes these trees are marked with paint. However, it is the member's responsibility to be certain about trees that are subject to a valid timber sale contract. Any uncertainty should be resolved by contacting the tribal conservation department, Great Lakes Indian Fish and Wildlife Commission or the local office of the land manager.

(2) For the purposes of this ordinance, an open Timber Sale Contract Area means a defined location which has been delineated by the landowner for the purposes of a timber sale offering and for which a valid timber sale contract has been executed. Typically, a Timber Sale Contract Area is marked with paint on trees around the perimeter of the Area. It is the member's responsibility to be certain about an open Timber Sale Contract Area. Any uncertainty should be resolved by contacting the tribal conservation department, Great Lakes Indian Fish and Wildlife Commission or the local office of the land manager.

(3) (a) The tribal conservation department, after consultation with and approval of the land manager, which approval may not be unreasonably withheld, is authorized to issue permits under this section on such terms and conditions as it deems necessary and appropriate.

(b) No member shall fail to comply with the terms and conditions of a permit issued pursuant to this section.

#### **12.11 Harvest of Certain Marked Trees or Lodgepoles Prohibited.**

(1) Paint Markings. No member shall cut down any tree that has been designated with any paint markings including but not limited to: paint marking that designates the boundaries of a payment unit within a Timber Contract Sale Area, as defined in Section 12.10 of this ordinance; paint marking that indicates boundaries between public land and other ownerships, or may designate a witness tree at a legal corner; or paint markings that may indicate a tree being used to collect cones or seeds for nursery stock.

#### **12.12 ~~12.05~~ Sale of Wild Plants Authorized.**

(1) Nothing contained in this ordinance shall be construed to prohibit members from selling any ~~miscellaneous forest product wild plant~~, or any part thereof, lawfully harvested pursuant to this chapter.

(2) ~~Except with the respect to the sale of ginseng,~~ The provisions of Section 3.26 [Records of Commercial Transactions Required] shall not apply to the sale of any ~~miscellaneous forest product wild plant~~, or part thereof, lawfully harvested pursuant to this chapter.

~~(3) In addition such other information that is required by Section 3.26, no member shall fail to specify the county of ginseng harvest on the record of a commercial transaction.~~

**12.13 ~~12.06~~ Assistance by Non-Tribal Member.**

(1) No person who is not a member or a member of another signatory tribe shall assist a member in the gathering of any ~~miscellaneous forest product wild plant~~, or part thereof, pursuant to this chapter except as provided in Section 3.30 [Permissible Conduct/Assistance by Non-Members].

## Appendix B

### Amendments to the Voigt Intertribal Task Force Protocols

Amendments to the Voigt Intertribal Task Force Protocols (old text indicated by ~~strikeout~~; new text indicated by **redline**):

ADOPTED 5/26/89 (as amended 8/7/08 and as amended 10/07/10)

#### **VOIGT INTERTRIBAL TASK FORCE PROTOCOL NOODAWAAWAASHKESHIWE (ANTLERLESS DEER HARVEST) LEVELS AND STATE PARK HUNTER DENSITY LEVELS**

Pursuant to and as an implementation of the Chippewa Intertribal Agreement Governing the Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory, the Voigt Intertribal Task Force Committee (hereinafter termed “Task Force”) of the Great Lakes Indian Fish and Wildlife Commission (hereinafter termed “GLIFWC”) hereby adopts and enacts the following system for deer management and regulations:

**1. Biological Services Designation of Harvest Quotas.** The Task Force hereby authorizes and designates the Biological Services Division (hereinafter termed “BSD”) of GLIFWC to provide to the several bands, no later than May first of each year, the total number of antlerless deer available for harvest in each deer management unit located in the ceded territory. The number shall be based upon the joint assessment of BSD and Department of Natural Resources wildlife biologists of the need to attain population goals through increasing or decreasing antlerless deer harvest.

**1a. Designation of Hunter Density Levels for Certain State Parks.** The Task Force hereby authorizes and designates the BSD to provide to the several bands, no later than May first of each year, the total number of hunters to be allowed in Brunet Island State Park, Council Grounds State Park, or other State Parks as required for the upcoming deer seasons. The number shall be based upon the joint assessment of BSD, GLIFWC’s Chief Conservation Warden, and the Department of Natural Resources wildlife biologists and hunter safety experts of the need to attain deer population goals for these parks and to ensure hunter safety.

**2. Task Force Determination of Harvest Levels and State Park Hunter Density Levels.** No later than the following June first, the Task Force shall convene a meeting to establish the Bands’ antlerless deer harvest quotas for the coming deer hunting season for each deer management unit **that requires a tribal quota, in consultation with the BSD, should any tribal quota be required by the applicable law referenced in paragraph 4.01, below.** The total number of antlerless deer to be subject to tribal harvest shall not exceed the number available in the BSD designation of May first for any deer management unit. At the same time, the Task Force shall establish the Bands’ hunter density limitations for Brunet Island State Park, Council Grounds State Park, or other



State Parks as required. The total number of hunters from the several Bands for each Park shall not exceed the number available in the BSD designation of May first for the particular Park in question.

**3. Task Force Final Declaration of Antlerless Deer Harvest Quotas, Deer Seasons, and State Park Hunter Density Levels.** **When necessary at** ~~At~~ the conclusion of their meeting(s), but in no event later than June 15th, the Task Force shall file and publish its Final Declaration of Antlerless Deer Harvest Quotas and State Park Hunter Density Levels for the upcoming deer season. Harvest quotas shall be described by deer management unit and hunter density levels shall be described by each state park to which they apply. The Declaration shall be certified by the BSD Wildlife Section Leader and the Director as in compliance with the management plan for deer previously approved by the Task Force and its member tribes, as well as in compliance with any other applicable plans or agreements.

**4. Effect of Final Declaration.** **When required, the** ~~The~~ Final Declaration shall conclusively establish the number of antlerless deer subject to tribal harvest in each deer management unit **to which the declaration applies** and of Band hunters in each relevant state park during the upcoming deer season, and shall be immediately transmitted to the Wisconsin Department of Natural Resources by the BSD for its use in permitting antlerless deer harvest and hunting in relevant state parks by State-licensed hunters.

**4.01. Declarations Must Comply with Applicable Law.** *The Declaration and any Amended Declaration shall comply with the provisions of Section XI.A of the Stipulation for Technical, Management and other Updates: Second Amendment of Stipulations Incorporated Into Final Judgment which updated Section E of the Stipulation for the Deer Trial entered into between the tribal and state parties in Lac Courte Oreilles Band, et al. v. State of Wisconsin, et al., Case No. 74-C-313 (United States District Court, Western District of Wisconsin).*

**5. Methods for Determining Number of Antlerless Deer Permits Which may be Issued.** The number of antlerless deer permits, including any commercial harvest antlerless deer permits, which may be issued at any one time for a deer management unit during the time period for which an antlerless deer permit is valid shall be determined in accordance with the provisions set forth below.

**5.01.** For the purpose of this protocol, the "**remaining antlerless deer harvest**" for any management unit means the tribal quota for that unit minus the sum of the antlerless deer harvest in that unit as of the end of the previous antlerless deer permit period and the number of level 2 commercial permits authorized for that unit during the current antlerless deer permit period.

**5.02.** When the remaining antlerless deer harvest for a unit is more than 25% of the tribal quota, there shall be no limit on the number of antlerless deer permits which may be issued for that unit for an antlerless permit period.

**5.03.** When the remaining antlerless deer harvest for a unit is 25% or less of the tribal quota, the

number of permits which may be issued for an antlerless permit period shall be determined in accordance with the following formula:

$$\text{No. of Permits} = \frac{\text{Remaining Antlerless Deer Harvest}}{\text{Hunter Success Rate}}$$

**5.04.** The hunter success rate for a management unit shall be the success rate average from the most recent three (3) previous seasons or an average of fewer seasons when a three (3) year average is not available. For a unit without an adequate history of hunter success, the average success rates of similar units may be applied to estimate an anticipated success rate. The Commission's Biological Services Division is authorized to determine the hunter success rate for any deer management unit.

**5.05.** When the remaining antlerless deer harvest for a management unit is 25% or less of the tribal quota, and when the several Bands otherwise fail to agree, the Director, or his or her designate, of the BSD shall be authorized to calculate the number of antlerless deer permits available for issuance in that unit by each Band so as to ensure that the total number of antlerless permits issued by all Bands does not exceed the maximum number which may be issued for that unit. Such calculation shall be based upon the current season's proportionate harvest of each Band to date in that unit.

**ADOPTED 11/8/89 (as amended 10/07/10)**

**VOIGT INTERTRIBAL TASK FORCE PROTOCOL  
NOODAMAKWE (BEAR HARVEST) LEVELS**

Pursuant to and as an implementation of the Chippewa Intertribal Agreement Governing the Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory, the Voigt Intertribal Task Force Committee (hereinafter termed "Task Force") of the Great Lakes Indian Fish and Wildlife Commission (hereinafter termed "GLIFWC") hereby adopts and enacts the following system for bear management and regulations:

**1. Biological Services Designation of Harvest Quotas.** The Task Force hereby authorizes and designates the Biological Services Division (hereinafter termed BSD) of GLIFWC to provide to the several bands, no later than May 1 the total number of bear available for harvest in each bear management zone located in the ceded territory. The number shall be based upon the joint assessment of BSD and Department of Natural Resources wildlife biologists of the need to attain bear population goals.

**2. Task Force Determination of Harvest Levels.** No later than the following June 1, the Task Force shall convene a meeting to establish the Bands' bear harvest quotas for the coming bear hunting season for each bear management zone **that requires a tribal quota**, in consultation with the BSD, **should any tribal quota be required by the applicable law referenced in paragraph 4.01,**

below. The total number of bear to be subject to tribal harvest shall not exceed the number available in the BSD designation of May 1 for any bear management zone.

**3. Task Force Final Declaration of Bear Harvest Quotas and Bear Seasons.** When necessary at the conclusion of their meeting(s), but in no event later than June 15, the Task Force shall file and publish its Final Declaration of Bear Harvest Quotas for the upcoming bear season, which shall be described by bear management zone. The Declaration shall be certified by the BSD Wildlife Section Leader and the Director as in compliance with any management plan for bear which may have been previously approved by the Task Force and its member tribes.

**4. Effect of Final Declaration.** When required, the Final Declaration shall conclusively establish the number of bear subject to tribal harvest in each bear management zone to which the declaration applies during the upcoming bear season, and shall be immediately transmitted to the Wisconsin Department of Natural Resources by the BSD for its use in permitting bear harvest by State-licensed hunters.

**4.01. Declarations Must Comply with Applicable Law.** The Declaration and any Amended Declaration shall comply with the provisions of *Section XI.B of the Stipulation for Technical, Management and other Updates: Second Amendment of Stipulations Incorporated Into Final Judgment* which updated *Section C.1 of the Stipulation for Black Bear, Migratory Birds, and Wild Plants* entered into between the tribal and state parties in *Lac Courte Oreilles Band, et al. v. State of Wisconsin, et al.*, Case No. 74-C-313 (United States District Court, Western District of Wisconsin).

**ADOPTED 7/12/89 (as amended 10/07/10)**

**VOIGT INTERTRIBAL TASK FORCE PROTOCOL  
NOODAWAYAANIKE: NOODANIGIGWE, NOODAGIDAGAA-BIZHIWE IGAYE  
NOODAJIIGWE (FURBEARER: OTTER, BOBCAT AND FISHER HARVEST)  
LEVELS**

Pursuant to and as an implementation of the Chippewa Intertribal Agreement Governing the Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory, the Voigt Intertribal Task Force Committee (hereinafter termed "Task Force") of the Great Lakes Indian Fish and Wildlife Commission (hereinafter termed "GLIFWC") hereby adopts and enacts the following system for otter, bobcat and fisher management and regulations:

**1. Biological Services Designation of Harvest Quotas.** The Task Force hereby authorizes and designates the Biological Services Division (hereinafter termed "BSD") of GLIFWC to provide to the several bands, no later than June 1 of each year, the total number of fisher available for harvest in each fisher management zone located in the ceded territory. The number shall be

based upon the joint assessment of BSD and Department of Natural Resources wildlife biologists of the need to attain population goals through increasing or decreasing fisher harvest.

**1.01 Biological Services Designation of Otter and Bobcat Harvest Quotas.** The Task Force hereby authorizes and designates the Biological Services Division (hereinafter termed “BSD”) of GLIFWC to provide to the several bands, no later than June 1 of each year, the total number of otter and bobcat available for harvest in the ceded territory. The number shall be based upon the joint assessment of BSD and Department of Natural Resources wildlife biologists.

**2. Task Force Determination of Harvest Levels.** No later than the following July 1, the Task Force shall convene a meeting to establish the Bands’ harvest quotas for the coming otter, bobcat and fisher trapping and hunting seasons, in consultation with the BSD, **should any tribal quota be required by the applicable law referenced in paragraph 4.01, below.** The fisher harvest quotas shall be established for each fisher management zone, **that requires a tribal quota.** The total number of fisher to be subject to tribal harvest **in such a zone** shall not exceed the number available in the BSD designation of June 1 for ~~any fisher management~~ **that** zone. The total number of otter and bobcat to be subject to tribal harvest shall not exceed the number available in the BSD designation of June 1 for the ceded territory **should any tribal quota be required.**

**3. Task Force Final Declaration of Fisher Harvest Quotas.** **When necessary at** ~~At~~ the conclusion of its meeting(s), but in no event later than July 15, the Task Force shall file and publish its Final Declaration of Otter, Bobcat and Fisher Harvest Quotas for the upcoming fisher season. The Final Declaration shall describe the fisher harvest quota by fisher management zone. The Declaration shall be certified by the BSD Wildlife Section Leader and the Director as in compliance with the management plan for fisher previously approved by the Task Force and its member tribes.

**4. Effect of Final Declaration.** **When required, the** ~~The~~ Final Declaration shall conclusively establish the number of fisher subject to tribal harvest in each fisher management zone and of otter and bobcat subject to tribal harvest in the ceded territory during the upcoming otter, bobcat and fisher season, and shall be immediately transmitted to the Wisconsin Department of Natural Resources by the BSD for its use in permitting otter, bobcat and fisher harvest by State-licensed hunters and trappers.

**4.01. Declarations Must Comply with Applicable Law.** The Declaration and any Amended Declaration shall comply with the provisions of *Section XI.C of the Stipulation for Technical, Management and other Updates: Second Amendment of Stipulations Incorporated Into Final Judgment* which updated *Section C of the Stipulation for Fisher, Fur Bearers, and Small Game* entered into between the tribal and state parties in *Lac Courte Oreilles Band, et al. v. State of Wisconsin, et al.*, Case No. 74-C-313 (United States District Court, Western District of Wisconsin).

## Appendix C

### Amendments to Commission Documents

**Attached are the following Commission Documents that are detailed in the Stipulation amendment:**

- Tribal Gathering on State Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Tribal Species of Special Concern, Version 1: [October 2010];
- Tribal Gathering on State Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Tribal Designated Use, Tribal Research and Management Areas, and Tribal Closed Areas, Version 1: [November 2010];
- Tribal Gathering on State Lands within the Portion of the Ceded Territory Located in the State of Wisconsin – Public Lands Open to Tribal Gathering, Version 1: [November 2010];
- Tribal State Park Hunting Opportunities in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010];
- Designated Tribal River and Stream Segments in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [October 2010]; and
- Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin portion of the 1837 and 1842 Ceded Territories, Version 1: [November 2010].