



November 15, 2012

James E. Zorn
Executive Administrator
Great Lakes Indian Fish and Wildlife Commission
P.O. Box 9
Odanah, WI 54861

Re: *Lac Courte Oreilles Indians v. State of Wisconsin* – Proposed Tribal Night Hunting
Regulations/Commission Order 2012-05

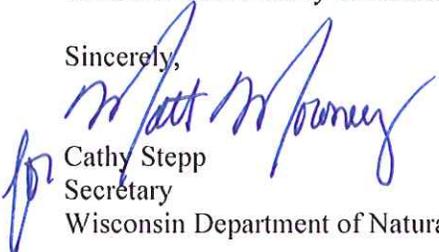
Dear Administrator Zorn:

Thank you for your letter of November 9, 2012, (Letter) along with a copy of the revised Commission Order 2012-05 (Amended Order), detailing the most recent proposal for off-reservation night hunting of deer by the six Plaintiff Ojibwe Bands (Tribes) involved in the third round of possible stipulation amendments in the *Voigt* case (*Lac Courte Oreilles Indians v. State of Wis.*, 775 F. Supp. 321(W.D. Wis. 1991)). Having reviewed the Amended Order, the Department has concluded that the Tribes still lack the authority to adopt and implement the Amended Order and that the revisions fail to meet all of the concerns detailed in my letter of October 30, 2012.

Additionally, we disagree with your statement that the “applicable precedent” obligates the State to adopt the Tribes’ evolving deer shining proposal. The Parties’ stipulation provides only that “consent may not be unreasonably withheld,” and does not limit the State’s reasons for withholding consent to “the law of the case” or to strictly legal objections. Even so, we believe that the Amended Order is inconsistent with the law of the case, since the State “may enforce the prohibition on shining of deer contained in [DNR Code] until such time as [the Tribes] adopt regulations identical in scope and content to [that Code].” *Id* at 324. As a result, the Department must withhold its agreement to the issuance of the Amended Order.

By your Letter, the Department assumes that the Amended Order has been issued and will go into effect on November 26, 2012, (“Please note that for 2012, the Order will be effective on November 26, 2012”), unless you advise us otherwise by the close of business on Monday, November 19, 2012.

Sincerely,


Cathy Stepp
Secretary

Wisconsin Department of Natural Resources