

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;  
SOKAOGON 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; CATHY STEPP;  
KURT THIEDE; and TIM LAWHERN,

Defendants.

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AFFIDAVIT IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

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STATE OF WISCONSIN     )  
                                      ) SS  
COUNTY OF SAWYER     )

The affiant, MICHEAL JAMES ISHAM JR., being first duly sworn, upon oath deposes  
and states as follows:

1.       My name is Michael James Isham, Jr., and I reside at 11811W Jasek Road,  
Couderay, Wisconsin, 54828. I am an enrolled member of the Lac Courte Oreilles Band of Lake  
Superior Chippewa Indians and hold a Bachelor's of Science degree in Environmental Studies  
from Northland College in Ashland, Wisconsin. I am currently completing a Master of Arts  
degree in History at the University of Wisconsin-Eau Claire, Eau Claire Wisconsin.

2. I currently serve as the Secretary/Treasurer for the Lac Courte Oreilles Tribal Governing Board located in the northwest region of the area now known as Wisconsin, near Hayward, Wisconsin. I have served as an elected leader of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians for over 16 years. My duties as a Governing Board member include maintaining an orderly government and the representing the Band on local, intertribal, state and federal business. My primary area of interest is Treaty resource management for the Ojibwe in ceded territories under the 1837 Treaty, the 1842 Treaty, and the 1854 Treaty between the Ojibwe bands and the United States.

3. I also serve as the Chairman of the Great Lakes Indian Fish and Wildlife Commission's Board of Commissioners and as Vice-Chairman of the *Lac Courte Oreilles Band v. State of Wisconsin* Task Force (also known as the "Voigt Intertribal Task Force," hereafter "Task Force"). I have served with the Great Lakes Indian Fish and Wildlife Commission ("Commission") and the Task Force in various leadership capacities over the past 15 years. The Board of Commissioners oversees and provides leadership on all activities of the Commission. The Task Force has particular duties delegated to it by the Plaintiff Tribes in relation to the inland portion of the 1837 and 1842 ceded territories in Wisconsin.

4. Prior to my election to the Lac Courte Oreilles Tribal Government, I was a Conservation Warden for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. My primary responsibilities in this capacity involved the facilitation of tribal hunter education and firearms safety courses as well as the implementation of youth activities.

5. In my capacity as Commission Chairman and Task Force Vice-Chairman, I assist in the development of policy related to the implementation of the tribal system for regulating deer hunting in the ceded territories, including the development of the tribes' off-reservation

conservation codes. I have also provided assistance in monitoring tribal deer hunting activities within the ceded territories.

6. As an enrolled member of the Lac Courte Oreilles Band, I have resided on the Lac Courte Oreilles reservation for all of my adult life. As many Ojibwe people are, I am a traditional hunter. Deer hunting is not a “sport” for me, but rather a means of a harvest that allows me to provide for my family and my relatives. Traditional tribal hunters harvest in the ceded territory and on the reservation in furtherance of our cultural and physical well-being.

7. Night hunting is not only a safe and efficient method of hunting, but for some tribal members it is the only opportunity they have to harvest deer during the hunting season. Works schedules and cultural events dominate the schedule of tribal hunters and may prevent them from daytime hunting.

8. A tribal member may ask a tribal hunter to get them some fresh deer meat for a cultural Ojibwe ceremony (naming ceremony, funeral, wedding, or healing ceremony, etc). The meat from the deer is a primary staple for Ojibwe feasts and ceremonies. It is impossible to plan for unexpected ceremonies such as funerals or healing ceremonies. Sometimes the time is short and the only time available to harvest is at night.

9. As the Chairman of the Commission and as Vice-Chairman of the Task Force, I have participated many discussions and negotiations between the tribes and the Wisconsin Department of Natural Resources (“DNR”) on a variety of matters. The regulation of the treaty harvest is a top priority for me as an elected leader and as a tribal member. I make every effort to attend and participate in every meeting with the State DNR.

10. The discussion of implementing a tribal night hunt this year started in July 2012 when the biennial stipulation review process for the off-reservation model conservation code was

under way. There was a meeting scheduled in Steven's Point, Wisconsin to discuss 39 separate topics for the stipulation review process. Night hunting was at the top of the list.

11. From July through the present day there has been a steady but frustrating line of communication between the Commission, the State DNR and the tribal leadership.

12. The first formal meeting on night hunting was on August 1, 2012.

13. At the August 1, 2012 meeting, I believe we had a preliminary agreement on night hunting for tribal members. Scott Gunderson, the lead DNR person at the meeting, indicated that the state would not object to a tribal night hunt. He stated it was "logical, since the state was doing it for wolves."

13. I spoke with Mr. Gunderson after the August 1, 2012 meeting and expressed my appreciation for his frankness and the ability to work through the difficult issues. I told him that having a decision-maker in the meeting helps the Parties move the discussion to a conclusion.

14. Based on my experience as a tribal member, I believe that deer hunting at night provides a valuable opportunity that will enhance the ability of tribal members to exercise their traditional and cultural practices and provide an important subsistence resource to families that need it.

17. Based upon my experience as the Chairman of the Great Lakes Indian Fish and Wildlife Commission and upon my conversations with experts at the Commission, I believe that Commission Order 2012-05 provides an opportunity for tribes to harvest deer in a safe, meaningful way that will protect tribal members' and the public's safety.

Further affiant sayeth not, dated this 26th day of November 2012.

**/s/ Michael J. Isham Jr.**  
Michael J. Isham Jr.

Subscribed and sworn before me  
this 26th day of November 2012.

**/s/ Ann McCammon Soltis**

Notary Public, State of Wisconsin

My Commission: is permanent