

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

LAC COURTE OREILLES BAND OF
LAKE SUPERIOR CHIPPEWA INDIANS;
RED CLIFF BAND OF LAKE SUPERIOR
CHIPPEWA INDIANS; SOKAOGON
CHIPPEWA INDIAN COMMUNITY;
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.

AFFIDAVIT OF QUINN WILLIAMS

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Quinn Williams, being first duly sworn on oath, deposes and says:

1. I make this affidavit on the basis of my personal knowledge and to the best of my recollections.

2. I have been an attorney for the Wisconsin Department of Natural Resources (DNR) since 2007, and have been the Natural Resources Section Chief for the Bureau of Legal

Services since April 2012. In my capacity as an attorney for the DNR, I have worked on a host of natural resource related laws and regulations. My current duties include treaty rights and federal Indian law natural resources-related issues, and I have been directly involved in all three “Voigt Stipulation” amendment negotiations over the past 4 years.

3. In October 2011, I received a letter from Great Lakes Indian Fish and Wildlife Commission (GLIFWC) Attorney/Policy Analyst Jason Stark regarding “*Lac Courte Oreilles Indians v. State of Wisconsin – List of Issues Regarding the Stipulation for Technical, Management, and Other Updates: Third Amendment of Stipulations Incorporated into the Final Judgment.*” The letter contained over three pages of potential stipulation amendment issues that were being proposed by the Tribes. The list of issues did not include proposed amendments related to Tribal shining or night hunting of deer. Attached and marked as Exhibit A is a true and correct copy of the letter I received from Mr. Stark dated October 11, 2011.

4. On November 22, 2011, I received an email from Mr. Stark adding one item to the list of potential stipulation amendment issues. Attached and marked as Exhibit B is a true and correct copy of the email I received from Jason Stark dated November 22, 2012.

5. On January 30, 2012, I received an email from Mr. Stark that contained the first indication that the Voigt Plaintiff Tribes (Tribes) might be making an argument on night hunting of deer based on the language in a new wolf hunting bill (future 2011 Wisconsin Act 169). Attached and marked as Exhibit C is a true and correct copy of the email I received from Mr. Stark.

6. On April 25, 2012, I sent an email with attachments to DNR Secretary Cathy Stepp, DNR Executive Assistant Scott Gunderson, DNR Deputy Assistant Kurt Thiede, DNR Northern Regional Director John Gozdziwski, Bill Vander Zouwen, Tim Andryk and

Tom Hauge for preparation of the upcoming Voigt Task Force meeting in Mille Lacs on May 3, 2012. Our “Draft Wolf Season Talking Points” under paragraph 3, entitled “Biological Issues,” states:

Night Hunting – This is not similar to the prohibition on hunting deer at night with lights. The wolf night hunting is point of kill targeting, and is identical to the other “Fisher, Fur Bearers and Small Game” species such as coyotes and will involve calling in with predator calls.

I don’t recall if this issue was specifically discussed at the May 3 meeting with the Tribes, but it indicates the DNR’s stated position at the time. Attached are true and correct copies of my email dated April 25, 2012 marked as Exhibit D, and its two attachments, “Draft – Wolf Season Talking Points” marked as Exhibit E; and the draft letter to Mr. Stark dated April 26, 2012, marked as Exhibit F.

7. On May 21, 2012, I received an email from Mr. Stark containing GLIFWC's proposed agenda and issue summary for the opening meeting on Voigt Stipulations Round III scheduled at Red Cliff for May 23, 2012 between the DNR and the Tribes. Issue set # IX in GLIFWC's “Issue Set Summary” entitled “Tribal Shining Regulatory Amendment” states:

The Tribes propose to amend their regulatory provisions pertaining to shining establishing revision to model code §3.14, §6.20, §7.26, and §8.16(1), §15.20, and §16.20 thereby allowing shining while hunting on foot with the use of a flashlight at the point of kill for deer, bear, raccoon, fox, coyote, unprotected species, elk and wolves.

The language of *Section B.3* of the *Stipulation for the Deer Trial* (Docket Number 1167), *Section 5* of the *Stipulation for Black Bear, Migratory Birds and Wild Plants* (Docket Number 1607, subpart 1), *Section C.5* of the *Stipulation for Fisher, Fur Bearers and Small Game* (Docket Number 1289), and *Section C.6.a* of the *Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.

Attached are true and correct copies of the email string between Jason Stark and I dated May 21-22, 2012, marked as Exhibit G; the “*Voigt* Stipulation Review Process: Third Amendment - Issue Summary” marked as Exhibit H; the agenda for the meeting on May 23, 2012, marked as Exhibit I; and the “*Voigt* Stipulation Review Process: Third Amendment – Wolf Season” marked as Exhibit J. Exhibits H, I and J were attached to Mr. Stark's May 21, 2012 email.

8. The meeting agenda and Issue Summary documents provided by Mr. Stark contained several potential stipulation amendment issues that were being raised for the first time in the May 21, 2012 email, including Tribal Night Hunting Hours Extension (Issue 8) and the Tribal Shining Regulatory Amendment (Issue 9). No specific regulatory language had been provided regarding the proposed shining stipulation amendments.

9. On May 23, 2012, I attended the opening meeting of *Voigt* Round III Stipulation negotiations at Red Cliff. Substantive issues were not discussed at this meeting, with the exception of wolf no-harvest tribal zones, and a rough outline of which issues should be assigned to which working group. The “Tribal Shining Regulatory Amendment” was assigned to the “Enforcement Team.” There was no discussion of or indication that the Tribes wanted to institute a night hunt for deer or other animals this year by virtue of the issuance of a Commission Order; Commission Orders were not being contemplated as part of the *Voigt* Stipulation amendment Round III process, and there was no agreement on any issues at this point.

10. On June 29, 2012, I received an email from Northern Regional Warden Dave Zebro regarding DNR positions for the July 30, 2012, Enforcement Team and GLIFWC meeting in Wausau. DNR's position note on Issue Set IX says that “health, safety and welfare”

needs to be discussed. Attached are true and correct copies of the email I received on June 29, 2012, marked as Exhibit K; and Warden Zebro's notated "Voigt Stipulation Review Process: Third Amendment - Issue Summary" marked as Exhibit L.

11. On Sunday, July 29, 2012, I received an email from Mr. Stark containing the Tribes' draft agenda and issue summary for the *Voigt* Stipulations Round III meeting to be held on August 1, 2012. Attached are true and correct copies of the email I received from Mr. Stark on July 29, 2012, marked as Exhibit M; GLIFWC's "Voigt Stipulation Review Process: Third Amendment - Issue Summary" for the August 1, 2012 meeting marked as Exhibit N, and GLIFWC's August 1, 2012, meeting agenda marked as Exhibit O. No specific language had been proposed for the shining amendment stipulation, and there was no indication or suggestion that this issue set would be proposed as a commission order instead of as a part of the stipulation process. No specific language had been provided describing the night hunting proposal at this point, even though the enforcement team was to be meeting the next day.

12. During the July 30, 2012, enforcement team meeting, Mr. Stark provided me a flash drive that contained model code language for all currently proposed Tribal stipulations. Although specific language had finally been proposed for the night hunting proposal stipulation, there was no time for us to analyze and discuss it during our review of all of the enforcement topics that day. The meeting included a general discussion that addressed the Tribes' discriminatory treatment arguments related to night hunting of wolves, but there was no agreement on language for a stipulation, and no agreement that night hunting was safe.

13. During the July 30, 2012 meeting, I sent an email to the State's entire stipulation negotiation team providing the specific issue set summaries and the draft code language that had just been provided to me. Attached are true and correct copies of my email dated July 30, 2012,

marked as Exhibit P; “Issue Set # XXVIII – Proposed Stipulation Change: Tribal Restraining Snare Regulatory Amendment” marked as Exhibit Q; “Issue Set #XXXIII – Proposed Stipulation Change: Tribal Safe Use and Transportation of Firearms and Bows Regulatory Amendment” marked as Exhibit R; the “Issue Set # XIII – Proposed Stipulation Change: Tribal Set Line, Open Water Hook & Line, and Ice Fishing Regulatory Amendments” marked as Exhibit S; and the “Issue Set # IX – Proposed Stipulation Change: Tribal Shining Regulatory Amendment” marked as Exhibit T.

14. I attended the August 1, 2012 Voigt Stipulation meeting in Stevens Point. The draft night hunting stipulation language that had been presented to me on July 30, 2012, was part of 42 “Issue Sets” and language revisions. We did not discuss any of the specific language during the meeting. We noted at that time that we would at a minimum want reversionary language in any stipulation we agreed to, that we would continue to follow the stipulation amendment negotiation process, and that we would need to review draft regulatory language before making a decision.

15. There was no proposal during the August 1, 2012 meeting that the night hunting issue set would be proposed as a commission order, nor was there any agreement or statement that the State had “no reasonable objections” to such an order. Our concerns regarding enforcement, safety, public education were all raised during this meeting. I recall agreeing to continue to work on this issue with the Tribes after we had the opportunity to sit down with them and discuss proposed language.

16. On August 16, 2012, I received two email strings from Northern Regional Warden David Zebro regarding statements that Roger McGeshick of Mole Lake and GLIFWC Conservation Warden Tom Kroplein had been made to DNR wardens indicating that the Tribes

intended to institute night hunting of deer sometime in October, 2012. Attached are true and correct copies of the email string I received from Warden Zebro on August 16, 2012, marked as Exhibit U; the email attachment dated August 15, 2012, from DNR Warden Andrew Dryja marked as Exhibit V; and an email attachment from DNR Warden Bradley Dahlquist dated August 15, 2012, marked as Exhibit W.

17. On August 16, 2012, I sent an email to GLIFWC Attorneys/Policy Analysts Anne McCammon Soltis and Mr. Stark that included the emails in Exhibits U, V and W. I asked them not to broadly share stipulation issues during negotiations.

18. While I had left the August 1, 2012 meeting with the understanding that “Issue Set IX - Tribal Shining Regulatory Amendment” would need to continue to be discussed as part of the agreed-upon stipulation amendment process, I learned from a follow-up phone call on August 16 with Ms. McCammon Soltis that the Tribes mistakenly understood that the DNR had agreed, at the August 1, 2012 meeting, to the issuance of a Commission Order modeled on “Issue Set IX - Tribal Shining Regulatory Amendment” to be issued this year.

19. I participated in a phone call on August 21, 2012, with GLIFWC Executive Administrator Jim Zorn, Secretary Stepp, and EA Gunderson regarding the Tribes’ misunderstanding of DNR's position at the August 1, 2012 meeting in Steven’s Point. It is my recollection that Secretary Stepp and EA Gunderson told Mr. Zorn that the DNR did not agree to the issuance of a Commission Order this year, but instead we were committed to addressing all issues the stipulation amendment process, which was set to be concluded in March of 2013.

20. On August 23, 2012, Secretary Stepp, EA Gunderson and Regional Director Gozdziwski and I had an in person/phone meeting with Voigt Task Force Chair Tom Maulson, Voigt Task Force Representative Scott Smith and the Lac du Flambeau Tribal Council. It is my

recollection that during this meeting, Secretary Stepp told them that any unilateral action by the Tribes, and specifically the proposal of a Commission Order related to the issue of night hunting outside of the approved Stipulation process, would not be approved by DNR. We raised our concern about their issuing a Commission Order outside of the stipulation process, our concern that night hunting did not fit under the “other liberalization amendment process” because night hunting all of the species they desired to hunt at night (bear, deer, elk, turkey) would not be consistent with the state law change allowing the night hunting of wolves, that there would be insufficient time for adequate public education and outreach, and concern that law enforcement would need time for education and coordination

Dated this 6th day of December, 2012.

/s/ Quinn L. Williams

QUINN WILLIAMS

Subscribed and sworn to before me
this 6th day of December, 2012.

/s/ Michael Scott

Notary Public, State of Wisconsin
My Commission: is permanent

GREAT LAKES INDIAN FISH & WILDLIFE COMMISSION

P. O. Box 9 • Odanah, WI 54861 • 715/682-6619 • FAX 715/682-9294



• MEMBER TRIBES •

MICHIGAN

Bay Mills Community
Keweenaw Bay Community
Lac Vieux Desert Band

WISCONSIN

Bad River Band
Lac Courte Oreilles Band
Lac du Flambeau Band

MINNESOTA

Fond du Lac Band
Mille Lacs Band

Red Cliff Band
St. Croix Chippewa
Sokaogon Chippewa

PRIVILEGED AND CONFIDENTIAL – ATTORNEY WORK PRODUCT

October 11, 2011

Via Email (Original by Mail)

Quinn L. Williams, Attorney
Wisconsin Department of Natural Resources
P.O. Box 7921
Madison, WI 53707-7921

Re: *Lac Courte Oreilles Indians v. State of Wisconsin* – List of Issues Regarding the *Stipulation for Technical, Management, and Other Updates: Third Amendment of Stipulations Incorporated into the Final Judgment*

Boozhoo Mr. Williams,

The Voigt Plaintiff Tribes wish to inform the Department of the following list of potential stipulation amendment issues in the implementation of *Section II.A.2* of the *Stipulation for Technical, Management and Other Updates: Second Amendment of the Stipulation Incorporated into the Final Judgment* and in fulfillment of *Section 11* of the *Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory* and the following *Stipulations* as amended: *Section 9* of the *Stipulation on Biological and Certain Remaining Issues* (Docket Number 911); *Section 18* of the *Stipulation on Enforcement* (Docket Number 914); *Section C.12* of the *Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2); *Section C.12* of the *Stipulation for Black Bear, Migratory Birds, and Wild Plants* (Docket Number 1607, subpart 1); *Section E.17* of the *Stipulation for the Deer Trial* (Docket Number 1167); *Section C.9* of the *Stipulation for the Wild Rice Trial* (Docket Number 1222); *Section C.14* of the *Stipulation for Fisher, Fur Bearers, and Small Game* (Docket Number 1289); *Section B.12* of the *Stipulation for Fish Species other than Walleye and Muskellunge* (Docket Number 1568).

- I. Fishery Related Issues
 - A. Pulse Fishing Rule Evaluation
 - B. Big Fish Rule Modification on Certain Lakes (Previously Proposed and Carried Forward)
 - C. Spearing Size Limit Modification
 1. Examine the Necessity of the Size Limit Restriction (20" maximum) to



Allow for the Harvest of Larger Walleye.

- D. Stream Segments
 - 1. Individual Bag Limit Modification to Exempt Stream Segment Harvest
 - 2. Two Day Limit Modification to Allow for More Harvest Opportunity if the Bag Limit is not Filled.
 - a. Treat the Bag Limit More like a Quota or Trigger Level
 - 3. Allow the Ability to Harvest other Species
 - a. Revise Chart pursuant to §9.06
 - 4. Sturgeon Harvest Modification
 - a. Revise the One Sturgeon per day per year Regulation to Allow for More Harvest Opportunity if the Bag Limit is not Filled.
 - (1) Treat the Bag Limit More like a Quota or Trigger Level without an Individual Limitation
 - b. Look at establishing additional river segments for the harvest of Sturgeon
 - (1) Example is Sections of the Wisconsin River around Lake Wissota
- E. Alternative Monitoring System ~ Modifications
 - 1. Allow for the harvest of other species including muskellunge
 - 2. More lakes at a time (group of three)
 - 3. Use safe harvest number to make list vs. declaration, however raise the threshold number from 75 to 125.
- F. Gillnet during Spring (certain Lakes Experiment)
 - 1. Allow for the Ability to Gillnet in certain Large Flowage where Tribes have been Unable to Harvest Quota
- G. Spear Size Modification
 - 1. Allow for a Smaller Spear with More Prongs
- H. Trout Lake
 - 1. Trigger Level / Quota for Trout on Trout Lake, or
 - 2. Apply the Daily Bag Limit for Trout to Apply to Incidental Gillnet Harvest
- I. Multiple Gear Prohibition
 - 1. Allow for the Mixing of Gear while Netting
- J. Revise Harvest Restriction when Tribes are limited or prevented from Harvesting Species A because of Incidental Harvest Potential of Species B

1. For Example the Harvesting of Whitefish on Trout Lake is Contingent Upon the Existence of an Available Walleye Quota
- K. Unattended Line Regulations
1. Allow for increased number of unattended lines
 2. Allow increase in the number of set line hooks
 3. Allow for lines to be unattended overnight
 4. Allow for the use of treble hook for unattended ice fishing
- II. Wildlife Related Issues
- A. Elk Season Regulations (Previously Proposed and Carried Forward)
- B. Tribal Gathering on State Lands
1. Two Year Assessment
 2. State Park Fees
 3. Camping
- C. Wild Rice Changes
1. Date Regulated Lake List Amendments based upon Management Plan Discussion
 2. Other Suggested Changes based upon Management Plan Discussion
 3. Binding Rice in the Traditional Style prior to Harvest
- D. Tribal Restraining Snare Regulations
1. Implement the changes established in *Commission Order 2010-01*
- E. Trapping Changes
1. Allow the Use of Colony Traps
 - a. Implement the changes established in *Commission Order 2011-02*
 2. Technical Model Code Language Modification
 - a. Implement the changes established in *Commission Order 2011-02*
 3. Body Gripping Type Trap Size Modification
 - a. Implement the changes established in *Commission Order 2011-02*
 4. Artificial Muskrat House Regulation Modification
 5. Dry Land Trap Checks Every Third Day for Body Gripping Type Traps
- F. Turkey Changes
1. Use of Dogs
 - a. Implement the changes established in *Commission Order 2011-01*
 2. Registration Modification
 - a. Implement the changes established in *Commission Order 2011-01*

3. Season Extension
 - a. Implement the changes established in *Commission Order 2011-01*
 4. Use of Electronic Calls for Disabled Hunters
 - a. Implement the changes established in *Commission Order 2011-01*
- G. Bear Changes
1. Hunting with Non-Member Clarification
 - a. Implement the changes established in *Commission Order 2011-03*
- H. Antlerless Deer Permit
1. Remove Antlerless Permit Requirement Pursuant to Threshold Modification
 - a. Implement the changes established in *Commission Order 2011-04*
 2. Remove Commercial Antlerless Permit Requirement Pursuant to Threshold Modification
 - a. Implement the changes established in *Commission Order 2011-04*
 3. Transportation Amendment
 - a. Implement the changes established in *Commission Order 2011-04*
- I. Allow Shooting Off Gravel Road
1. Establish a Sub-Definition Exemption under the Definition of a Highway
- J. Establish a Hunting Season for Otter
1. Hunting Season Currently Closed for Otter
 2. Proposed Season established from October 1 - March 31
- K. Migratory Bird Harvest Regulations
1. Allow the Use of Unattended Decoys as Implemented in Both Minnesota and Wisconsin for Tribal Migratory Bird Harvest
- III. Other Management and Technical Related Issues
- A. Issue Kinship Permit (Similar to Ceremonial) for Harvest with Niiyawenh'enh and Doodem
 - B. Migratory Bird Feather Possession Permit Modification
 - C. Notice of Potential Changes to Either Parties Regulations that Affect Treaty Harvest Regulations
 - D. Provisions of the Enforcement MOU between GLIFWC and WDNR
 1. Implement into Enforcement Stipulation

Mr. Quinn L. Williams
October 11, 2011
Page 5

- E. Non-member Assistance Modification
 - 1. Allow other Ojibwe-Anishinaabe the Ability to Assist in Harvest

Please do not hesitate to contact me if you have questions or need further information.

Miigwech,



Kekek Jason Stark
Policy Analyst

cc: Voigt Plaintiff Tribes and Attorneys
Voigt Intertribal Task Force
James E. Zorn, Executive Administrator
Ann McCammon Soltis, Director, Division of Intergovernmental Affairs
Baaswewe Fred Maulson, Chief Warden, Enforcement Division
Neil Kmiecik, Director, Biological Services Division
Jonathan Gilbert, Wildlife Section Leader, Biological Services Division

From: Jason Stark [JStark@glifwc.org]
Sent: Tuesday, November 22, 2011 12:57 PM
To: Williams, Quinn L - DNR
Cc: 'James Zorn'; 'Ann McCammon Soltis'; 'Neil Kmiecik'; Gilbert, Jonathan; Maulson, Fred; 'Aaron Loomis'; 'David Ujke - Red Cliff'; 'Eric Arnold'; 'Jim Schlender'; 'Milt Rosenberg - Red Cliff'; 'Wade Williams'; 'Bryan Bainbridge'; 'Chris McGeshick'; 'Conrad St. John'; 'Ervin Soulier'; 'Frank Mitchell-LDF'; 'George Reynolds'; 'Leo LaFernier'; 'Mic Isham'; 'Scott Smith'; 'tammy denasha for Mic Isham'; Maulson, Tom; 'Tom Maulson'; 'Gordon Thayer'; Wiggins, Michael; Soulier, Rose; McGeshick, Garland; 'Stuart Bearheart'
Subject: RE: List of Stipulation Amendment Issues - Additional Item
Follow Up Flag: Follow up
Flag Status: Flagged

Boozhoo Mr. Williams,

The *Voigt* Plaintiff Tribes desire to amend the list of potential stipulation amendment issues in the implementation of *Section II.A.2* of the *Stipulation for Technical, Management and Other Updates: Second Amendment of the Stipulation Incorporated into the Final Judgment* and in fulfillment of *Section 11* of the *Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory* and as amended *Section E.17* of the *Stipulation for the Deer Trial* (Docket Number 1167) as follows:

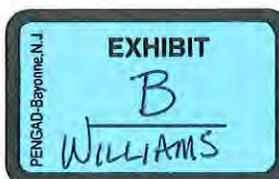
- Include Tribal Safe Use and Transportation of Firearms and Bows Regulations
 - The tribes desire to implement the changes established in Commission Order 2011-06, and
 - The Tribes desire to allow for a tribal member to have a shell in the magazine of a firearm, however not in the chamber while uncased in a vehicle.

Please do not hesitate to contact me if you have questions or need further information.

Kekek Jason Stark
Attorney / Policy Analyst
Division of Intergovernmental Affairs
Great Lakes Indian Fish and Wildlife Commission
P.O. Box 9, 72682 Maple St.
Odanah, WI 54861
Office: 715-682-6619 ext. 2106
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jstark@glifwc.org

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From: Williams, Quinn L - DNR [<mailto:Quinn.Williams@Wisconsin.gov>]
Sent: Tuesday, October 11, 2011 4:23 PM
To: Jason Stark
Cc: Williams, Quinn L - DNR
Subject: RE: List of Stipulation Amendment Issues

Thank you Mr. Stark.

The Department will have a list of issues out within the next few weeks.

Sincerely,

 Quinn L. Williams

Staff Attorney
Bureau of Legal Services
Wisconsin Department of Natural Resources
(☎) phone: (608) 266-1318
(☎) fax: (608) 266-6983
(✉) e-mail: quinn.williams@wisconsin.gov

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From: Jason Stark [<mailto:JStark@glifwc.org>]
Sent: Tuesday, October 11, 2011 04:06 PM
To: Williams, Quinn L - DNR
Cc: 'James Zorn'; 'Ann McCammon Soltis'; Maulson, Fred; 'Neil Kmiecik'; 'Joe Dan Rose'; 'Jason Stark'; 'Aaron Loomis-STC'; 'Alan Shively'; 'Brad Kalk'; 'Chris McGeshick-MLK'; 'Chris Swartz-KBIC'; 'Conrad St. John'; 'Craig Mansfield'; 'Ervin Soulier'; 'Frank Mitchell'; 'George Beck'; George Reynolds; 'giiwe Martin'; 'Jim Schlender'; 'Joyce Hazen'; 'Kelly Applegate'; 'Larry Deragon'; 'Leo LaFernier'; 'Mark Duffy'; 'Mic Isham'; 'Sam Klingman'; 'Scott Smith'; 'Stuart Bearheart'; 'tammy denasha for Mic Isham'; Maulson, Tom; Tom Maulson; 'William "Gene" Emery'; 'David Ujke - Red Cliff'; Eric Arnold; 'Milt Rosenberg - Red Cliff'; Wade Williams; 'Wiggins, Michael'; 'Soulier, Rose'; McGeshick, Garland
Subject: List of Stipulation Amendment Issues

Boozhoo Mr. Williams,

Please find attached, on behalf of the *Voigt* Plaintiff Tribes, the list of potential stipulation amendment issues in the implementation of *Section II.A.2 of the Stipulation for Technical, Management and Other Updates: Second Amendment of the Stipulation Incorporated into the Final Judgment* and in fulfillment of *Section 11 of the Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory* and the following *Stipulations* as amended: *Section 9 of the Stipulation on Biological and Certain Remaining Issues* (Docket Number 911); *Section 18 of the Stipulation on Enforcement* (Docket Number 914); *Section C.12 of the Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2);

Section C.12 of the Stipulation for Black Bear, Migratory Birds, and Wild Plants (Docket Number 1607, subpart 1); Section E.17 of the Stipulation for the Deer Trial (Docket Number 1167); Section C.9 of the Stipulation for the Wild Rice Trial (Docket Number 1222); Section C.14 of the Stipulation for Fisher, Fur Bearers, and Small Game (Docket Number 1289); Section B.12 of the Stipulation for Fish Species other than Walleye and Muskellunge (Docket Number 1568).

Please do not hesitate to contact me if you have questions or need further information.

Kekek Jason Stark
Attorney / Policy Analyst
Great Lakes Indian Fish and Wildlife Commission
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From: Jason Stark [JStark@glifwc.org]
Sent: Monday, January 30, 2012 2:11 PM
To: Williams, Quinn L - DNR
Subject: RE: Wolf Hunting In WI

Like Deer!

From: Williams, Quinn L - DNR [mailto:Quinn.Williams@Wisconsin.gov]
Sent: Monday, January 30, 2012 1:46 PM
To: Jason Stark
Cc: Williams, Quinn L - DNR
Subject: RE: Wolf Hunting In WI

News to me.
Isn't night hunting already allowed for foxes, coyotes and a few others?

 *Quinn L. Williams*

Staff Attorney
Bureau of Legal Services
Wisconsin Department of Natural Resources
(☎) phone: (608) 266-1318
(☎) fax: (608) 266-6983
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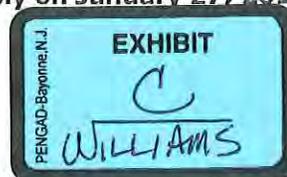
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From: Jason Stark [mailto:JStark@glifwc.org]
Sent: Monday, January 30, 2012 12:20 PM
To: Williams, Quinn L - DNR
Subject: Wolf Hunting In WI

Boozhoo Quinn:

What do you know about this bill? Hunting at night? Maybe we can get the bear hunters to ask for shooting from a roadway was well? Make our job a lot easier... A hearing for AB-502 has been scheduled for Wednesday, February 1, 2012 at the Wisconsin State Capitol in Madison. It will take place at 9:30am in 417-N.

Committee: Committee on Natural Resources (Assembly)
AB-502 was referred to committee on Natural Resources in the Assembly on January 27, 2012
Bill History: <http://www.legis.state.wi.us/2011/data/AB502hst.html>



Relating to: hunting and trapping of wolves, providing an exemption from emergency rule procedures

Hopefully the link to the legislation works, if not...

<http://docs.legis.wisconsin.gov/2011/proposals/AB502>

Kekek Jason Stark
Attorney / Policy Analyst
Division of Intergovernmental Affairs
Great Lakes Indian Fish and Wildlife Commission
P.O. Box 9, 72682 Maple St.
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jstark@glifwc.org

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From: Williams, Quinn L - DNR
Sent: Wednesday, April 25, 2012 3:30 PM
To: Stepp, Cathy L - DNR; Gunderson, Scott L - DNR; Thiede, Kurt A - DNR; Gozdziwski, John F - DNR; Andryk, Tim A - DNR; Hauge, Tom M - DNR; Vander Zouwen, William Jr - DNR
Cc: Williams, Quinn L - DNR
Subject: CONFIDENTIAL ATTORNEY/CLIENT PRIVILEGED ADVICE - Voigt Task Force Wolf Talking Points and Upcoming Stip. Negotiations draft

Follow Up Flag: Follow up
Flag Status: Flagged

CONFIDENTIAL ATTORNEY/CLIENT PRIVILEGED ADVICE

Hi Folks,

See the attached "Wolf Talking Points" draft and the proposed DNR stipulation negotiation topics set for the next year for our discussion this afternoon.



DRAFT Wolf DNR Stipulation
Season Talking Poin letter.doc

 *Quinn L. Williams*

Natural Resources Section Chief
Bureau of Legal Services
Wisconsin Department of Natural Resources
(☎) phone: (608) 266-1318
(☎) fax: (608) 266-6983
(✉) e-mail: quinn.williams@wisconsin.gov

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DRAFT - Wolf Season Talking Points

1) Consultation

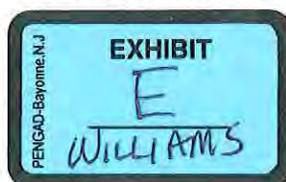
- **DNR rule** - The DNR is engaging and will continue to engage in consultation pursuant to the Voigt decision with the GLIFWC member bands on the development of a season and corresponding administrative rule.
- **Legislation passed to implement season** - Understand that the Legislature, which directed the DNR to begin the Wolf season, does not view itself as being subject to the Voigt decision regarding consultation. The Legislature was not made a party to the Voigt case, and the DNR has no authority to bind the Legislature.
- **DNR staff's technical involvement in legislation** - While consultation under the Voigt decision does not encompass confidential requests by the Legislature for answers to technical questions to the DNR regarding legislation being contemplated (the DNR is not the "decider" in those cases), the DNR did share information with Voigt as soon as practicable regarding those contacts.

2) Harvest Declarations

- **Tribal Declaration** - The DNR will respect the Tribes declaration for up to half of the harvestable surplus for each season, then adjust the subsequent year's state harvest accordingly.
- **Not a preservation right** – The Voigt tribal off reservation gathering right is not a "preservation" right, but is a harvest right. When the Tribes make a declaration, they are declaring those wolves for harvest, not preservation. This is analogous to walleye declarations where no harvest takes place, or is likely to take place.

3. Biological Issues

- **Night Hunting** – This is not similar to the prohibition on hunting deer at night with lights. The wolf night hunting is point of kill targeting, and is identical to the other "Fisher, Fur Bearers and Small Game" species such as coyotes and will involve calling in with predator calls.
- **Biological Carrying Capacity** – The Department will rely on the past work of the Wolf Management Plan in setting overall goals for wolf populations. The Wolf Management Plan goals will not be met in the first



year, and the process established for those numbers was similar to those established for deer, which does have a sociological carrying capacity analysis factored into it.

4. Religious Issues

- While the Department recognizes the importance of the Wolf to the GLIFWC member Tribes, as with all of the spiritual connections to the resources subject to the gathering rights under Voigt, there are no federal or state law provisions that restrict the State's authority to manage the Wolf population consistent with sound conservation principles.



April 26, 2012

Kekek Jason Stark
Policy Analyst
Great Lakes Indian Fish and Wildlife Commission
P.O. Box 9
Odanah, WI 54861

Subject: **Lac Courte Oreilles Indians v. State of Wisconsin (Voigt)** – List of Issues Regarding the Stipulation for Technical, Management, and Other Updates: Third Amendment of Stipulations Incorporated into the Final Judgment

Dear Attorney Stark:

Thank you for your communication on behalf of the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) regarding the ongoing Voigt stipulations, and for providing the Department of Natural Resources (DNR) with the initial list of items that have come to your attention since the last Voigt stipulation amendment was submitted earlier this year. In the interests of mutual cooperation and ongoing dialogue, consistent with the terms of the Voigt decision, the Department offers the following list of items for further discussion, which could potentially be addressed over the next year:

- 1) **Elk Season.** The Department is willing to work with GLIFWC to complete the development of tribal regulations in anticipation of a season consistent with state regulations. The Department believes that we were close on this issue as part of the last round of stipulations, and would like to see if there is room for final resolution.
- 2) **Ice musky spearing regulations.** The state has continuing biological concerns with the provision in the Stipulation on Biological and Certain Remaining issues at page 4 which provides for no bag limit or size limit for ice spearing so long as a tribe has reserved 5% of its TAC for that method. First we are uncertain whether the 5% set aside is taking place. More importantly, experience has proven that winter ice spearing can have a localized impact on the muskellunge population. Various proposals were discussed during the last round of stipulations, but no resolution was reached in time for inclusion in the March 15, 2011 submittal date to the court.
- 3) **Fish Stocking from Tribal Fish Hatcheries.** Approval requirement through technical working groups for health certification and location of tribal fish stocking.
- 4) **One "Big Fish" per Spearer per night.** DNR would like GLIFWC and the Tribes to consider revising the provision in the Off Reservation Model Code and stipulations to only allow one "Big Fish" per spearer per night, as opposed to one "Big Fish" per permit per night.
- 5) **Shining of deer.** In the past the unwritten decision by the Parties had been to charge a tribal hunter in tribal court if they were only shining private land fields but had not shot at or harvested deer. There has been considerable discussion about this during the past few years. Although there are some technical arguments related to the nature of a light "trespass" the Department would like to clarify that if a tribal member is hunting deer with



the aid of artificial light on private land, the direction should be to charge them in state court to simplify the prosecution and remove any inter-jurisdictional challenges and burdens.

6) Consultation. Allowing DNR discussions with GLIFWC to substantially comply with the state's consultation requirements for all Voigt decision issues. DNR staff involved in ongoing meetings or dialogue with GLIFWC regarding issues directly relating to those issues covered under the Voigt decision and subsequent stipulation are periodically subjected to concerns raised by various Chippewa tribal participants that the DNR is not appropriately engaging in tribal consultation on these issues with the various individual Chippewa tribes as it relates to their off reservation harvest rights. To the extent that GLIFWC already has established lines of communication with the respective tribal governments that they represent with respect to all treaty rights issues, this appears to be a natural fit, and is spelled out directly under GLIFWC's mandate under Article IX, Section 1. C and D of the *Constitution of the Great Lakes Indian Fish and Wildlife Commission*.

7) Ginseng CITIES authority. Pursuant to the last stipulation, under Section XII, paragraph J., it states:

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.

(emphasis added)

While CITIES authority was approved for GLIFWC, it was not granted for the purpose of exporting ginseng and so by implication leaves the ORC 3.26 commercial harvest provisions in place for ginseng. The Department proposes to work with GLIFWC to obtain CITIES authority for ginseng in order to reduce regulatory inefficiencies and improve enforcement of ginseng exports out of Wisconsin and the ceded territories.

8) Wolf Season. The DNR must work with GLIFWC to complete the development of tribal regulations in anticipation of a season consistent with state regulations (the extent of which will be developed in consultation with the GLIFWC).

In compiling this list, we do not wish to imply that we are unwilling to discuss the other items that were listed in GLIFWC's past two letters. Our list consists of items which are either a priority for the Department or for which we believe some progress can be made in the short term.

I look forward to beginning the next round of our discussions.

Sincerely,

Quinn Williams
DNR Tribal Attorney
April 26, 2012

Jason Stark

Thornton, Deb R.

From: Jason Stark [JStark@glifwc.org]
Sent: Tuesday, May 22, 2012 4:14 PM
To: Williams, Quinn L - DNR
Cc: 'Jason Stark'
Subject: RE: Voigt Stipulations III
Attachments: Voigt Stip III. Issue Set Summary. 5.15.12.doc; Voigt Stip III. Meeting Agenda. 5.23.12.doc; Voigt Stip. 3 Amend. Wolf Season.docx

Here ya go...

-----Original Message-----

From: Williams, Quinn L - DNR [mailto:Quinn.Williams@Wisconsin.gov]
Sent: Tuesday, May 22, 2012 10:55 AM
To: jstark@glifwc.org
Subject: RE: Re:

No, I mean, the GLIFWC stip language. You want us to have it/discuss it on the ride up, or just talk state wolf rule/management issues for tomorrow and push the stip discussion until the Wolf team meets again.

P Quinn L. Williams
Natural Resources Section Chief
Bureau of Legal Services
Wisconsin Department of Natural Resources
(() phone: (608) 266-1318
(() fax: (608) 266-6983
(+) e-mail: quinn.williams@wisconsin.gov

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-----Original Message-----

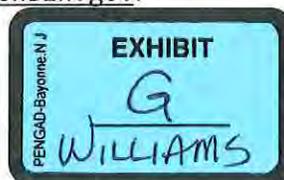
From: jstark@glifwc.org [mailto:jstark@glifwc.org]
Sent: Tuesday, May 22, 2012 10:54 AM
To: Williams, Quinn L - DNR
Subject: Re: Re:

What happened yesterday? What are you thinking?

Sent via BlackBerry by AT&T

-----Original Message-----

From: "Williams, Quinn L - DNR" <Quinn.Williams@Wisconsin.gov>
Date: Tue, 22 May 2012 10:52:12
To: jstark@glifwc.org<jstark@glifwc.org>



Subject: RE: Re:

So, wait until after tomorrow on the Wolf Stip draft?

P Quinn L. Williams
Natural Resources Section Chief
Bureau of Legal Services
Wisconsin Department of Natural Resources
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(()) fax: (608) 266-6983
(+) e-mail: quinn.williams@wisconsin.gov

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-----Original Message-----

From: jstark@glifwc.org [<mailto:jstark@glifwc.org>]
Sent: Tuesday, May 22, 2012 07:34 AM
To: Williams, Quinn L - DNR
Subject: Re:

By the way... Name' is the actual Ojibwe word for sturgeon.

-----Original Message-----

From: Quinn Williams
To: Kekek Stark
Cc: Quinn Williams
Subject: RE:
Sent: May 21, 2012 12:50 PM

Mr. Stark

The following appear to be some new issues that weren't in the first two lists submitted by GLIFWC:

- H. Tribal Hunting Hours Extension (Issue Set # 8)
- M. Tribal Name (Sturgeon) Regulatory Amendment (Issue Set # 22)
- L. Tribal Throwing Away Refuse Amendment (Issue Set # 38)
- N. Hunting on Private Land - Prosecutorial Deferral (Issue Ser # 41)
- O. Tribal Boating Regulations - Prosecutorial Deferral (Issue Set # 42)

Some of these are self-explanatory, but a few (issue sets #8, #22) I'm not sure what the issue is. I assume the "Tribal Name (Sturgeon)" is just a placeholder for the Ojibwe name of sturgeon, but was this the original "sturgeon harvest modification" included in the "stream segments" portion of the 10/11/11 fish section I.D.4.?

P Quinn L. Williams
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-----Original Message-----

From: jstark@glifwc.org [mailto:jstark@glifwc.org]
Sent: Monday, May 21, 2012 12:06 AM
To: Williams, Quinn L - DNR
Cc: jstark@glifwc.org
Subject:

attached agenda...

Sent via BlackBerry by AT&T=

VOIGT STIPULATION REVIEW PROCESS: THIRD AMENDMENT

Issue Summary

Stipulation	Summary
I. Tribal Ma'iingan (Wolf) Season	<p>The Tribes propose to develop biologically sound and culturally appropriate management and regulatory provisions so that the parties may effectively manage the ma'iingan resource.</p> <p>The language of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) is proposed to be amended to reflect this regulatory change.</p>
II. Tribal Omashkooz (Elk) Season	<p>The Tribes propose to develop biologically sound and culturally appropriate management and regulatory provisions so that the parties may effectively manage the omashkooz resource.</p> <p>The language of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) is proposed to be amended to reflect this regulatory change.</p>
III. Tribal Gathering on State Lands	<p>The tribes propose to evaluate and extend the tribal management and regulatory gathering provisions established in the <i>Stipulation for Technical, Management and Other Updates: Second Amendment of the Stipulations Entered into the Final Judgment</i> to all state properties for an additional two year study period. This stipulation change maintains tribal self-regulation while establishing the necessary assurance that the tribes will ensure that their members' gathering activities are consistent with the state's management objectives.</p> <p>The language of <i>Section C.3.f</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
IV. Tribal Camping on State Lands	<p>The tribes propose to establish tribal management and regulatory treaty related camping provisions for an initial trial</p>



	<p>two year study period. This stipulation change establishes tribal self-regulation principles while maintaining the necessary assurance that the tribes will ensure that their members' treaty related camping activities are consistent with the state's management objectives.</p> <p>The language of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
<p>V. State Land Fees Pertaining to Tribal Access and Utilization</p>	<p>The tribes propose to establish a provision ensuring that tribal members are not assessed admission and/or other fees pertaining to their access and utilization of state lands in the implementation of their treaty reserved harvest activities.</p> <p>The language <i>Section 5</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>VI. Tribal Nigig (Otter) Hunting Season</p>	<p>The Tribes propose to develop regulatory provisions establishing a tribal nigig hunting season including a revision to model code §8.09(3)(b)(x) establishing a season date of October 1 – March 31, and §8.27(c) establishing a caliber restriction of .223 caliber or less.</p> <p>The language of <i>Section C.5.h.ii</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289) is proposed to be amended to reflect this regulatory change.</p>
<p>VII. Tribal Manoomin (Wild Rice) Regulation Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to wild rice harvesting establishing a revision to the <i>Voigt Intertribal Task Force Protocol on Manoominikewin (Wild Rice Harvesting) Levels</i> pertaining to the waters subject to opening through tribal ricing authority, a place holder provision allowing for the parties to implement amended provisions of the tribal-state wild rice management plan upon completion by the issuance of a commission order, a revision to model code §5.04(2) allowing tribal members to bind wild rice, and a revision to model code §5.11(2) allowing tribal members to harvest wild rice on Wisconsin-Minnesota boundary waters.</p> <p>The language of <i>Section B.11, C.2.a</i> and <i>C.7</i> of the <i>Stipulation</i></p>

	<p><i>for Wild Rice</i> (Docket Number 1222) is proposed to be amended to reflect this regulatory change.</p>
<p>VIII. Tribal Hunting Hours Extension</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to tribal hunting hours establishing an extension to tribal hunting hours including revision to model code §6.12(1), §7.15, and §8.10(2)(a) extending tribal deer, bear, small game hunting hours by 15 minutes in the morning and evenings to 45 minutes before sunrise to 35 minutes after sunset.</p> <p>The language of <i>Section B.3.1</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section 5</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), and <i>Section C.5.r</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289) are proposed to be amended to reflect these regulatory changes.</p>
<p>IX. Tribal Shining Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to shining establishing revision to model code §3.14, §6.20, §7.26, and §8.16(1), §15.20, and §16.20 thereby allowing shining while hunting on foot with the use of a flashlight at the point of kill for deer, bear, raccoon, fox, coyote, unprotected species, elk and wolves.</p> <p>The language of <i>Section B.3</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section 5</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), <i>Section C.5</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289), and <i>Section C.6.a</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.</p>
<p>X. Pulse Fishing Rule</p>	<p>The tribes proposed to amend or remove the “intensive fishing” designation pursuant to the pulse fishing rule. In <i>LCO VI, 707 F. Supp. 1034, 1059</i> the court determined that “upon agreement by the parties, the TWG shall adjust the method for computing the pulse fishing rule to be used in setting walleye and muskellunge harvest reduction regarding intensive fishing for more than two years in succession.” The court furthered, “the TWG shall make all reasonable efforts to reach consensus on any decision or recommendation pertaining to adjusting the method for computing the pulse fishing rule for walleye and</p>

	<p>muskellunge.” In addition <i>section B.1.f</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> specifies "The pulse rule from LCO VI shall operate to close tribal harvest of a given species on a water body whenever tribal harvest of the species on that water body has exceeded sixty percent of the safe harvest (or other figure agreed upon by the parties) in the two immediately preceding years."</p> <p>The language of <i>Section B.1.f</i> and <i>B.2</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>
XI. Tribal Ice Spearing Regulation Amendment	<p>The State proposes that the Tribes amend their regulatory provisions pertaining to ice spearing. The State has continuing biological concerns contending that winter ice spearing can have a localized impact on muskellunge populations.</p> <p>The language of <i>Section 3.f.ii</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
XII. Big Fish Rule Amendment	<p>The Tribes propose to examine the necessity of the walleye spearing size limit restriction (20" maximum) in order to amend their regulatory provisions pertaining to the Big Fish rule allowing for the harvest of larger walleye. The State has proposed a tribal regulatory revision to only allow one "big fish" per spearer per night as opposed to one "big fish" per permit per night.</p> <p>The language of <i>Section 7</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
XIII. Tribal Set Line, Open Water Hook & Line, and Ice Fishing Regulatory Amendment	<p>The Tribes propose to amend their regulatory provisions pertaining to tribal set and unattended line fishing establishing revision to model code §9.09 allowing for the use of 4 rather than 1 set lines in up to three bodies of water at any one time, §9.12(1) allowing for the open water fishing by the use of hook and line with 12 lines rather than 6 lines, §9.12(2) allowing for open water fishing by the use of unattended hook and lines attached to a dock, §9.13(3)(a) allowing for the use of treble</p>

	<p>hooks, and §9.13(3)(f) allowing for the use of no more than 50 rather than 30 attended or unattended lines in no more than 3 bodies of water at any one time.</p> <p>The language of <i>Section 3.g</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XIV. Stream Segment Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to stream segments establishing revision to model code §9.06(9) allowing for the following: individual bag limits do not apply to stream segments; remove the two day limit while maintaining the 120 total walleye, 8 muskellunge, and 2 sturgeon allocation per designated stream segment; allow for the harvest of other species pursuant to trigger levels; establish additional river segments for the harvest of sturgeon (Wisconsin River to Lake Wissota); and establish a 60 walleye, 4 muskellunge, and 1 sturgeon allocation per stream not otherwise established in the <i>Designated Tribal River and Stream Segments in the Wisconsin Portion of the 1837 and 1842 Ceded Territory</i> document.</p> <p>The language of <i>Section 3.f.iii</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XV. Alternative Monitoring System Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to their alternative monitoring system including revision to <i>Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin Portion of the 1837 and 1842 Ceded Territory</i> document allowing for the following: allow an individual member the opportunity to harvest up to 3 rather than 1 permits at a time to be harvested in sequential order; allow tribes the ability to name up to 6 rather than 2 lake listed on the <i>Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin Portion of the 1837 and 1842 Ceded Territory</i> document per night as alternative monitored lakes; allow for the unmonitored harvest of other species including muskellunge or other trigger species; include lakes on the <i>Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin Portion of the 1837 and 1842 Ceded Territory</i> document based upon a safe harvest</p>

	<p>level of 125 walleye rather than a declaration of 75 walleye; and include all monitored lakes once the remaining quota is 30 walleye or less.</p> <p>The language of <i>Section 3.e.i</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XVI. Tribal Gillnet Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to gillnets including revision to model code §9.05(3)(b)(v) allowing for an experiment to establish a list of lakes allowing for the open season for gillnet to be April 1 (unless the open season is otherwise established in a Commission Order) rather than June 1 thereby establishing the necessary assurance that the tribes will ensure that their members' treaty related gillnet harvest is otherwise consistent with the courts established management framework.</p> <p>The language of <i>Section 3.c</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XVII. Spear Size Dimension Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to their spear size dimension establishing revision to model code §9.01(9) allowing for use of a smaller spear to maximize tribal harvest while diminishing potential wounding loss.</p> <p>The language of <i>Section 3.d</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XVIII. Trout Lake Bag Limit Amendment Regarding Trout Harvest</p>	<p>The Tribes propose to amend their regulatory provision pertaining to their trout bag limit regarding gillnetting on trout lake in the implementation of proposed Commission Order 2011-05 establishing revision to model code §9.05(3)(f) allowing the harvest of 2 lake trout per person per day by: open water hook and line fishing, ice fishing (including spearing through the ice), open water spearing and snagging, and all nets.</p> <p>The language of <i>Section B.1.g</i> of the <i>Stipulation for Fish</i></p>

	<i>Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.
XIX. Tribal Multiple Gear Regulatory Amendment	<p>The Tribes propose to amend their regulatory provision pertaining to possession of multiple gear establishing revision to model code §9.06(5) allowing for the simultaneous possession of a spear or net along with other non-intensive fish harvesting device(s).</p> <p>The language of <i>Section 3.d</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
XX. Tribal Species Harvest Restriction Contingent Upon Other Species Regulatory Amendment	<p>The Tribes propose to amend their regulatory provision pertaining to tribal harvest restrictions being contingent upon the availability of tribal quota involving other species by allowing the harvest of quota and trigger species independent of each other.</p> <p>The language of <i>Section B.1.f</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>
XXI. Tribal Fish Refuge Regulatory Amendment	<p>The Tribes propose to amend their regulatory provision pertaining to tribal fish refuges establishing revision to model code §3.27(1)(a) allowing for the harvest of quota species within fish refuges in recognition that it is biologically unnecessary to prohibit harvest within a fish refuge when a quota is in place as the quota is designed to protect the population. The tribes propose to maintain the fish refuge closure for non-intensive harvest methods.</p> <p>The language of <i>Section 3.f.iv</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
XXII. Tribal Name (Sturgeon) Regulatory Amendment	The Tribes propose to amend their regulatory provision pertaining to tribal Name (sturgeon) harvest establishing: revision to model code §9.05(3)(d) allowing for harvest to be regulated by the permit rather than by bag limit therefore

	<p>removing the one sturgeon per person per year regulation; revision to model code §9.05(3)(d) allowing for the elimination of the rock sturgeon 45” minimum size limit; and revision to model code §9.26(1) setting for that this section shall supersede the season, size and bag limit restrictions.</p> <p>The language of <i>Section B.1.i.i and Section B.1.i.iii</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>
<p>XXIII. Tribal Fyke Netting Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to tribal fyke netting establishing a provision of the model code allowing for group or party netting thereby allowing up to 4 members per party netting permit. Only one member of the party would need to be present for required net check intervals, along with the ability of a party member to remove themselves from the party permit if the permit is issued for consecutive days.</p> <p>The language of <i>Section 3</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XXIV. Tribal Namegos (Lake Trout) Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to tribal Namegos (lake trout) harvest restrictions establishing revision to model code §9.05(3)(f) amending the individual bag limit to establish 10 lake trout per person per day rather than 5 lake trout per person per day.</p> <p>The language of <i>Section B.1</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>
<p>XXV. Tribal Shooting Off-Gravel Road Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to tribal shooting off gravel roadway establishing revision to model code §3.21(3)(c)(iv) allowing for the discharge of a rifle from a roadway or highway (as defined in the model code) if the surface is anything other than concrete or blacktop.</p> <p>The language of <i>Section D.3.i</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167) is proposed to be amended to</p>

	reflect this regulatory change.
XXVI. Tribal Migratory Bird Regulatory Amendment	<p>The Tribes propose to amend their regulatory provision pertaining to tribal migratory bird harvest proposal with the United States Fish and Wildlife Service establishing revision to model code §10.03(1) and §10.05 implementing this change.</p> <p>The language of <i>Section C.2 of the Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
XXVII. Stipulation of Enforcement MOU Provisions	<p>The Tribes propose to amend their regulatory provision pertaining to the implementation of provisions of the GLIFWC / WDNR Enforcement MOU into the enforcement stipulation.</p> <p>The language of <i>Section 12 of the Stipulation on Enforcement</i> (Docket Number 914) is proposed to be amended to reflect this regulatory change.</p>
XXVIII. Tribal Restraining Snare Regulatory Amendment	<p>The Tribes propose to amend their regulatory provisions pertaining to restraining snares in the implementation of proposed Commission Order 2010-01 establishing revision to model code §8.02(2) and §8.19(2) including: the use of restraining snares for fox, coyote, bobcat, and wolves; closed season from October 1 – March 31; staking a restraining snare; set size of restraining snare; and restraining snare noose cable and attachment specifications.</p> <p>The language of <i>Section C.5 of the Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289) is proposed to be amended to reflect this regulatory change.</p>
XXIX. Tribal Mizise (Wild Turkey) Hunting Regulatory Amendment	<p>The Tribes propose to amend their regulatory provisions pertaining to mizise (wild turkeys) in the implementation of proposed Commission Order 2011-01 establishing revisions to model code §8.26 including: turkey harvest with the aid of dogs; disabled hunter turkey harvest with the aid of electronic calls; wild turkey hunting season extension; wild turkey registration revision.</p> <p>The language of <i>Section C.1 of the Stipulation for</i></p>

	<p><i>Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) is proposed to be amended to reflect this regulatory change.</p>
<p>XXX. Tribal Trapping Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to trapping in the implementation of Commission Order 2011-02 establishing revisions to model code §8.18 including: trapping open season; trapping with the use of bait; daily trap check requirements; use of colony traps; body gripping trap size requirement; body gripping trap location restrictions.</p> <p>The language of <i>Section C.5.d</i> and <i>Section C.5.f</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289) is proposed to be amended to reflect this regulatory change.</p>
<p>XXXI. Tribal Makwa (Bear) Harvesting Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to makwa (bear) in the implementation of Commission Order 2011-03 establishing revisions to model code §7.14 pertaining to hunting with non-members.</p> <p>The language of <i>Section C.1</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
<p>XXXII. Tribal Waawaashkeshi (Deer) Harvesting Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to waawaashkeshi (deer) in the implementation of Commission Order 2011-04 establishing revisions to model code §6.05, §6.13, §6.18, and §6.20 including: removal of the requirement of possessing antlerless deer hunting permits unless necessary pursuant to the tribal threshold system and deer transportation.</p> <p>The language of <i>Section B.3.</i> and <i>E.2.a</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167) is proposed to be amended to reflect this regulatory change.</p>

<p>XXXIII. Tribal Safe Use and Transportation of Firearms and Bows Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to the safe use and transportation of firearms and bows in the implementation of Commission Order 2011-06 establishing revisions to model code §3.21(3) including: amendment to the definition of stationary; provision providing for the placement or possession of an uncased firearm or bow within a stationary vehicle; and prohibitory exceptions.</p> <p>The language <i>Section B.3.j</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167) is proposed to be amended to reflect this regulatory change.</p>
<p>XXXIV. Tribal Kinship Permit Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions establishing tribal kinship permits for niyawenh’enh (tribal nanesake) and nindoodem (tribal clan) and bami’aagan (tribal customary adoption) establishing revision to model code §3.30(1) implementing this change.</p> <p>The language of <i>Section 3</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911), <i>Section B.3.m</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section B</i> of the <i>Stipulation for Wild Rice</i> (Docket Number 1222), <i>Section B</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289), <i>Section A</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568), <i>Section C.5.c</i>, <i>Section C.5.n</i>, and <i>Section C.5.j</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), and <i>Section D.2</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.</p>
<p>XXXV. Tribal Migratory Bird Feather/Part Traditional and Cultural Use Permit Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision establishing tribal migratory bird feather/part traditional and cultural use permits pursuant to agreement with the United States Fish and Wildlife Service establishing revision to model code §10.01, §10.19 and §10.22 implementing this change.</p> <p>The language of <i>Section C.2</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory</p>

	change.
XXXVI. Tribal Non-Member Indian Assistance Regulatory Amendment	<p>The Tribes propose to amend their regulatory provisions establishing non-member Indian assistance permits for members of other bands and thereby establishing revision to model code §3.30(1) implementing this change.</p> <p>The language of <i>Section 3</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911), <i>Section B.3.m</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section B</i> of the <i>Stipulation for Wild Rice</i> (Docket Number 1222), <i>Section B</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289), <i>Section A</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568), <i>Section C.5.c</i>, <i>Section C.5.n</i>, and <i>Section C.5.j</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), and <i>Section D.2</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.</p>
XXXVII. Consultation Provisions	<p>The State proposes to establish a process allowing for DNR discussions with GLIFWC to substantially comply with the State’s consultative requirement for all Voigt decision issue.</p> <p>The language of <i>Section E.1</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section C.1</i> of the <i>Stipulation for Wild Rice</i> (Docket Number 1222), <i>Section C.1</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289), <i>Section B.2</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568), <i>Section C.1.a</i>, <i>Section C.2.a</i>, and <i>Section C.3.a</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), and <i>Section C.1.a</i> and <i>Section C.3</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.</p>
XXXVIII. Notice of Regulatory Amendments Changes by Either Party	<p>The Tribes propose to amend their regulatory provisions establishing notice framework regarding regulatory amendments by either party.</p>

	<p>The language of <i>Section E.1</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section C.1</i> of the <i>Stipulation for Wild Rice</i> (Docket Number 1222), <i>Section C.1</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289), <i>Section B.2</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568), <i>Section C.1.a</i>, <i>Section C.2.a</i>, and <i>Section C.3.a</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), and <i>Section C.1.a</i> and <i>Section C.3</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.</p>
<p>XXXIX. Tribal Throwing Away Refuse Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to throwing away refuse establishing revision to model code §3.07 implementing this change.</p> <p>The language of <i>Section B.13</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167) is proposed to be amended to reflect this regulatory change.</p>
<p>XL. Fish Stocking Agreement</p>	<p>The State proposes to amend their regulatory provision pertaining to tribal fish stocking to establish a protocol requirement through the fisheries technical working group for health certification and location of tribal fish stocking. Currently, many GLIFWC member tribes are engaging in ongoing fish stocking from tribal hatcheries. In many cases, no contact is made prior to stocking with DNR personnel as to the species, number or health of the fish being stocked, nor regarding the location of where the stocking occurs. This presents significant problems for planning for the health of the fishery in general, with the onset of VHS and other pathogens. Similarly, it is important that all fish being stocked have obtained the appropriate DATCP health certification.</p> <p><i>Section B.2.e</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> specifies “the TWG shall review plans to coordinate and authorize any off-reservation fish stocking by tribes prior to such stocking.” To date, the TWG has not routinely performed this function and off-reservation stockings by tribes has not always been coordinated with Wisconsin DNR or other private stocking. It is clear from the</p>

	<p>original stipulation that the parties intended to provide a clear mechanism to coordinate and authorize off-reservation tribal stocking in advance presumably with the intent to generally improve management of ceded territory waters by avoiding unnecessary, duplicative or harmful stockings.</p> <p>The language of <i>Section B.2.e</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>
<p>XLI. Ginseng CITES Authority</p>	<p>The Tribes propose to amend their regulatory provision pertaining to the request and implementation of tribal ginseng authority establishing revision to model code §12.04(6) implementing this change.</p> <p>The language of <i>Section C.5.r</i> of the of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
<p>XLII. Hunting on Private Land / Shining Regulations – Prosecutorial Deferral</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to the implementation of tribal self-regulatory authority pertaining to hunting on private land / shining violations. <i>Section B.4</i> of the <i>Stipulation for the Deer Trial</i> recognizes that both the Tribes and the State retain the ability to enforce violations of their laws committed by tribal members on privately owned lands where the court has determined that treaty rights cannot be exercised. The court confirmed in <i>Lac Courte Oreilles Band v. Wisconsin (LCO VII)</i>, 740 F. Supp. 1400 (WD Wis 1990) that tribal harvesters are subject to state hunting and trapping regulations when hunting or trapping on private lands while simultaneously incorporating the <i>Stipulation for the Deer Trial</i> into this decision. This conforms that both the Tribes and the State may enforce and prosecute in their respective courts violations of tribal members hunting or trapping on privately owned land. In the implementation of both the Stipulation and the Court Order, violations by tribal members hunting or trapping on privately owned land that are issued by GLIFWC or Tribal conservation officers are typically enforced and prosecuted into tribal court, while violations that are issued by DNR</p>

conservation wardens are typically enforced and prosecuted into state court. Overtime, some tribal prosecutors began to transfer tribal citations to state court for prosecutions while some district attorneys began to transfer state citations into tribal court for prosecution.

Over the past twenty years, the policy that tribal members have the right to exercise treaty reserved rights, subject to their own tribe's authorization and regulation as an "internal affair" of the tribe has been recognized as a fundamental principle in the implementation of this case. *Lac Courte Oreilles Band of Lake Superior Chippewa v. Wisconsin (LCO IV)*, 668 F. Supp 1233, 1241 (W.D. Wis. 1987). It is with this caveat in mind that the Tribes propose establishing a tribal self-regulation provision recognizing and encouraging that the Tribes should govern the behavior of their members to the greatest extent possible, but that the state reserves the right to use its regulatory authority in certain circumstances. This proposal recognizes the ability of the Tribes to regulate their own members by serving violations of tribal members hunting or trapping on privately owned land into tribal courts. Through this proposal, the Tribes and State agree to avoid dual prosecution when there are similar state and tribal violations related to tribal members hunting or trapping on privately owned land. The Tribes and the State also agree that the State may, if a violation is particularly flagrant or egregious in nature, prosecute tribal members in state court for a violation of the state law provisions regarding hunting or trapping on privately owned land. The Tribes and the State agree to consult with one another before a citation is issued pursuant to state law.

This self-regulation proposal is consistent with Wisconsin and federal Indian policy and has been incorporated into intergovernmental agreements between the Tribes and federal agencies as follows: between the Tribes and the U.S. Forest Service regarding the regulation of tribal treaty reserved harvest activities on national forest lands; between the Tribes and the National Park Services regarding the regulation of tribal treaty reserved harvest activities on the Apostle Islands National Lakeshore; and between the Tribes and the U.S. Fish and Wildlife Service regarding the regulation of off-reservation

	<p>waterfowl hunting.</p> <p>The State proposes that all private land shining of deer violations should be adjudicated in state court.</p> <p>The language of <i>Section B.4</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167) is proposed to be amended to reflect this regulatory change.</p>
<p>XLIII. Tribal Boating Regulations – Prosecutorial Deferral</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to the implementation of tribal self-regulatory authority pertaining to tribal boating violations. <i>Section B.2</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> recognizes that the Tribes retain the ability to enforce violations of tribal boating regulations which parallel violations of state boating regulations into tribal court. However, Section (E) specified that the parties were unable to reach agreement as to whether or not, as a matter of law, enforcement in state courts of the boating regulations may be preempted by the tribal boating regulations. The parties agreed to submit this issue to the court for decision. The court ordered in <i>Lac Courte Oreilles Band v. Wisconsin</i>, Case No. 74-C-313-C (WD Wis. February 21, 1991)(unpublished decision) that the State may enforce and prosecute in state courts violations of the state boating laws committed by tribal members engaged in the exercise of treaty harvest activities. In the implementation of both the Stipulation and the Court Order, violations of the tribal boating regulations that are issued by GLIFWC or Tribal conservation officers are typically enforced and prosecuted into tribal court, while violations that are issued by DNR conservation wardens are typically enforced and prosecuted into state court. Overtime, some tribal prosecutors began to transfer tribal citations to state court for prosecutions while some district attorneys began to transfer state citations into tribal court for prosecution.</p> <p>Over the past 18 years, tribal officials, state conservation wardens, and the WDNR Northern Region Director all have questioned the premise: why are violations of the state boating regulations enforced and prosecuted in state court rather than tribal court? It is with this caveat in mind that the parties</p>

jointly propose establishing a tribal self-regulation provision recognizing and encouraging that the Tribes should govern the behavior of their members to the greatest extent possible, but that the state reserves the right to use its regulatory authority as the court ordered. This proposal recognizes the ability of the Tribes to regulate their own members by serving violations of tribal boating regulations into tribal courts. Through this proposal, the Tribes and State agree to avoid dual prosecution when there are similar state and tribal violations related to boating. The Tribes and the State also agree that the State may, if a violation is particularly flagrant or egregious in nature, prosecute tribal members in violation of the state boating regulations into state court. The Tribes and the State agree to consult with one another before a citation is issued pursuant to state law.

This self-regulation proposal is consistent with Wisconsin and federal Indian policy and has been incorporated into intergovernmental agreements between the Tribes and federal agencies as follows: between the Tribes and the U.S. Forest Service regarding the regulation of tribal treaty reserved harvest activities on national forest lands; between the Tribes and the National Park Services regarding the regulation of tribal treaty reserved harvest activities on the Apostle Islands National Lakeshore; and between the Tribes and the U.S. Fish and Wildlife Service regarding the regulation of off-reservation waterfowl hunting.

The language of *Section B.2 of the Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2) is proposed to be amended to reflect this regulatory change.

VOIGT STIPULATION REVIEW PROCESS: THIRD AMENDMENT

May 23, 2012, 9:00 A.M.
Red Cliff, WI

AGENDA

Opening Song / Ceremony

- I. Call to Order - Introductions
- II. Groundwork and Overview of Stipulation Review Process
- III. Wildlife Related Issues
 - A. Tribal Ma'ingan (Wolf) Season (Issue Set # 1)
 - B. Tribal Omashkooz (Elk) Season (Issue Set # 2)
 - C. Tribal Gathering on State Lands (Issue Set # 3)
 - D. Tribal Camping on State Lands (Issue Set # 4)
 - E. State Land Fees Pertaining to Tribal Access and Utilization (Issue Set # 5)
 - F. Tribal Nigig (Otter) Hunting Season (Issue Set # 6)
 - G. Tribal Manoomin (Wild Rice) Regulation Amendment (Issue Set # 7)
 - H. Tribal Hunting Hours Extension (Issue Set # 8)
 - I. Tribal Shining Regulatory Amendment (Issue Set # 9)
- IV. Fishery Related Issues
 - A. Pulse Fishing Rule Amendment (Issue Set # 10)
 - B. Tribal Ice Spearing Regulation Amendment (Issue Set # 11)
 - C. Big Fish Rule Amendment (Issue Set # 12)
 - D. Tribal Set Line and Unattended Line Regulatory Amendment (Issue Set # 13)
 - E. Stream Segment Regulatory Amendment (Issue Set # 14)
 - F. Alternative Monitoring System Regulatory Amendment (Issue Set # 15)



- G. Tribal Gillnet Regulatory Amendment (Issue Set # 16)
 - H. Spear Size Dimension Amendment (Issue Set # 17)
 - I. Trout Lake Bag Limit Amendment Regarding Trout Harvest (Issue Set # 18)
 - J. Tribal Multiple Gear Regulatory Amendment (Issue Set # 19)
 - K. Tribal Species Harvest Restriction Contingent Upon Other Species Regulatory Amendment (Issue Set # 20)
 - L. Tribal Fish Refuge Regulatory Amendment (Issue Set # 21)
 - M. Tribal Name (Sturgeon) Regulatory Amendment (Issue Set # 22)
 - N. Tribal Fyke Net Regulatory Amendment (Issue Set # 23)
 - O. Tribal Namegos (Lake Trout) Regulatory Amendment (Issue Set # 24)
- V. Enforcement Related Issues
- A. Tribal Shooting Off Gravel Road Regulatory Amendment (Issue Set # 25)
 - B. Tribal Migratory Bird Regulatory Amendment (Issue Set # 26)
 - C. Stipulation of Enforcement MOU Provisions (Issue Set # 27)
- VI. Technical Amendment / Other Miscellaneous Related Issues
- A. Tribal Restraining Snare Regulatory Amendment (Issue Set # 28)
 - B. Tribal Mizise (Wild Turkey) Hunting Regulatory Amendment (Issue Set # 29)
 - C. Tribal Trapping Regulatory Amendment (Issue Set # 30)
 - D. Tribal Mukwa (Bear) Harvesting Regulatory Amendment (Issue Set # 31)
 - E. Tribal Waawaashkeshi (Deer) Harvesting Regulatory Amendment (Issue Set # 32)
 - F. Tribal Safe Use and Transportation of Firearms and Bows Regulatory Amendment (Issue Set # 33)

Voigt Stipulation Review Process: Third Amendment

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- G. Tribal Kinship Permit Regulatory Amendment (Issue Set # 34)
- H. Tribal Migratory Bird Feather/Part Traditional and Cultural Use Permit Regulatory Amendment (Issue Set # 35)
- I. Tribal Non-Member Indian Assistance Regulatory Amendment (Issue Set # 36)
- J. Consultation Provisions (Issue Set # 37)
- K. Notice of Regulatory Amendments / Changes by Either Party (Issue Set # 38)
- L. Tribal Throwing Away Refuse Amendment (Issue Set # 39)
- M. Fish Stocking Amendment (Issue Set # 40)
- N. Ginseng CITES Authority (Issue Set # 41)
- O. Hunting on Private Land - Prosecutorial Deferral (Issue Ser # 42)
- P. Tribal Boating Regulations - Prosecutorial Deferral (Issue Set # 43)

VII. Adjourn

Closing Song

Voigt Stipulation Review Process: Third Amendment

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VOIGT STIPULATION REVIEW PROCESS: THIRD AMENDMENT

Issue Set #1 – Proposed Stipulation Change:

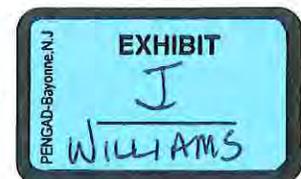
Ma'iingan (Wolf) Season

I. Wolf Season – Tribal Proposal.

Management authority for ma'iingan (wolf) reverted back to the tribes and the State of Wisconsin when the United States Fish and Wildlife Service removed them from the federal endangered species list on January 27, 2012. On April 2, 2012 the wolf bill, 2011 Wis. Act 169, was enacted. This legislation allows for a State ma'iingan season for both hunters and trappers. The Tribes propose to develop biologically sound and culturally appropriate management and regulatory provisions so that the parties may effectively manage the ma'iingan resource. The State responded that it is willing to work with the tribes in the development of ma'iingan management and regulatory provisions, and to find where agreement can be reached in the context of an overall stipulation package.

The language of the *Stipulation for Miscellaneous Species and Regulatory Matters* 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) will be amended to reflect this regulatory change. The proposed stipulation amendment to capture this change is set forth below.

II. Draft Stipulation Amendment – Regarding Ma'iingan (Wolf) Management and Regulatory Provisions



MA'IINGAN (WOLF) MANAGEMENT AND REGULATORY PROVISIONS

A. The parties agree that the language of *Section C* of the *Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2) will be amended to specify that tribal treaty miscellaneous species include wolves and furthermore that the following language regarding wolf management will be established:

1. Tribal Significance of Ma'iingan

- a. The parties acknowledge that wolves are a species of great significance to the plaintiff tribes. The parties further acknowledge that the plaintiff tribes understand wolves to be educators, as they teach about hunting and working together in extended family units. The parties acknowledge that the plaintiff tribes understand wolves to exemplify perseverance, guardianship, intelligence, and wisdom. The parties acknowledge based upon the principles of Anishinaabe teachings, traditions, and tribal customary law that the plaintiff tribes can do no less than to fully support efforts to protect, promote acceptance, and ensure healthy and abundant populations of wolves within the ceded territory.
- b. The parties acknowledge that the recovery of ma'iingan represents a tremendous success that is restoring a cultural as well as an ecological cornerstone to the ceded territory. The parties further acknowledge that this recovery shall be maintained to the

maximum extent possible based upon biologically sound and culturally appropriate wolf management principles.

2. Biology of Ma'iingan

a. Insert Peter's great biological wisdom here

3. Ma'iingan Management:

a. The parties agree that a consensus approach, as defined further in this Stipulation shall be utilized pertaining to any wolf management decisions affecting the tribes' treaty reserved rights.

b. Defendants agree to officially recognize Tribal representatives as official members of the following committee or process:

(1) Annual wolf quota setting process;

(2) Comprehensive review of wolf population goals and wolf management unit boundary decisions;

(3) Wolf committee and any other committee created to manage or impacting wolf range and wolves in the ceded territory.

c. Plaintiffs do not waive any right to challenge any actions taken by the DNR relating to the management of wolves in tribal, state or federal forums. However, the parties agree that the processes listed in paragraph b. above shall govern and be binding upon all the parties concerning the management of wolves in the ceded territory until and unless otherwise directed as a result of challenges undertaken pursuant to this section.

d. The parties agree that the process listed in paragraph b. above shall be limited to the management of wolves. The parties further 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. Where consensus cannot be reached:

(1) The parties will attempt to resolve any dispute or disagreement first by good faith discussions at the appropriate governmental level. A party may raise any matter not resolved at this level to a higher official of another party.

(2) A party claiming the requisite authority may make and implement a decision on the unresolved matter.

e. The parties agree that the approximate wolf population, at the time of negotiating this stipulation, is approximately 700 wolves within the ceded territory. The parties further agree that they will strive to maintain this ceded territory population level or increase this ceded territory population level up to carrying capacity.

(1) The parties will attempt to reach consensus on the approximate ceded territory carrying capacity level or population range through the processes listed in paragraph b. above. The parties further agree that they will amend the population goal within the wolf management plan to reflect

the current population status and ceded territory carrying capacity level.

f. The parties agree to establish wolf management zones for the ceded territory through the processes listed in paragraph b. above.

(1) The parties agree that the Tribes will amend the *Tribal Management Units and Zones in the Wisconsin portion of the 1837 and 1842 Ceded Territory, Version 1.3* document to establish these tribal wolf management zones.

(2) The parties further agree that these ceded territory management zones may include specific zones surrounding the exterior boundaries of each of the plaintiff tribes' reservation as agreed to by each of the plaintiff tribes' in their individual sovereign capacity for the zone encompassing their reservation.

(i) Prior to the issuance of harvest permits by the defendant within these zones, if established, the defendants agree to consult with the plaintiff tribe encompassing the zone. 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 issuance of harvest permits.

(3) Once the number of wolves harvested in a wolf management zone by either party approaches fifty percent (50%) of the total allocation available for that zone, the parties shall consult with each other about whether and when to order closure of the unit for wolf 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.

4. Ma'iingan Declaration

a. The parties agree that upon the Tribes' adoption of the *Voigt Intertribal Task Force Protocol on Noodama'iinganiwe (Wolf Harvesting) Levels* (attached in Appendix B), *Sections C* of the of the *Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2) shall be amended to establish the following:

(1) The Plaintiff tribes must issue a harvest declaration for each tribal wolf management zone and establish a tribal quota with the ability to control harvest to stay within that quota.

(i) The defendants agree that they will implement a one-for-one reduction in their harvest allocation in response to the plaintiff tribes' declaration.

- (2) If determined appropriate by the parties, the plaintiff tribes may establish a wolf threshold value for the number of wolves available for tribal harvest in each tribal wolf management zone through the issuance of a Commission Order.
 - b. Tribal members will be limited to possessing one (1) carcass tag at a time, unless otherwise authorized by §8.07 of the Model Code.
 - c. Registration shall be required (within 1 working days of harvest).
 - d. Carcass tags shall be required even if a quota is triggered because registration shall be mandatory for harvest.
 - e. There shall be no hunting of wolves in those areas which have been closed to tribal wolf hunting.
5. The parties agree that the Tribes will establish §16.06 of the Model Code in the manner reflected in attached Appendix A to implement the above mentioned restrictions.
 6. The parties agree that upon the time that the plaintiffs determine that the establishment of a tribal wolf season is culturally appropriate and/or necessary, the Tribes may amend § 3.29, (attached in appendix A) of the Model Code to remove the reference to wolf as a tribally protected species through the issuance of a Commission Order.
 7. The parties agree that upon the time that the plaintiffs determine that the establishment of a tribal wolf season is culturally appropriate and/or

necessary; the Tribes may open a tribal wolf season through the issuance of a Commission Order.

8. The parties agree that the Tribes shall include enforcement and related provisions substantially in scope and content to Chapter 16 – Wolf Harvesting Regulations, §16.01- §16.23 (attached in appendix A) of the Model Code thereby establishing tribal wolf harvesting regulations, as it might apply to those persons over whom the tribes have jurisdiction.

B. The parties agree that the language of *Section A* of the *Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2) regarding tribal enforcement and preemption of state law will be amended to specify that tribal treaty miscellaneous species include wolves and furthermore that the following language regarding wolf regulatory provisions will be established:

1. The parties agree that the language regarding tribal enforcement and preemption of state law will be amended to specify that tribal treaty miscellaneous species harvesting rights applies to the tribal harvesting of wolves.
2. The parties agree that the language of *Section A.10* will be amended to stipulate that the treaty miscellaneous species harvesting rights, which include the tribal harvesting of wolves, apply to all natural navigable lakes, and to those areas where the beds of streams and flowages are owned by the state or its political subdivisions and to all land owned by the state or its political subdivisions including those lands which, pursuant

to Chapter 77.16, Wis. Stats., have been designated as Forest Croplands or Open Managed Forest Lands..

- C. The parties agree that the language of *Section D* of the *Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2) regarding assistance by nonmembers will be amended to specify that the assistance by non-members provisions established by this section includes the tribal harvesting of wolves.

III. Draft Model Code Amendments – Regarding the Establishment of a Wolf Season

Proposed Model Code revisions regarding the establishment of a wolf season are [§?

TBD] are (deletions shown by ~~strikeout~~ and additions by redline):

TBD

IV. Draft Voigt Intertribal Task Force Protocol – Noodama’iinganiwe (Wolf Harvest) Levels.

Proposed Voigt Intertribal Task Force protocol (deletions shown by ~~strikeout~~ and additions by redline):

ADOPTED --/--/--

**VOIGT INTERTRIBAL TASK FORCE PROTOCOL
NOODAMA’IINGANIWE (WOLF 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 wolf 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 wolves available for harvest in each wolf 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 wolf 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' wolf harvest quotas for the coming wolf harvest season for each wolf management zone, in consultation with the BSD. The total number of wolves to be subject to tribal harvest shall not exceed the number available in the BSD designation of May 1 for any wolf management zone.

3. Task Force Final Declaration of Wolf Harvest Quotas and Wolf 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 Wolf Harvest Quotas for the upcoming wolf season, which shall be described by wolf management zone. The Declaration shall be certified by the BSD Wildlife Section Leader and the Director as in compliance with any management plan for wolves 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 wolves subject to tribal harvest in each wolf management zone to which the declaration applies during the upcoming wolf season, and shall be immediately transmitted to the Wisconsin Department of Natural Resources by the BSD for its use in permitting wolf 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 ? of the Stipulation for Technical, Management and other Updates: Third Amendment of Stipulations Incorporated Into Final Judgment* which updated *Section ? of the Stipulation for Miscellaneous Species and Regulatory Matters* 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).

From: Zebro, David A - DNR
Sent: Friday, June 29, 2012 8:09 AM
To: Oginski, David A - DNR (Ashland); Van Haren, Thomas - DNR
Cc: Williams, Quinn L - DNR
Subject: RE: Voigt Stips

Follow Up Flag: Follow up
Flag Status: Flagged

Guys,

Here's the highlighted document you requested.

I would also like to postpone today's meeting. I've got some kind of stomach flu or something going on so I'm not in a good place to discuss this today.

Honestly, I haven't looked at this since last week either. I'll cancel today and select another date within the next week or so. Sorry about the short notice, I started going south late yesterday afternoon and just don't feel well.



Voigt Stip III
Issue Set Summ...

 *David A. Zebro*

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Northern Region Service Center-(Spoooner)
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From: Oginski, David A - DNR (Ashland)
Sent: Thursday, June 28, 2012 1:42 PM
To: Zebro, David A - DNR
Subject: Voigt Stips



Dave, can you send me the version of the stips that you highlighted and made comments on that we discussed on our last live meeting with Quinn. Thanks

 *David A. Oginski*

Conservation Warden Supervisor - Ashland Team

Ashland Service Center

Bureau of Law Enforcement

Wisconsin Department of Natural Resources

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VOIGT STIPULATION REVIEW PROCESS: THIRD AMENDMENT

Issue Summary

Stipulation	Summary
I. Tribal Ma'iingan (Wolf) Season	<p>The Tribes propose to develop biologically sound and culturally appropriate management and regulatory provisions so that the parties may effectively manage the ma'iingan resource.</p> <p>The language of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) is proposed to be amended to reflect this regulatory change.</p>
II. Tribal Omashkooz (Elk) Season	<p>The Tribes propose to develop biologically sound and culturally appropriate management and regulatory provisions so that the parties may effectively manage the omashkooz resource.</p> <p>The language of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) is proposed to be amended to reflect this regulatory change.</p>
III. Tribal Gathering on State Lands	<p>The tribes propose to evaluate and extend the tribal management and regulatory gathering provisions established in the <i>Stipulation for Technical, Management and Other Updates: Second Amendment of the Stipulations Entered into the Final Judgment</i> to all state properties for an additional two year study period. This stipulation change maintains tribal self-regulation while establishing the necessary assurance that the tribes will ensure that their members' gathering activities are consistent with the state's management objectives.</p> <p>The language of <i>Section C.3.f</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
IV. Tribal Camping on State Lands -Parks	<p>The tribes propose to establish tribal management and regulatory treaty related camping provisions for an initial trial</p>



	<p>two year study period. This stipulation change establishes tribal self-regulation principles while maintaining the necessary assurance that the tribes will ensure that their members' treaty related camping activities are consistent with the state's management objectives.</p> <p>The language of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
<p>V. State Land Fees Pertaining to Tribal Access and Utilization Parks-WPMC</p>	<p>The tribes propose to establish a provision ensuring that tribal members are not assessed admission and/or other fees pertaining to their access and utilization of state lands in the implementation of their treaty reserved harvest activities.</p> <p>The language <i>Section 5</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>VI. Tribal Nigig (Otter) Hunting Season Wildlife/LE</p>	<p>The Tribes propose to develop regulatory provisions establishing a tribal nigig hunting season including a revision to model code §8.09(3)(b)(x) establishing a season date of October 1 – March 31, and §8.27(c) establishing a caliber restriction of .223 caliber or less.</p> <p>The language of <i>Section C.5.h.ii</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289) is proposed to be amended to reflect this regulatory change.</p>
<p>VII. Tribal Manoomin (Wild Rice) Regulation Amendment Wildlife</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to wild rice harvesting establishing a revision to the <i>Voigt Intertribal Task Force Protocol on Manoominikewin (Wild Rice Harvesting) Levels</i> pertaining to the waters subject to opening through tribal ricing authority, a place holder provision allowing for the parties to implement amended provisions of the tribal-state wild rice management plan upon completion by the issuance of a commission order, a revision to model code §5.04(2) allowing tribal members to bind wild rice, and a revision to model code §5.11(2) allowing tribal members to harvest wild rice on Wisconsin-Minnesota boundary waters.</p> <p>The language of <i>Section B.11, C.2.a</i> and <i>C.7</i> of the <i>Stipulation</i></p>

	<p>for <i>Wild Rice</i> (Docket Number 1222) is proposed to be amended to reflect this regulatory change.</p>
<p>VIII. Tribal Hunting Hours Extension LE Safety, know target and beyond, identification of target.</p> <p>Schaller, review H.E. accidents before or after hunting hours</p> <p>Are requesting extended waterfowl hours to USFWS, Van Horn</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to tribal hunting hours establishing an extension to tribal hunting hours including revision to model code §6.12(1), §7.15, and §8.10(2)(a) extending tribal deer, bear, small game hunting hours by 15 minutes in the morning and evenings to 45 minutes before sunrise to 35 minutes after sunset.</p> <p>The language of <i>Section B.3.l</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section 5</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), and <i>Section C.5.r</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289) are proposed to be amended to reflect these regulatory changes.</p>
<p>IX. Tribal Shining Regulatory Amendment LE Health, safety welfare.</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to shining establishing revision to model code §3.14, §6.20, §7.26, and §8.16(1), §15.20, and §16.20 thereby allowing shining while hunting on foot with the use of a flashlight at the point of kill for deer, bear, raccoon, fox, coyote, unprotected species, elk and wolves.</p> <p>The language of <i>Section B.3</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section 5</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), <i>Section C.5</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289), and <i>Section C.6.a</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.</p>
<p>X. Pulse Fishing Rule</p>	<p>The tribes proposed to amend or remove the “intensive fishing” designation pursuant to the pulse fishing rule. In <i>LCO VI</i>, 707 F. Supp. 1034, 1059 the court determined that “upon agreement by the parties, the TWG shall adjust the method for computing the pulse fishing rule to be used in setting walleye and muskellunge harvest reduction regarding intensive fishing for more than two years in succession.” The court furthered, “the TWG shall make all reasonable efforts to reach consensus</p>

	<p>on any decision or recommendation pertaining to adjusting the method for computing the pulse fishing rule for walleye and muskellunge.” In addition <i>section B.1.f</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> specifies "The pulse rule from LCO VI shall operate to close tribal harvest of a given species on a water body whenever tribal harvest of the species on that water body has exceeded sixty percent of the safe harvest (or other figure agreed upon by the parties) in the two immediately preceding years."</p> <p>The language of <i>Section B.1.f</i> and <i>B.2</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>
<p>XI. Tribal Ice Spearing Regulation Amendment Musky spearing info</p>	<p>The State proposes that the Tribes amend their regulatory provisions pertaining to ice spearing. The State has continuing biological concerns contending that winter ice spearing can have a localized impact on muskellunge populations.</p> <p>The language of <i>Section 3.f.ii</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XII. Big Fish Rule Amendment</p>	<p>The Tribes propose to examine the necessity of the walleye spearing size limit restriction (20” maximum) in order to amend their regulatory provisions pertaining to the Big Fish rule allowing for the harvest of larger walleye. The State has proposed a tribal regulatory revision to only allow one “big fish” per spearer per night as opposed to one “big fish” per permit per night.</p> <p>The language of <i>Section 7</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XIII. Tribal Set Line, Open Water Hook & Line, and Ice Fishing Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to tribal set and unattended line fishing establishing revision to model code §9.09 allowing for the use of 4 rather than 1 set lines in up to three bodies of water at any one time, §9.12(1) allowing for the open water fishing by the use of hook and line with 12 lines rather than 6 lines, §9.12(2) allowing for</p>

	<p>open water fishing by the use of unattended hook and lines attached to a dock, §9.13(3)(a) allowing for the use of treble hooks, and §9.13(3)(f) allowing for the use of no more than 50 rather than 30 attended or unattended lines in no more than 3 bodies of water at any one time.</p> <p>The language of <i>Section 3.g</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XIV. Stream Segment Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to stream segments establishing revision to model code §9.06(9) allowing for the following: individual bag limits do not apply to stream segments; remove the two day limit while maintaining the 120 total walleye, 8 muskellunge, and 2 sturgeon allocation per designated stream segment; allow for the harvest of other species pursuant to trigger levels; establish additional river segments for the harvest of sturgeon (Wisconsin River to Lake Wissota); and establish a 60 walleye, 4 muskellunge, and 1 sturgeon allocation per stream not otherwise established in the <i>Designated Tribal River and Stream Segments in the Wisconsin Portion of the 1837 and 1842 Ceded Territory</i> document.</p> <p>The language of <i>Section 3.f.iii</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XV. Alternative Monitoring System Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to their alternative monitoring system including revision to <i>Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin Portion of the 1837 and 1842 Ceded Territory</i> document allowing for the following: allow an individual member the opportunity to harvest up to 3 rather than 1 permits at a time to be harvested in sequential order; allow tribes the ability to name up to 6 rather than 2 lake listed on the <i>Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin Portion of the 1837 and 1842 Ceded Territory</i> document per night as alternative monitored lakes; allow for the unmonitored harvest of other species including muskellunge or other trigger species; include lakes on the <i>Tribal Alternative Monitoring of Walleye Harvest</i></p>

	<p><i>on Certain Lakes in the Wisconsin Portion of the 1837 and 1842 Ceded Territory</i> document based upon a safe harvest level of 125 walleye rather than a declaration of 75 walleye; and include all monitored lakes once the remaining quota is 30 walleye or less.</p> <p>The language of <i>Section 3.e.i</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XVI. Tribal Gillnet Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to gillnets including revision to model code §9.05(3)(b)(v) allowing for an experiment to establish a list of lakes allowing for the open season for gillnet to be April 1 (unless the open season is otherwise established in a Commission Order) rather than June 1 thereby establishing the necessary assurance that the tribes will ensure that their members’ treaty related gillnet harvest is otherwise consistent with the courts established management framework.</p> <p>The language of <i>Section 3.c</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XVII. Spear Size Dimension Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to their spear size dimension establishing revision to model code §9.01(9) allowing for use of a smaller spear to maximize tribal harvest while diminishing potential wounding loss.</p> <p>The language of <i>Section 3.d</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XVIII. Trout Lake Bag Limit Amendment Regarding Trout Harvest</p>	<p>The Tribes propose to amend their regulatory provision pertaining to their trout bag limit regarding gillnetting on trout lake in the implementation of proposed Commission Order 2011-05 establishing revision to model code §9.05(3)(f) allowing the harvest of 2 lake trout per person per day by: open water hook and line fishing, ice fishing (including spearing through the ice), open water spearing and snagging, and all nets.</p>

	<p>The language of <i>Section B.1.g</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>
<p>XIX. Tribal Multiple Gear Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to possession of multiple gear establishing revision to model code §9.06(5) allowing for the simultaneous possession of a spear or net along with other non-intensive fish harvesting device(s).</p> <p>The language of <i>Section 3.d</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XX. Tribal Species Harvest Restriction Contingent Upon Other Species Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to tribal harvest restrictions being contingent upon the availability of tribal quota involving other species by allowing the harvest of quota and trigger species independent of each other.</p> <p>The language of <i>Section B.1.f</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>
<p>XXI. Tribal Fish Refuge Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to tribal fish refuges establishing revision to model code §3.27(1)(a) allowing for the harvest of quota species within fish refuges in recognition that it is biologically unnecessary to prohibit harvest within a fish refuge when a quota is in place as the quota is designed to protect the population. The tribes propose to maintain the fish refuge closure for non-intensive harvest methods.</p> <p>The language of <i>Section 3.f.iv</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XXII. Tribal Name (Sturgeon) Regulatory</p>	<p>The Tribes propose to amend their regulatory provision pertaining to tribal Name (sturgeon) harvest establishing:</p>

<p>Amendment</p>	<p>revision to model code §9.05(3)(d) allowing for harvest to be regulated by the permit rather than by bag limit therefore removing the one sturgeon per person per year regulation; revision to model code §9.05(3)(d) allowing for the elimination of the rock sturgeon 45” minimum size limit; and revision to model code §9.26(1) setting for that this section shall supersede the season, size and bag limit restrictions.</p> <p>The language of <i>Section B.1.i.i and Section B.1.i.iii</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>
<p>XXIII. Tribal Fyke Netting Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to tribal fyke netting establishing a provision of the model code allowing for group or party netting thereby allowing up to 4 members per party netting permit. Only one member of the party would need to be present for required net check intervals, along with the ability of a party member to remove themselves from the party permit if the permit is issued for consecutive days.</p> <p>The language of <i>Section 3</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XXIV. Tribal Namegos (Lake Trout) Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to tribal Namegos (lake trout) harvest restrictions establishing revision to model code §9.05(3)(f) amending the individual bag limit to establish 10 lake trout per person per day rather than 5 lake trout per person per day.</p> <p>The language of <i>Section B.1</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>
<p>XXV. Tribal Shooting Off-Gravel Road Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to tribal shooting off gravel roadway establishing revision to model code §3.21(3)(c)(iv) allowing for the discharge of a rifle from a roadway or highway (as defined in the model code) if the surface is anything other than concrete or blacktop.</p>

	<p>The language of <i>Section D.3.i</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167) is proposed to be amended to reflect this regulatory change.</p>
<p>XXVI. Tribal Migratory Bird Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to tribal migratory bird harvest proposal with the United States Fish and Wildlife Service establishing revision to model code §10.03(1) and §10.05 implementing this change.</p> <p>The language of <i>Section C.2</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
<p>XXVII. Stipulation of Enforcement MOU Provisions</p>	<p>The Tribes propose to amend their regulatory provision pertaining to the implementation of provisions of the GLIFWC / WDNR Enforcement MOU into the enforcement stipulation.</p> <p>The language of <i>Section 12</i> of the <i>Stipulation on Enforcement</i> (Docket Number 914) is proposed to be amended to reflect this regulatory change.</p>
<p>XXVIII. Tribal Restraining Snare Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to restraining snares in the implementation of proposed Commission Order 2010-01 establishing revision to model code §8.02(2) and §8.19(2) including: the use of restraining snares for fox, coyote, bobcat, and wolves; closed season from October 1 – March 31; staking a restraining snare; set size of restraining snare; and restraining snare noose cable and attachment specifications.</p> <p>The language of <i>Section C.5</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289) is proposed to be amended to reflect this regulatory change.</p>
<p>XXIX. Tribal Mizise (Wild Turkey) Hunting Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to mizise (wild turkeys) in the implementation of proposed Commission Order 2011-01 establishing revisions to model code §8.26 including: turkey harvest with the aid of dogs; disabled hunter turkey harvest with the aid of electronic calls; wild turkey hunting season extension; wild turkey registration revision.</p>

	<p>The language of <i>Section C.1</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) is proposed to be amended to reflect this regulatory change.</p>
<p>XXX. Tribal Trapping Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to trapping in the implementation of Commission Order 2011-02 establishing revisions to model code §8.18 including: trapping open season; trapping with the use of bait; daily trap check requirements; use of colony traps; body gripping trap size requirement; body gripping trap location restrictions.</p> <p>The language of <i>Section C.5.d</i> and <i>Section C.5.f</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289) is proposed to be amended to reflect this regulatory change.</p>
<p>XXXI. Tribal Makwa (Bear) Harvesting Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to makwa (bear) in the implementation of Commission Order 2011-03 establishing revisions to model code §7.14 pertaining to hunting with non-members.</p> <p>The language of <i>Section C.1</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
<p>XXXII. Tribal Waawaashkeshi (Deer) Harvesting Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to waawaashkeshi (deer) in the implementation of Commission Order 2011-04 establishing revisions to model code §6.05, §6.13, §6.18, and §6.20 including: removal of the requirement of possessing antlerless deer hunting permits unless necessary pursuant to the tribal threshold system and deer transportation.</p> <p>The language of <i>Section B.3.</i> and <i>E.2.a</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167) is proposed to be amended to reflect this regulatory change.</p>

<p>XXXIII. Tribal Safe Use and Transportation of Firearms and Bows Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to the safe use and transportation of firearms and bows in the implementation of Commission Order 2011-06 establishing revisions to model code §3.21(3) including: amendment to the definition of stationary; provision providing for the placement or possession of an uncased firearm or bow within a stationary vehicle; and prohibitory exceptions.</p> <p>The language <i>Section B.3.j</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167) is proposed to be amended to reflect this regulatory change.</p>
<p>XXXIV. Tribal Kinship Permit Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions establishing tribal kinship permits for niyawenh’enh (tribal namesake) and nindoodem (tribal clan) and bami’aagan (tribal customary adoption) establishing revision to model code §3.30(1) implementing this change.</p> <p>The language of <i>Section 3</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911), <i>Section B.3.m</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section B</i> of the <i>Stipulation for Wild Rice</i> (Docket Number 1222), <i>Section B</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289), <i>Section A</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568), <i>Section C.5.c</i>, <i>Section C.5.n</i>, and <i>Section C.5.j</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), and <i>Section D.2</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.</p>
<p>XXXV. Tribal Migratory Bird Feather/Part Traditional and Cultural Use Permit Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision establishing tribal migratory bird feather/part traditional and cultural use permits pursuant to agreement with the United States Fish and Wildlife Service establishing revision to model code §10.01, §10.19 and §10.22 implementing this change.</p> <p>The language of <i>Section C.2</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory</p>

<p>XXXVI. Tribal Non-Member Indian Assistance Regulatory Amendment</p>	<p>change.</p> <p>The Tribes propose to amend their regulatory provisions establishing non-member Indian assistance permits for members of other bands and thereby establishing revision to model code §3.30(1) implementing this change.</p> <p>The language of <i>Section 3</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911), <i>Section B.3.m</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section B</i> of the <i>Stipulation for Wild Rice</i> (Docket Number 1222), <i>Section B</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289), <i>Section A</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568), <i>Section C.5.c</i>, <i>Section C.5.n</i>, and <i>Section C.5.j</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), and <i>Section D.2</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.</p>
<p>XXXVII. Consultation Provisions</p>	<p>The State proposes to establish a process allowing for DNR discussions with GLIFWC to substantially comply with the State’s consultative requirement for all Voigt decision issue.</p> <p>The language of <i>Section E.1</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section C.1</i> of the <i>Stipulation for Wild Rice</i> (Docket Number 1222), <i>Section C.1</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289), <i>Section B.2</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568), <i>Section C.1.a</i>, <i>Section C.2.a</i>, and <i>Section C.3.a</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), and <i>Section C.1.a</i> and <i>Section C.3</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.</p>
<p>XXXVIII. Notice of Regulatory Amendments Changes by Either Party</p>	<p>The Tribes propose to amend their regulatory provisions establishing notice framework regarding regulatory amendments by either party.</p>

	<p>The language of <i>Section E.1</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section C.1</i> of the <i>Stipulation for Wild Rice</i> (Docket Number 1222), <i>Section C.1</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289), <i>Section B.2</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568), <i>Section C.1.a</i>, <i>Section C.2.a</i>, and <i>Section C.3.a</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), and <i>Section C.1.a</i> and <i>Section C.3</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.</p>
<p>XXXIX. Tribal Throwing Away Refuse Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to throwing away refuse establishing revision to model code §3.07 implementing this change.</p> <p>The language of <i>Section B.13</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167) is proposed to be amended to reflect this regulatory change.</p>
<p>XL. Fish Stocking Agreement</p>	<p>The State proposes to amend their regulatory provision pertaining to tribal fish stocking to establish a protocol requirement through the fisheries technical working group for health certification and location of tribal fish stocking. Currently, many GLIFWC member tribes are engaging in ongoing fish stocking from tribal hatcheries. In many cases, no contact is made prior to stocking with DNR personnel as to the species, number or health of the fish being stocked, nor regarding the location of where the stocking occurs. This presents significant problems for planning for the health of the fishery in general, with the onset of VHS and other pathogens. Similarly, it is important that all fish being stocked have obtained the appropriate DATCP health certification.</p> <p><i>Section B.2.e</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> specifies “the TWG shall review plans to coordinate and authorize any off-reservation fish stocking by tribes prior to such stocking.” To date, the TWG has not routinely performed this function and off-reservation stockings by tribes has not always been coordinated with Wisconsin DNR or other private stocking. It is clear from the</p>

	<p>original stipulation that the parties intended to provide a clear mechanism to coordinate and authorize off-reservation tribal stocking in advance presumably with the intent to generally improve management of ceded territory waters by avoiding unnecessary, duplicative or harmful stockings.</p> <p>The language of <i>Section B.2.e</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>
<p>XLI. Ginseng CITES Authority</p>	<p>The Tribes propose to amend their regulatory provision pertaining to the request and implementation of tribal ginseng authority establishing revision to model code §12.04(6) implementing this change.</p> <p>The language of <i>Section C.5.r</i> of the of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
<p>XLII. Hunting on Private Land / Shining Regulations – Prosecutorial Deferral</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to the implementation of tribal self-regulatory authority pertaining to hunting on private land / shining violations. <i>Section B.4</i> of the <i>Stipulation for the Deer Trial</i> recognizes that both the Tribes and the State retain the ability to enforce violations of their laws committed by tribal members on privately owned lands where the court has determined that treaty rights cannot be exercised. The court confirmed in <i>Lac Courte Oreilles Band v. Wisconsin (LCO VII)</i>, 740 F. Supp. 1400 (WD Wis 1990) that tribal harvesters are subject to state hunting and trapping regulations when hunting or trapping on private lands while simultaneously incorporating the <i>Stipulation for the Deer Trial</i> into this decision. This conforms that both the Tribes and the State may enforce and prosecute in their respective courts violations of tribal members hunting or trapping on privately owned land. In the implementation of both the Stipulation and the Court Order, violations by tribal members hunting or trapping on privately owned land that are issued by GLIFWC or Tribal conservation officers are typically enforced and prosecuted into tribal court, while violations that are issued by DNR</p>

conservation wardens are typically enforced and prosecuted into state court. Overtime, some tribal prosecutors began to transfer tribal citations to state court for prosecutions while some district attorneys began to transfer state citations into tribal court for prosecution.

Over the past twenty years, the policy that tribal members have the right to exercise treaty reserved rights, subject to their own tribe's authorization and regulation as an "internal affair" of the tribe has been recognized as a fundamental principle in the implementation of this case. *Lac Courte Oreilles Band of Lake Superior Chippewa v. Wisconsin (LCO IV)*, 668 F. Supp 1233, 1241 (W.D. Wis. 1987). It is with this caveat in mind that the Tribes propose establishing a tribal self-regulation provision recognizing and encouraging that the Tribes should govern the behavior of their members to the greatest extent possible, but that the state reserves the right to use its regulatory authority in certain circumstances. This proposal recognizes the ability of the Tribes to regulate their own members by serving violations of tribal members hunting or trapping on privately owned land into tribal courts. Through this proposal, the Tribes and State agree to avoid dual prosecution when there are similar state and tribal violations related to tribal members hunting or trapping on privately owned land. The Tribes and the State also agree that the State may, if a violation is particularly flagrant or egregious in nature, prosecute tribal members in state court for a violation of the state law provisions regarding hunting or trapping on privately owned land. The Tribes and the State agree to consult with one another before a citation is issued pursuant to state law.

This self-regulation proposal is consistent with Wisconsin and federal Indian policy and has been incorporated into intergovernmental agreements between the Tribes and federal agencies as follows: between the Tribes and the U.S. Forest Service regarding the regulation of tribal treaty reserved harvest activities on national forest lands; between the Tribes and the National Park Services regarding the regulation of tribal treaty reserved harvest activities on the Apostle Islands National Lakeshore; and between the Tribes and the U.S. Fish and Wildlife Service regarding the regulation of off-reservation

	<p>waterfowl hunting.</p> <p>The State proposes that all private land shining of deer violations should be adjudicated in state court.</p> <p>The language of <i>Section B.4</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167) is proposed to be amended to reflect this regulatory change.</p>
<p>XLIII. Tribal Boating Regulations – Prosecutorial Deferral</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to the implementation of tribal self-regulatory authority pertaining to tribal boating violations. <i>Section B.2</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> recognizes that the Tribes retain the ability to enforce violations of tribal boating regulations which parallel violations of state boating regulations into tribal court. However, Section (E) specified that the parties were unable to reach agreement as to whether or not, as a matter of law, enforcement in state courts of the boating regulations may be preempted by the tribal boating regulations. The parties agreed to submit this issue to the court for decision. The court ordered in <i>Lac Courte Oreilles Band v. Wisconsin</i>, Case No. 74-C-313-C (WD Wis. February 21, 1991)(unpublished decision) that the State may enforce and prosecute in state courts violations of the state boating laws committed by tribal members engaged in the exercise of treaty harvest activities. In the implementation of both the Stipulation and the Court Order, violations of the tribal boating regulations that are issued by GLIFWC or Tribal conservation officers are typically enforced and prosecuted into tribal court, while violations that are issued by DNR conservation wardens are typically enforced and prosecuted into state court. Overtime, some tribal prosecutors began to transfer tribal citations to state court for prosecutions while some district attorneys began to transfer state citations into tribal court for prosecution.</p> <p>Over the past 18 years, tribal officials, state conservation wardens, and the WDNR Northern Region Director all have questioned the premise: why are violations of the state boating regulations enforced and prosecuted in state court rather than tribal court? It is with this caveat in mind that the parties</p>

jointly propose establishing a tribal self-regulation provision recognizing and encouraging that the Tribes should govern the behavior of their members to the greatest extent possible, but that the state reserves the right to use its regulatory authority as the court ordered. This proposal recognizes the ability of the Tribes to regulate their own members by serving violations of tribal boating regulations into tribal courts. Through this proposal, the Tribes and State agree to avoid dual prosecution when there are similar state and tribal violations related to boating. The Tribes and the State also agree that the State may, if a violation is particularly flagrant or egregious in nature, prosecute tribal members in violation of the state boating regulations into state court. The Tribes and the State agree to consult with one another before a citation is issued pursuant to state law.

This self-regulation proposal is consistent with Wisconsin and federal Indian policy and has been incorporated into intergovernmental agreements between the Tribes and federal agencies as follows: between the Tribes and the U.S. Forest Service regarding the regulation of tribal treaty reserved harvest activities on national forest lands; between the Tribes and the National Park Services regarding the regulation of tribal treaty reserved harvest activities on the Apostle Islands National Lakeshore; and between the Tribes and the U.S. Fish and Wildlife Service regarding the regulation of off-reservation waterfowl hunting.

The language of *Section B.2 of the Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2) is proposed to be amended to reflect this regulatory change.

From: jstark@glifwc.org
Sent: Sunday, July 29, 2012 9:23 PM
To: Williams, Quinn L - DNR
Subject: [Fwd: Voigt Stipulation]
Attachments: untitled-[1.2].htm; Voigt Stip III. Issue Set Summary. 8.01.12.doc; Voigt Stip III. Meeting Agenda. 8.01.12.doc

----- Original Message -----
Subject: Voigt Stipulation
From: "Jason Stark" <JStark@glifwc.org>
Date: Sun, July 29, 2012 2:29 pm
To: "'Jason Stark'" <jstark@glifwc.org>

Attached

Kekek Jason Stark

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VOIGT STIPULATION REVIEW PROCESS: THIRD AMENDMENT

August 1, 2012, 10:00 A.M.

Stevens Point, WI

Issue Summary

Stipulation	Summary
Technical Amendment / Miscellaneous Related Issues	
XXVIII. Tribal Restraining Snare Regulatory Amendment	<p>The Tribes propose to amend their regulatory provisions pertaining to restraining snares in the implementation of proposed Commission Order 2010-01 establishing revision to model code §8.02(2) and §8.19(2) including: the use of restraining snares for fox, coyote, bobcat, and wolves; closed season from October 1 – March 31; staking a restraining snare; set size of restraining snare; and restraining snare noose cable and attachment specifications.</p> <p>The language of <i>Section C.5</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289) is proposed to be amended to reflect this regulatory change.</p>
XXIX. Tribal Mizise (Wild Turkey) Hunting Regulatory Amendment	<p>The Tribes propose to amend their regulatory provisions pertaining to mizise (wild turkeys) in the implementation of proposed Commission Order 2011-01 establishing revisions to model code §8.26 including: turkey harvest with the aid of dogs; disabled hunter turkey harvest with the aid of electronic calls; wild turkey hunting season extension; wild turkey registration revision.</p> <p>The language of <i>Section C.1</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) is proposed to be amended to reflect this regulatory change.</p>
XXX. Tribal Trapping Regulatory Amendment	<p>The Tribes propose to amend their regulatory provisions pertaining to trapping in the implementation of Commission Order 2011-02 establishing revisions to model code §8.18 including: trapping open season; trapping with the use of bait; daily trap check requirements; use of colony traps; body gripping trap size requirement; body gripping trap location restrictions.</p> <p>The language of <i>Section C.5.d</i> and <i>Section C.5.f</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket</p>



	Number 1289) is proposed to be amended to reflect this regulatory change.
XXXI. Tribal Makwa (Bear) Harvesting Regulatory Amendment	<p>The Tribes propose to amend their regulatory provisions pertaining to makwa (bear) in the implementation of Commission Order 2011-03 establishing revisions to model code §7.14 pertaining to hunting with non-members.</p> <p>The language of <i>Section C.1</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
XXXII. Tribal Waawaashkeshi (Deer) Harvesting Regulatory Amendment	<p>The Tribes propose to amend their regulatory provisions pertaining to waawaashkeshi (deer) in the implementation of Commission Order 2011-04 establishing revisions to model code §6.05, §6.13, §6.18, and §6.20 including: removal of the requirement of possessing antlerless deer hunting permits unless necessary pursuant to the tribal threshold system and deer transportation.</p> <p>The language of <i>Section B.3.</i> and <i>E.2.a</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167) is proposed to be amended to reflect this regulatory change.</p>
XXXVII. Consultation Provisions	<p>The State proposes to establish a process allowing for DNR discussions with GLIFWC to substantially comply with the State's consultative requirement for all Voigt decision issue.</p> <p>The language of <i>Section E.1</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section C.1</i> of the <i>Stipulation for Wild Rice</i> (Docket Number 1222), <i>Section C.1</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289), <i>Section B.2</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568), <i>Section C.1.a</i>, <i>Section C.2.a</i>, and <i>Section C.3.a</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), and <i>Section C.1.a</i> and <i>Section C.3</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.</p>
XXXVIII. Notice of Regulatory Amendments Changes by Either Party	<p>The Tribes propose to amend their regulatory provisions establishing notice framework regarding regulatory amendments by either party.</p> <p>The language of <i>Section E.1</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section C.1</i> of the <i>Stipulation for Wild Rice</i> (Docket Number 1222), <i>Section C.1</i> of the</p>

	<p><i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289), <i>Section B.2</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568), <i>Section C.1.a</i>, <i>Section C.2.a</i>, and <i>Section C.3.a</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), and <i>Section C.1.a</i> and <i>Section C.3</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.</p>
<p>Enforcement Related Issues</p>	
<p>VI. Tribal Nigig (Otter) Hunting Season</p>	<p>The Tribes propose to develop regulatory provisions establishing a tribal nigig hunting season including a revision to model code §8.09(3)(b)(x) establishing a season date of October 1 – March 31, and §8.27(c) establishing a caliber restriction of .223 caliber or less.</p> <p>The language of <i>Section C.5.h.ii</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289) is proposed to be amended to reflect this regulatory change.</p>
<p>VIII. Tribal Hunting Hours Extension</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to tribal hunting hours establishing an extension to tribal hunting hours including revision to model code §6.12(1), §7.15, and §8.10(2)(a) extending tribal deer, bear, small game hunting hours by 15 minutes in the morning and evenings to 45 minutes before sunrise to 35 minutes after sunset.</p> <p>The language of <i>Section B.3.1</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section 5</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), and <i>Section C.5.r</i> of the <i>Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289) are proposed to be amended to reflect these regulatory changes.</p>

<p>IX. Tribal Shining Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to shining establishing revision to model code §3.14, §6.20, §7.26, and §8.16(1), §15.20, and §16.20 thereby allowing shining while hunting on foot with the use of a flashlight at the point of kill for deer, bear, raccoon, fox, coyote, unprotected species, elk and wolves.</p> <p>The language of <i>Section B.3 of the Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section 5 of the Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), <i>Section C.5 of the Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289), and <i>Section C.6.a of the Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.</p>
<p>XIII. Tribal Set Line, Open Water Hook & Line, and Ice Fishing Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to tribal set and unattended line fishing establishing revision to model code §9.09 allowing for the use of 4 rather than 1 set lines in up to three bodies of water at any one time, §9.12(1) allowing for the open water fishing by the use of hook and line with 12 lines rather than 6 lines, §9.12(2) allowing for open water fishing by the use of unattended hook and lines attached to a dock, §9.13(3)(a) allowing for the use of treble hooks, and §9.13(3)(f) allowing for the use of no more than 50 rather than 30 attended or unattended lines in no more than 3 bodies of water at any one time.</p> <p>The language of <i>Section 3.g of the Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XV. Alternative Monitoring System Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to their alternative monitoring system including revision to <i>Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin Portion of the 1837 and 1842 Ceded Territory</i> document allowing for the following: allow an individual member the opportunity to harvest up to 3 rather than 1 permits at a time to be harvested in sequential order; allow tribes the ability to name up to 6 rather than 2 lake listed on the <i>Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin Portion of the 1837 and 1842 Ceded Territory</i> document per night as alternative monitored lakes; allow for the unmonitored harvest of other species including muskellunge or other trigger species; include lakes on the <i>Tribal Alternative Monitoring of Walleye Harvest on Certain Lakes in the Wisconsin Portion of the 1837 and</i></p>

	<p>1842 <i>Ceded Territory</i> document based upon a safe harvest level of 125 walleye rather than a declaration of 75 walleye; and include all monitored lakes once the remaining quota is 30 walleye or less.</p> <p>The language of <i>Section 3.e.i</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
XXV. Tribal Shooting Off-Gravel Road Regulatory Amendment	<p>The Tribes propose to amend their regulatory provision pertaining to tribal shooting off gravel roadway establishing revision to model code §3.21(3)(c)(iv) allowing for the discharge of a rifle from a roadway or highway (as defined in the model code) if the surface is anything other than concrete or blacktop.</p> <p>The language of <i>Section D.3.i</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167) is proposed to be amended to reflect this regulatory change.</p>
XXVI. Tribal Migratory Bird Regulatory Amendment	<p>The Tribes propose to amend their regulatory provision pertaining to tribal migratory bird harvest proposal with the United States Fish and Wildlife Service establishing revision to model code §10.03(1) and §10.05 implementing this change.</p> <p>The language of <i>Section C.2</i> of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
XXVII. Stipulation of Enforcement MOU Provisions	<p>The Tribes propose to amend their regulatory provision pertaining to the implementation of provisions of the GLIFWC / WDNR Enforcement MOU into the enforcement stipulation.</p> <p>The language of <i>Section 12</i> of the <i>Stipulation on Enforcement</i> (Docket Number 914) is proposed to be amended to reflect this regulatory change.</p>
XXXIII. Tribal Safe Use and Transportation of Firearms and Bows Regulatory Amendment	<p>The Tribes propose to amend their regulatory provisions pertaining to the safe use and transportation of firearms and bows in the implementation of Commission Order 2011-06 establishing revisions to model code §3.21(3) including: amendment to the definition of stationary; provision providing for the placement or possession of an uncased firearm or bow within a stationary vehicle; and prohibitory exceptions.</p> <p>The language <i>Section B.3.j</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167) is proposed to be amended to reflect</p>

<p>XXXIV. Tribal Kinship Permit Regulatory Amendment</p>	<p>this regulatory change.</p> <p>The Tribes propose to amend their regulatory provisions establishing tribal kinship permits for niyawenh’enh (tribal namesake) and nindoodem (tribal clan) and bami’aagan (tribal customary adoption) establishing revision to model code §3.30(1) implementing this change.</p> <p>The language of <i>Section 3 of the Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911), <i>Section B.3.m of the Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section B of the Stipulation for Wild Rice</i> (Docket Number 1222), <i>Section B of the Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289), <i>Section A of the Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568), <i>Section C.5.c, Section C.5.n, and Section C.5.j of the Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), and <i>Section D.2 of the Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.</p>
<p>XXXV. Tribal Migratory Bird Feather/Part Traditional and Cultural Use Permit Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision establishing tribal migratory bird feather/part traditional and cultural use permits pursuant to agreement with the United States Fish and Wildlife Service establishing revision to model code §10.01, §10.19 and §10.22 implementing this change.</p> <p>The language of <i>Section C.2 of the Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
<p>XXXVI. Tribal Non-Member Indian Assistance Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions establishing non-member Indian assistance permits for members of other bands and thereby establishing revision to model code §3.30(1) implementing this change.</p> <p>The language of <i>Section 3 of the Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911), <i>Section B.3.m of the Stipulation for the Deer Trial</i> (Docket Number 1167), <i>Section B of the Stipulation for Wild Rice</i> (Docket Number 1222), <i>Section B of the Stipulation for Fisher, Fur Bearers and Small Game</i> (Docket Number 1289), <i>Section A of the Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568), <i>Section C.5.c, Section C.5.n, and Section C.5.j of the Stipulation for Black Bear,</i></p>

	<p><i>Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1), and <i>Section D.2</i> of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) are proposed to be amended to reflect these regulatory changes.</p>
<p>XXXIX. Tribal Throwing Away Refuse Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to throwing away refuse establishing revision to model code §3.07 implementing this change.</p> <p>The language of <i>Section B.13</i> of the <i>Stipulation for the Deer Trial</i> (Docket Number 1167) is proposed to be amended to reflect this regulatory change.</p>
<p>XLI. Ginseng CITES Authority</p>	<p>The Tribes propose to amend their regulatory provision pertaining to the request and implementation of tribal ginseng authority establishing revision to model code §12.04(6) implementing this change.</p> <p>The language of <i>Section C.5.r</i> of the of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
<p>XLII. Hunting on Private Land / Shining Regulations – Prosecutorial Deferral</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to the implementation of tribal self-regulatory authority pertaining to hunting on private land / shining violations. <i>Section B.4</i> of the <i>Stipulation for the Deer Trial</i> recognizes that both the Tribes and the State retain the ability to enforce violations of their laws committed by tribal members on privately owned lands where the court has determined that treaty rights cannot be exercised. The court confirmed in <i>Lac Courte Oreilles Band v. Wisconsin (LCO VII)</i>, 740 F. Supp. 1400 (WD Wis 1990) that tribal harvesters are subject to state hunting and trapping regulations when hunting or trapping on private lands while simultaneously incorporating the <i>Stipulation for the Deer Trial</i> into this decision. This conforms that both the Tribes and the State may enforce and prosecute in their respective courts violations of tribal members hunting or trapping on privately owned land. In the implementation of both the <i>Stipulation</i> and the Court Order, violations by tribal members hunting or trapping on privately owned land that are issued by GLIFWC or Tribal conservation officers are typically enforced and prosecuted into tribal court, while violations that are issued by DNR conservation wardens are typically enforced and prosecuted into state court. Overtime, some tribal prosecutors began to transfer tribal citations to state court for prosecutions while</p>

some district attorneys began to transfer state citations into tribal court for prosecution.

Over the past twenty years, the policy that tribal members have the right to exercise treaty reserved rights, subject to their own tribe's authorization and regulation as an "internal affair" of the tribe has been recognized as a fundamental principle in the implementation of this case. *Lac Courte Oreilles Band of Lake Superior Chippewa v. Wisconsin (LCO IV)*, 668 F. Supp 1233, 1241 (W.D. Wis. 1987). It is with this caveat in mind that the Tribes propose establishing a tribal self-regulation provision recognizing and encouraging that the Tribes should govern the behavior of their members to the greatest extent possible, but that the state reserves the right to use its regulatory authority in certain circumstances. This proposal recognizes the ability of the Tribes to regulate their own members by serving violations of tribal members hunting or trapping on privately owned land into tribal courts. Through this proposal, the Tribes and State agree to avoid dual prosecution when there are similar state and tribal violations related to tribal members hunting or trapping on privately owned land. The Tribes and the State also agree that the State may, if a violation is particularly flagrant or egregious in nature, prosecute tribal members in state court for a violation of the state law provisions regarding hunting or trapping on privately owned land. The Tribes and the State agree to consult with one another before a citation is issued pursuant to state law.

This self-regulation proposal is consistent with Wisconsin and federal Indian policy and has been incorporated into intergovernmental agreements between the Tribes and federal agencies as follows: between the Tribes and the U.S. Forest Service regarding the regulation of tribal treaty reserved harvest activities on national forest lands; between the Tribes and the National Park Services regarding the regulation of tribal treaty reserved harvest activities on the Apostle Islands National Lakeshore; and between the Tribes and the U.S. Fish and Wildlife Service regarding the regulation of off-reservation waterfowl hunting.

The State proposes that all private land shining of deer violations should be adjudicated in state court.

The language of *Section B.4* of the *Stipulation for the Deer Trial* (Docket Number 1167) is proposed to be amended to reflect this regulatory change.

XLIII. Tribal Boating Regulations – Prosecutorial Deferral

The Tribes propose to amend their regulatory provisions pertaining to the implementation of tribal self-regulatory authority pertaining to tribal boating violations. *Section B.2 of the Stipulation for Miscellaneous Species and Regulatory Matters* recognizes that the Tribes retain the ability to enforce violations of tribal boating regulations which parallel violations of state boating regulations into tribal court. However, Section (E) specified that the parties were unable to reach agreement as to whether or not, as a matter of law, enforcement in state courts of the boating regulations may be preempted by the tribal boating regulations. The parties agreed to submit this issue to the court for decision. The court ordered in *Lac Courte Oreilles Band v. Wisconsin*, Case No. 74-C-313-C (WD Wis. February 21, 1991)(unpublished decision) that the State may enforce and prosecute in state courts violations of the state boating laws committed by tribal members engaged in the exercise of treaty harvest activities. In the implementation of both the Stipulation and the Court Order, violations of the tribal boating regulations that are issued by GLIFWC or Tribal conservation officers are typically enforced and prosecuted into tribal court, while violations that are issued by DNR conservation wardens are typically enforced and prosecuted into state court. Overtime, some tribal prosecutors began to transfer tribal citations to state court for prosecutions while some district attorneys began to transfer state citations into tribal court for prosecution.

Over the past 18 years, tribal officials, state conservation wardens, and the WDNR Northern Region Director all have questioned the premise: why are violations of the state boating regulations enforced and prosecuted in state court rather than tribal court? It is with this caveat in mind that the parties jointly propose establishing a tribal self-regulation provision recognizing and encouraging that the Tribes should govern the behavior of their members to the greatest extent possible, but that the state reserves the right to use its regulatory authority as the court ordered. This proposal recognizes the ability of the Tribes to regulate their own members by serving violations of tribal boating regulations into tribal courts. Through this proposal, the Tribes and State agree to avoid dual prosecution when there are similar state and tribal violations related to boating. The Tribes and the State also agree that the State may, if a violation is particularly flagrant or egregious in nature, prosecute tribal members in violation of the state boating regulations into state court. The Tribes and the State agree to consult with one another before a citation is issued pursuant to

	<p>state law.</p> <p>This self-regulation proposal is consistent with Wisconsin and federal Indian policy and has been incorporated into intergovernmental agreements between the Tribes and federal agencies as follows: between the Tribes and the U.S. Forest Service regarding the regulation of tribal treaty reserved harvest activities on national forest lands; between the Tribes and the National Park Services regarding the regulation of tribal treaty reserved harvest activities on the Apostle Islands National Lakeshore; and between the Tribes and the U.S. Fish and Wildlife Service regarding the regulation of off-reservation waterfowl hunting.</p> <p>The language of <i>Section B.2 of the Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) is proposed to be amended to reflect this regulatory change.</p>
<p>Wildlife Related Issues</p>	
<p>II. Tribal Omashkooz (Elk) Season</p>	<p>The Tribes propose to develop biologically sound and culturally appropriate management and regulatory provisions so that the parties may effectively manage the omashkooz resource.</p> <p>The language of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) is proposed to be amended to reflect this regulatory change.</p>
<p>III. Tribal Gathering on State Lands</p>	<p>The tribes propose to evaluate and extend the tribal management and regulatory gathering provisions established in the <i>Stipulation for Technical, Management and Other Updates: Second Amendment of the Stipulations Entered into the Final Judgment</i> to all state properties for an additional two year study period. This stipulation change maintains tribal self-regulation while establishing the necessary assurance that the tribes will ensure that their members' gathering activities are consistent with the state's management objectives.</p> <p>The language of <i>Section C.3.f of the Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
<p>IV. Tribal Camping on State Lands</p>	<p>The tribes propose to establish tribal management and regulatory treaty related camping provisions for an initial trial</p>

	<p>two year study period. This stipulation change establishes tribal self-regulation principles while maintaining the necessary assurance that the tribes will ensure that their members' treaty related camping activities are consistent with the state's management objectives.</p> <p>The language of the <i>Stipulation for Black Bear, Migratory Birds and Wild Plants</i> (Docket Number 1607, subpart 1) is proposed to be amended to reflect this regulatory change.</p>
<p>V. State Land Fees Pertaining to Tribal Access and Utilization</p>	<p>The tribes propose to establish a provision ensuring that tribal members are not assessed admission and/or other fees pertaining to their access and utilization of state lands in the implementation of their treaty reserved harvest activities.</p> <p>The language <i>Section 5</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>VII. Tribal Manoomin (Wild Rice) Regulation Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to wild rice harvesting establishing a revision to the <i>Voigt Intertribal Task Force Protocol on Manoominikewin (Wild Rice Harvesting) Levels</i> pertaining to the waters subject to opening through tribal ricing authority, a place holder provision allowing for the parties to implement amended provisions of the tribal-state wild rice management plan upon completion by the issuance of a commission order, a revision to model code §5.04(2) allowing tribal members to bind wild rice, and a revision to model code §5.11(2) allowing tribal members to harvest wild rice on Wisconsin-Minnesota boundary waters.</p> <p>The language of <i>Section B.11, C.2.a</i> and <i>C.7</i> of the <i>Stipulation for Wild Rice</i> (Docket Number 1222) is proposed to be amended to reflect this regulatory change.</p>
<p>Fishery Related Issues</p>	
<p>XIV. Stream Segment Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to stream segments establishing revision to model code §9.06(9) allowing for the following: individual bag limits do not apply to stream segments; remove the two day limit while maintaining the 120 total walleye, 8 muskellunge, and 2 sturgeon allocation per designated stream segment; allow for the harvest of other species pursuant to trigger levels; establish additional river segments for the harvest of sturgeon</p>

	<p>(Wisconsin River to Lake Wissota); and establish a 60 walleye, 4 muskellunge, and 1 sturgeon allocation per stream not otherwise established in the <i>Designated Tribal River and Stream Segments in the Wisconsin Portion of the 1837 and 1842 Ceded Territory</i> document.</p> <p>The language of <i>Section 3.f.iii</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XVI. Tribal Gillnet Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to gillnets including revision to model code §9.05(3)(b)(v) allowing for an experiment to establish a list of lakes allowing for the open season for gillnet to be April 1 (unless the open season is otherwise established in a Commission Order) rather than June 1 thereby establishing the necessary assurance that the tribes will ensure that their members' treaty related gillnet harvest is otherwise consistent with the courts established management framework.</p> <p>The language of <i>Section 3.c</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XVII. Spear Size Dimension Amendment</p>	<p>The Tribes propose to amend their regulatory provisions pertaining to their spear size dimension establishing revision to model code §9.01(9) allowing for use of a smaller spear to maximize tribal harvest while diminishing potential wounding loss.</p> <p>The language of <i>Section 3.d</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XVIII. Trout Lake Bag Limit Amendment Regarding Trout Harvest</p>	<p>The Tribes propose to amend their regulatory provision pertaining to their trout bag limit regarding gillnetting on trout lake in the implementation of proposed Commission Order 2011-05 establishing revision to model code §9.05(3)(f) allowing the harvest of 2 lake trout per person per day by: open water hook and line fishing, ice fishing (including spearing through the ice), open water spearing and snagging, and all nets.</p> <p>The language of <i>Section B.1.g</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>

<p>XIX. Tribal Multiple Gear Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to possession of multiple gear establishing revision to model code §9.06(5) allowing for the simultaneous possession of a spear or net along with other non-intensive fish harvesting device(s).</p> <p>The language of <i>Section 3.d</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XX. Tribal Species Harvest Restriction Contingent Upon Other Species Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to tribal harvest restrictions being contingent upon the availability of tribal quota involving other species by allowing the harvest of quota and trigger species independent of each other.</p> <p>The language of <i>Section B.1.f</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>
<p>XXI. Tribal Fish Refuge Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to tribal fish refuges establishing revision to model code §3.27(1)(a) allowing for the harvest of quota species within fish refuges in recognition that it is biologically unnecessary to prohibit harvest within a fish refuge when a quota is in place as the quota is designed to protect the population. The tribes propose to maintain the fish refuge closure for non-intensive harvest methods.</p> <p>The language of <i>Section 3.f.iv</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XXII. Tribal Name (Sturgeon) Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to tribal Name (sturgeon) harvest establishing: revision to model code §9.05(3)(d) allowing for harvest to be regulated by the permit rather than by bag limit therefore removing the one sturgeon per person per year regulation; revision to model code §9.05(3)(d) allowing for the elimination of the rock sturgeon 45” minimum size limit; and revision to model code §9.26(1) setting for that this section shall supersede the season, size and bag limit restrictions.</p> <p>The language of <i>Section B.1.i.i</i> and <i>Section B.1.i.iii</i> of the <i>Stipulation for Fish Species Other than Walleye and</i></p>

	<p><i>Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>
<p>XXIII. Tribal Fyke Netting Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to tribal fyke netting establishing a provision of the model code allowing for group or party netting thereby allowing up to 4 members per party netting permit. Only one member of the party would need to be present for required net check intervals, along with the ability of a party member to remove themselves from the party permit if the permit is issued for consecutive days.</p> <p>The language of <i>Section 3</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>XXIV. Tribal Namegos (Lake Trout) Regulatory Amendment</p>	<p>The Tribes propose to amend their regulatory provision pertaining to tribal Namegos (lake trout) harvest restrictions establishing revision to model code §9.05(3)(f) amending the individual bag limit to establish 10 lake trout per person per day rather than 5 lake trout per person per day.</p> <p>The language of <i>Section B.1</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>
<p>XL. Fish Stocking Agreement</p>	<p>The State proposes to amend their regulatory provision pertaining to tribal fish stocking to establish a protocol requirement through the fisheries technical working group for health certification and location of tribal fish stocking. Currently, many GLIFWC member tribes are engaging in ongoing fish stocking from tribal hatcheries. In many cases, no contact is made prior to stocking with DNR personnel as to the species, number or health of the fish being stocked, nor regarding the location of where the stocking occurs. This presents significant problems for planning for the health of the fishery in general, with the onset of VHS and other pathogens. Similarly, it is important that all fish being stocked have obtained the appropriate DATCP health certification.</p> <p><i>Section B.2.e</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> specifies “the TWG shall review plans to coordinate and authorize any off-reservation fish stocking by tribes prior to such stocking.” To date, the TWG has not routinely performed this function and off-reservation stockings by tribes has not always been coordinated with Wisconsin DNR or other private stocking. It is clear from the original stipulation that the parties intended to provide a clear</p>

	<p>mechanism to coordinate and authorize off-reservation tribal stocking in advance presumably with the intent to generally improve management of ceded territory waters by avoiding unnecessary, duplicative or harmful stockings.</p> <p>The language of <i>Section B.2.e</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>
<p>XII. Big Fish Rule Amendment</p>	<p>The Tribes propose to examine the necessity of the walleye spearing size limit restriction (20" maximum) in order to amend their regulatory provisions pertaining to the Big Fish rule allowing for the harvest of larger walleye. The State has proposed a tribal regulatory revision to only allow one "big fish" per spearer per night as opposed to one "big fish" per permit per night.</p> <p>The language of <i>Section 7</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>Other Miscellaneous Related Issues</p>	
<p>X. Pulse Fishing Rule</p>	<p>The tribes proposed to amend or remove the "intensive fishing" designation pursuant to the pulse fishing rule. In <i>LCO VI, 707 F. Supp. 1034, 1059</i> the court determined that "upon agreement by the parties, the TWG shall adjust the method for computing the pulse fishing rule to be used in setting walleye and muskellunge harvest reduction regarding intensive fishing for more than two years in succession." The court furthered, "the TWG shall make all reasonable efforts to reach consensus on any decision or recommendation pertaining to adjusting the method for computing the pulse fishing rule for walleye and muskellunge." In addition <i>section B.1.f</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> specifies "The pulse rule from LCO VI shall operate to close tribal harvest of a given species on a water body whenever tribal harvest of the species on that water body has exceeded sixty percent of the safe harvest (or other figure agreed upon by the parties) in the two immediately preceding years."</p> <p>The language of <i>Section B.1.f</i> and <i>B.2</i> of the <i>Stipulation for Fish Species Other than Walleye and Muskellunge</i> (Docket Number 1568) is proposed to be amended to reflect this regulatory change.</p>

<p>XI. Tribal Ice Spearing Regulation Amendment</p>	<p>The State proposes that the Tribes amend their regulatory provisions pertaining to ice spearing. The State has continuing biological concerns contending that winter ice spearing can have a localized impact on muskellunge populations.</p> <p>The language of <i>Section 3.f.ii</i> of the <i>Stipulation for Biological and Certain Remaining Issue</i> (Docket Number 911) is proposed to be amended to reflect this regulatory change.</p>
<p>I. Tribal Ma'iingan (Wolf) Season</p>	<p>The Tribes propose to develop biologically sound and culturally appropriate management and regulatory provisions so that the parties may effectively manage the ma'iingan resource.</p> <p>The language of the <i>Stipulation for Miscellaneous Species and Regulatory Matters</i> (Docket Number 1607, subpart 2) is proposed to be amended to reflect this regulatory change.</p>

VOIGT STIPULATION REVIEW PROCESS: THIRD AMENDMENT

August 1, 2012, 10:00 A.M.
Stevens Point, WI

AGENDA

Opening Song / Ceremony

- I. Call to Order - Introductions
- II. Groundwork and Overview of Stipulation Review Process
- III. Technical Amendment / Miscellaneous Related Issues
 - A. Tribal Restraining Snare Regulatory Amendment (Issue Set # 28)
 - B. Tribal Mizise (Wild Turkey) Hunting Regulatory Amendment (Issue Set # 29)
 - C. Tribal Trapping Regulatory Amendment (Issue Set # 30)
 - D. Tribal Mukwa (Bear) Harvesting Regulatory Amendment (Issue Set # 31)
 - E. Tribal Waawaashkeshi (Deer) Harvesting Regulatory Amendment (Issue Set # 32)
 - F. Consultation Provisions (Issue Set # 37)
 - G. Notice of Regulatory Amendments / Changes by Either Party (Issue Set # 38)
- IV. Enforcement Related Issues
 - A. Tribal Nigig (Otter) Hunting Season (Issue Set # 6)
 - B. Tribal Hunting Hours Extension (Issue Set # 8)
 - C. Tribal Shining Regulatory Amendment (Issue Set # 9)
 - D. Tribal Set Line and Unattended Line Regulatory Amendment (Issue Set # 13)
 - E. Alternative Monitoring System Regulatory Amendment (Issue Set # 15)
 - F. Tribal Shooting Off Gravel Road Regulatory Amendment (Issue Set # 25)
 - G. Tribal Migratory Bird Regulatory Amendment (Issue Set # 26)
 - H. Stipulation of Enforcement MOU Provisions (Issue Set # 27)



- I. Tribal Safe Use and Transportation of Firearms and Bows Regulatory Amendment (Issue Set # 33)
 - J. Tribal Kinship Permit Regulatory Amendment (Issue Set # 34)
 - K. Tribal Migratory Bird Feather/Part Traditional and Cultural Use Permit Regulatory Amendment (Issue Set # 35)
 - L. Tribal Non-Member Indian Assistance Regulatory Amendment (Issue Set # 36)
 - M. Tribal Throwing Away Refuse Amendment (Issue Set # 39)
 - N. Ginseng CITES Authority (Issue Set # 41)
 - O. Hunting on Private Land - Prosecutorial Deferral (Issue Ser # 42)
 - P. Tribal Boating Regulations - Prosecutorial Deferral (Issue Set # 43)
- V. Wildlife Related Issues
- A. Tribal Omashkooz (Elk) Season (Issue Set # 2)
 - B. Tribal Gathering on State Lands (Issue Set # 3)
 - C. Tribal Camping on State Lands (Issue Set # 4)
 - D. State Land Fees Pertaining to Tribal Access and Utilization (Issue Set # 5)
 - E. Tribal Manoomin (Wild Rice) Regulation Amendment (Issue Set # 7)
- VI. Fishery Related Issues
- A. Stream Segment Regulatory Amendment (Issue Set # 14)
 - B. Tribal Gillnet Regulatory Amendment (Issue Set # 16)
 - C. Spear Size Dimension Amendment (Issue Set # 17)
 - D. Trout Lake Bag Limit Amendment Regarding Trout Harvest (Issue Set # 18)
 - E. Tribal Multiple Gear Regulatory Amendment (Issue Set # 19)

Voigt Stipulation Review Process: Third Amendment

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- F. Tribal Species Harvest Restriction Contingent Upon Other Species Regulatory Amendment (Issue Set # 20)
 - G. Tribal Fish Refuge Regulatory Amendment (Issue Set # 21)
 - H. Tribal Name (Sturgeon) Regulatory Amendment (Issue Set # 22)
 - I. Tribal Fyke Net Regulatory Amendment (Issue Set # 23)
 - J. Tribal Namegos (Lake Trout) Regulatory Amendment (Issue Set # 24)
 - K. Fish Stocking Amendment (Issue Set # 40)
 - L. Big Fish Rule Amendment (Issue Set # 12)
- VII. Other Miscellaneous Related Issues
- A. Pulse Fishing Rule Amendment (Issue Set # 10)
 - B. Tribal Ice Spearing Regulation Amendment (Issue Set # 11)
 - C. Tribal Ma'iingan (Wolf) Season (Issue Set # 1)
- VIII. Next Meeting Date / Location
- IX. Adjourn
- Closing Song

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Thornton, Deb R.

From: Williams, Quinn L - DNR
Sent: Monday, July 30, 2012 9:37 AM
To: Gunderson, Scott L - DNR; Andryk, Tim A - DNR; Dosch, Thomas L - DNR; Milligan, Diane L - DOJ; Zeckmeister, Mike - DNR; Zebro, David A - DNR; Staggs, Mike D - DNR; Vander Zouwen, William Jr - DNR; Thiede, Kurt A - DNR; Gozdziński, John F - DNR; Hauge, Tom M - DNR; Prichard, Teague - DNR; Warren, James K - DNR; Biermeier, Peter C - DNR; Olson, John F - DNR (WM); DeLong, Paul J - DNR; Zastrow, Darrell E - DNR; Stark, Randall J - DNR; Greisinger, Diane D - DNR
Cc: Williams, Quinn L - DNR
Subject: Additional specific break-outs for stipulations
Attachments: Voigt Stip. 3 Amend. Restraining Snare Regulatory Amendment.docx; Voigt Stip. 3 Amend. Safe Use and Transportation of Firearms and Bows Regulatory Amendment.docx; Voigt Stip. 3 Amend. Set Line Hook Line and Ice Fishing Regulatory Amendment.docx; Voigt Stip. 3 Amend. Shining Regulatory Amendment.docx; Voigt Stip. 3 Amend. Shooting Off Gravel Raod Regulatory Amendment.docx; Voigt Stip. 3 Amend. Spear Size Dimension Amendment.docx; Voigt Stip. 3 Amend. Species Harvest Restriction Contingent Upon Other Species Regulatory Amendment.docx; Voigt Stip. 3 Amend. State Land Fees Pertaining to Tribal Access and Utilization.docx; Voigt Stip. 3 Amend. Stipulation on Enforcement Amendment.docx; Voigt Stip. 3 Amend. Stream Segment Regulatory Amendment.docx; Voigt Stip. 3 Amend. Throwing Away Refuse Regulatory Amendment.docx; Voigt Stip. 3 Amend. Trapping Regulatory Amendment.docx; Voigt Stip. 3 Amend. Trout Lake Bag Limit Amendment Regarding Trout Harvest.docx; Voigt Stip. 3 Amend. Waawaashkeshi Harvesting Regulatory Amendment.docx; Voigt Stip. 3 Amend. Wolf Season 2.docx; Voigt Stip. 3 Amend. Alternative Monitoring System Regulatory Amendment.docx; Voigt Stip. 3 Amend. Big Fish Rule Amendment.docx; Voigt Stip. 3 Amend. Boating Regulations. Prosecutorial Deferral.docx; Voigt Stip. 3 Amend. Camping on State Lands.docx; Voigt Stip. 3 Amend. Consultation Provision Amendments.docx; Voigt Stip. 3 Amend. Elk Season.docx; Voigt Stip. 3 Amend. Fish Refuge Regulatory Amendment.docx; Voigt Stip. 3 Amend. Fish Stocking Agreement.docx; Voigt Stip. 3 Amend. Fyke Netting Regulatory Amendment.docx; Voigt Stip. 3 Amend. Gathering on State Lands.docx; Voigt Stip. 3 Amend. Gillnet Regulatory Amendment.docx; Voigt Stip. 3 Amend. Ginseng CITES Authority Regulatory Amendment.docx; Voigt Stip. 3 Amend. Hunting Hours Extension.docx; Voigt Stip. 3 Amend. Hunting on Private Land Shining Regulations. Prosecutorial Deferral.docx; Voigt Stip. 3 Amend. Ice Spearing Regulatory Amendment.docx; Voigt Stip. 3 Amend. Kinship Permit Regulatory Amendment.docx; Voigt Stip. 3 Amend. Makwa Harvesting Regulatory Amendment.docx; Voigt Stip. 3 Amend. Manoomin Regulation Amendment.docx; Voigt Stip. 3 Amend. Migratory Bird Feather Part Traditional and Cultural Use Permit Regulatory Amendment.docx; Voigt Stip. 3 Amend. Migratory Bird Regulatory Amendment.docx; Voigt Stip. 3 Amend. Mizise Hunting Regulatory Amendment.docx; Voigt Stip. 3 Amend. Multiple Gear Regulatory Amendment.docx; Voigt Stip. 3 Amend. Name Regulatory Amendment.docx; Voigt Stip. 3 Amend. Namegos Regulatory Amendment.docx; Voigt Stip. 3 Amend. Nigig Hunting Season.docx; Voigt Stip. 3 Amend. Non-Member Indian Regulatory Amendment.docx; Voigt Stip. 3 Amend. Notice Regulatory Amendment Changes by Either Party.docx; Voigt Stip. 3 Amend. Pulse Fishing Rule.docx

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-----Original Message-----

From: Williams, Quinn L - DNR
Sent: Monday, July 30, 2012 5:10 AM
To: Gunderson, Scott L - DNR; Andryk, Tim A - DNR; Dosch, Thomas L - DNR; Milligan, Diane L - DOJ; Zeckmeister, Mike - DNR; Zebro, David A - DNR; Staggs, Mike D - DNR; Vander Zouwen, William Jr - DNR; Thiede, Kurt A - DNR; Gozdziowski, John F - DNR; Hauge, Tom M - DNR; Prichard, Teague - DNR; Warren, James K - DNR; Biermeier, Peter C - DNR; Olson, John F - DNR (WM); DeLong, Paul J - DNR; Zastrow, Darrell E - DNR; Stark, Randall J - DNR; Greisinger, Diane D - DNR
Cc: Williams, Quinn L - DNR
Subject: FW: [Fwd: Voigt Stipulation]

Updated issue sets and agenda for today's meeting.

P Quinn L. Williams
Natural Resources Section Chief
Bureau of Legal Services
Wisconsin Department of Natural Resources
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-----Original Message-----

From: jstark@glifwc.org [<mailto:jstark@glifwc.org>]
Sent: Sunday, July 29, 2012 9:23 PM
To: Williams, Quinn L - DNR
Subject: [Fwd: Voigt Stipulation]

----- Original Message -----

Subject: Voigt Stipulation
From: "Jason Stark" <JStark@glifwc.org>
Date: Sun, July 29, 2012 2:29 pm
To: "'Jason Stark'" <jstark@glifwc.org>

Attached

Kekek Jason Stark

Attorney / Policy Analyst

Division of Intergovernmental Affairs

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VOIGT STIPULATION REVIEW PROCESS: THIRD AMENDMENT

Issue Set # XXVIII – Proposed Stipulation Change:

Tribal Restraining Snare Regulatory Amendment

I. Tribal Restraining Snare Regulatory Amendment – Tribal Proposal.

The Tribes propose to amend their regulatory provisions pertaining to restraining snares in the implementation of proposed Commission Order 2010-01 establishing revision to model code §8.02(2) and §8.19(2) including: the use of restraining snares for fox, coyote, bobcat, and wolves; closed season from October 1 – March 31; staking a restraining snare; set size of restraining snare; and restraining snare noose cable and attachment specifications.

The language of *Section C.5* of the *Stipulation for Fisher, Fur Bearers and Small Game* (Docket Number 1289) 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) is proposed to be amended to reflect this regulatory change. The proposed stipulation amendment to capture this change is set forth below.

II. Draft Stipulation Amendment – Regarding a Tribal Restraining Snare Regulatory Amendment.

Proposed Stipulation amendment revisions regarding the establishment of a change to the tribal restraining snare regulations are set forth below:

TBD



III. Draft Model Code Amendments – Regarding a Tribal Restraining Snare Regulatory Amendment.

Proposed Model Code revisions regarding the establishment of a change to the tribal restraining snare regulations are [§8.02(2) and §8.19(2)] (deletions shown by ~~strikeout~~ and additions by **redline**):

8.02 Definitions.

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

- (1) “Bow” shall have the meaning prescribed in Section 6.01(2).
- (2) **“Restraining Snare” means while trapping to use a wire noose used for restraining furbearing animals which does not allow the device or trapped animal to reach unfrozen water.**
- (3) ~~(2)~~ “Crossbow” shall have the meaning prescribed in Section 6.01(3).
- (4) ~~(3)~~ “Firearm” shall have the meaning prescribed in Section 6.01(4).
- (5) ~~(4)~~ “Hunt” or “Hunting” shall have the meaning prescribed in Section 2.01(8) but shall not include trapping for the purposes of this chapter.
- (6) ~~(5)~~ “Trap”, in addition to the meaning prescribed in Section 2.01(14), means to trap or snare, **including the use of a restraining snare.**
- (7) ~~(6)~~ “Unprotected Species” means:
 - (a) Opossum, skunk, weasel, woodchuck;
 - (b) Starlings, English sparrows, coturnix quail, chukar partridge and rock doves;
 - (c) All other unprotected species as defined in Section 2.01(17).

* * * * *

8.19 Specific Snaring **and Restraining Snare Regulations.**

(1) No member shall trap small game by the use of a snare except in compliance with the following provisions:

- (a) ~~(1)~~ Any snare must be anchored so that it may not be dragged.

(b) ~~(2)~~ Any snare must be tagged as in Section 8.17(1).

(c) ~~(3)~~ No snare may be spring activated.

(d) ~~(4)~~ Any snare must be set in a manner which prevents an animal from being suspended unless it is attached to a drowning mechanism.

(e) ~~(5)~~ Any upland snare must be removed no later than March 31.

(f) ~~(6)~~ Any water set snare must be removed no later than March 31.

(g) ~~(7)~~ Except as provided in subs. (m), any snare must have either a mechanical stop device which will prevent the snare loop size from becoming smaller than 2½ inches or a break-away mechanical lock.

(h) ~~(8)~~ Except as provided in subs. (m), any snare must have a swivel device on the anchor end.

(i) ~~(9)~~ Except as provided in subs. (m), any snare or cable wire may not have a diameter exceeding 1/8 inch.

(j) ~~(10)~~ No upland snare shall be set on a well defined deer trail.

(k) ~~(11)~~ No upland snare shall be set such that the bottom of the loop is more than 6" above the ground or, when the ground is snow covered, more than 6" above the level of the adjoining trail.

(l) ~~(12)~~ No upland snare shall be set with a loop size greater than 10" in diameter.

(m) ~~(13)~~ Members may use braided picture wire snares without locks or swivels for the purpose of snaring rabbits or hares.

(2) No member shall trap small game by the use of a restraining snare except in compliance with the following provisions:

(a) No restraining snare may be set, placed or operated for any species other than fox, coyote, and bobcat.

(b) No restraining snare may be set out or placed, whether set or sprung, during the closed season. Restraining snares may only be used from October 1 – March 31 for bobcat, coyote and fox.

(c) No restraining snare may be staked in a manner that allows the restraint device to reach any part of a fence, rooted woody vegetation greater than ½ inch diameter, or any other immovable object or stake that could cause entanglement.

(d) No restraining snare may be set, placed or operated with the bottom of the loop less than 6 inches or greater than 12 inches above the first surface beneath the bottom of the set restraint snare loop (see Figure 1), where the surface is ground, ice, crusted or packed snow or any other hard surface.

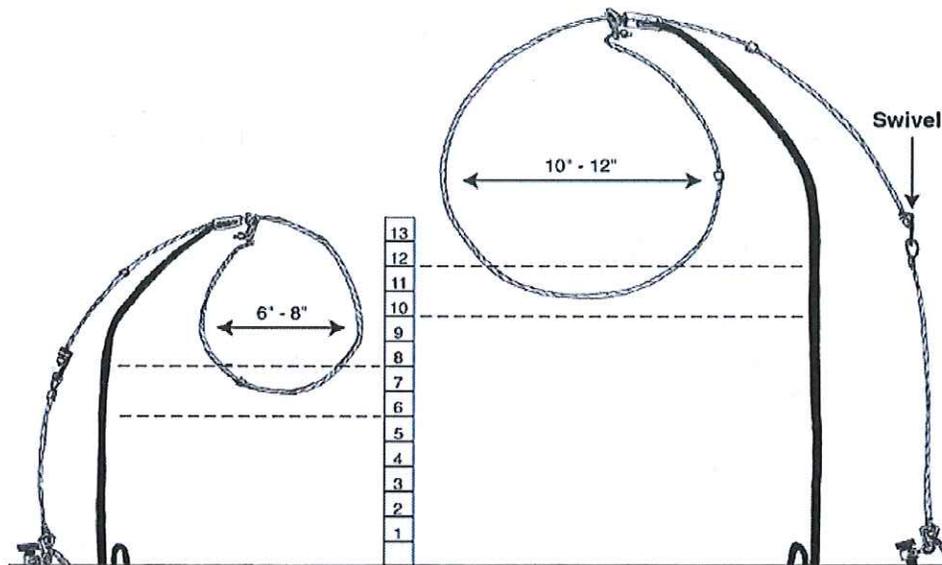


Figure 1. Loop heights and size varies depending on the intended canine, coyote or fox. Multiple swivels are recommended on a restraining snare, however only a single swivel is required.

(e) No restraining snare may be set, place or operate any cable restraining unless the noose cable and noose attachments conform to the following specifications:

- (i) Cable length may not exceed 7 feet.
- (ii) Cable must be galvanized and include a swivel.
- (iii) It must be non-spring activated.
- (iv) Cable must be made of multiple strands of wire, with a diameter of 3/32 inch or larger.
- (v) Include a breakaway device or stop rated at 285 pounds or less.
- (vi) Include a relaxing reverse-bend washer lock with a minimum outside diameter of 1¼ inches.

(vii) Include cable stops affixed to the cable to ensure that the portion of the cable, which makes up the noose loop, may not be longer than 38 inches when fully open, or less than 8 inches when fully closed (see Figure 2).

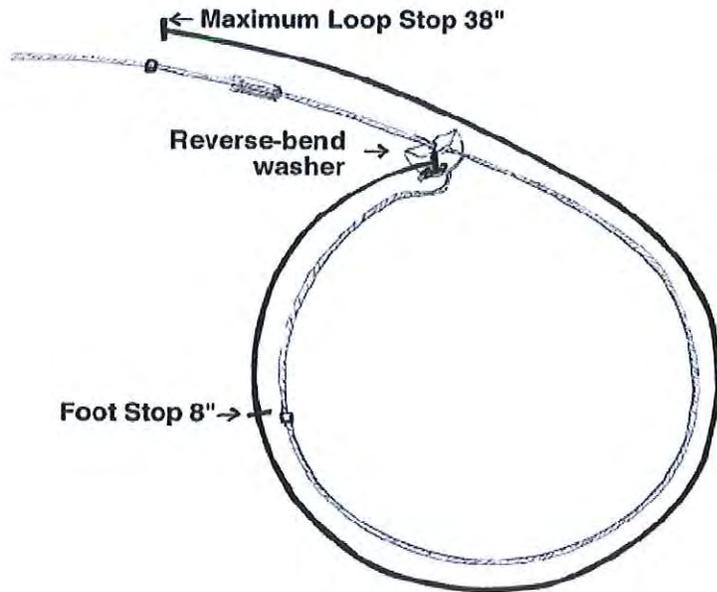


Figure 2. Maximum and minimum loop size is easily measured by circumference. The minimum loop stop is set at 8 inches and the maximum loop stop is set at 38 inches from the reverse-bend washer end of the cable. This results in a loop no smaller than 2½ inches in diameter nor larger than 12 inches in diameter.

VOIGT STIPULATION REVIEW PROCESS: THIRD AMENDMENT

Issue Set # XXXIII – Proposed Stipulation Change:

Tribal Safe Use and Transportation of Firearms and Bows Regulatory Amendment

I. Tribal Safe Use and Transportation of Firearms and Bows Regulatory Amendment – Tribal Proposal.

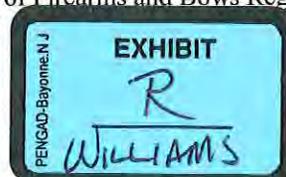
The Tribes propose to amend their regulatory provisions pertaining to the safe use and transportation of firearms and bows in the implementation of Commission Order 2011-06 establishing revisions to model code §3.21(3) including: amendment to the definition of stationary; provision providing for the placement or possession of an uncased firearm or bow within a stationary vehicle; and prohibitory exceptions.

The language *Section B.3.j* of the *Stipulation for the Deer Trial* (Docket Number 1167) 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) is proposed to be amended to reflect this regulatory change. The proposed stipulation amendment to capture this change is set forth below.

II. Draft Stipulation Amendment – Regarding the Tribal Safe Use and Transportation of Firearms and Bows Regulatory Amendment.

Proposed Stipulation amendment revisions regarding the establishment of a change to the tribal safe use and transportation of firearms and bows regulations are set forth below:

TBD



III. Draft Model Code Amendments – Regarding the Tribal Safe Use and Transportation of Firearms and Bows Regulatory Amendment.

Proposed Model Code revisions regarding the establishment of a change to the tribal safe use and transportation of firearms and bows regulations are [§3.21] (deletions shown by ~~strikeout~~ and additions by **redline**):

3.21 General Restrictions on Hunting.

[Subsections (1) - (2) unchanged]

(3) Safe Use and Transportation of Firearms and Bows.

(a) Definitions. For the purpose of this ordinance, the following terms shall be construed to apply as follows:

(i) **"Encased"** means enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, strapped, buckled, tied or otherwise fastened with no part of the firearm exposed.

(ii) **"Highway"** means all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel. It includes those roads or driveways in the state, county or municipal parks and in state forests which have been opened to the use of the public for the purpose of vehicular travel and roads or driveways upon the grounds of any elementary or high school supported by public taxation and institutions under the jurisdiction of a county board of supervisors, but does not include private roads or driveways as defined below.

(iii) **"Motorboat"** means any boat equipped with propulsion machinery, whether or not the machinery is the principal source of propulsion and shall be distinguished from a **"Non-motorized boat"** which means a boat that is not a motorboat but that is designed and constructed to be used as a boat for transportation of a person or persons on water. The term, "non-motorized boat" includes, but is not limited to any canoe, sailboat, inflatable boat or similar device, row boat, raft and dinghy which is not a motorboat.

(iv) **"Private Road or Driveway"** is every way or place in private ownership and used for vehicular travel only by the owner and those having express or implied permission from the owner and every road or driveway upon the grounds of public institutions other than elementary and high schools

supported by public taxation and institutions under the jurisdiction of a county board of supervisors.

(v) **"Roadway"** means that portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, excluding the berm or shoulder. In a divided highway the term "roadway" refers to each roadway separately but not to all such roadways collectively.

(vi) **"Unloaded"** means having no shell or cartridge in the chamber of a firearm or in the magazine attached to a firearm.

(vii) **"Vehicle"** means every device in, upon or by which any person or property is or may be drawn upon a highway, except railroad trains, and includes a snowmobile as defined below.

(viii) **"Snowmobile"** means any engine driven vehicle of a type which utilizes sled type runners, or skis, or an endless belt tread or any combination of these or similar means of contact with the surface upon which it is operated, but does not include such vehicles which are either manually propelled or driven by a motor of 4 horsepower or less and operated only on private property.

(ix) **"Stationary"** means not moving, regardless of whether the motor is running.

(b) Prohibitions; Motorboats and Vehicles; Highways and Roadways.

(i) Except as provided in subs. (c), no member shall place, possess, or transport a firearm, bow or crossbow in or on a motorboat with the motor running, ~~unless the firearm is unloaded or unless the bow or crossbow is unstrung or enclosed in a carrying case.~~ **one of the following applies:**

1) **The firearm is unloaded.**

2) **The bow does not have an arrow nocked.**

3) **The crossbow is not cocked or is unloaded and enclosed in a carrying case.**

(ii) Except as provided in **subs. (b)(vi) or** subs. (c), no member shall place, possess or transport a firearm, bow or crossbow in or on a vehicle, ~~unless the firearm is unloaded and encased or unless the bow or crossbow is unstrung or is enclosed in a carrying case.~~ **one of the following applies:**

1) **The firearm is unloaded.**

2) The bow does not have an arrow nocked.

3) The crossbow is not cocked or is unloaded and enclosed in a carrying case.

(iii) Except as provided in subs. (c), no member shall load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.

(iv) Except as provided in subs. (c), no member shall discharge a firearm or shoot an arrow from a bow or crossbow from or across a highway or within 50 feet of the center of a roadway.

(v) Except as provided in subs. (c), no member shall hunt while possessing a loaded firearm or strung bow or crossbow within 50 feet of roadway's center.

(vi) Except as provided in subs. (c), no member shall within 1,000 feet from the grounds of a school, or in a state park, state fish hatchery, or tribally designated wildlife area, have in or on a vehicle, or in his or her possession, or under his or her control a firearm, bow or crossbow, unless the firearm is unloaded and encased or locked in a firearm rack that is on a motor vehicle or unless the bow or crossbow is unstrung or is enclosed in a carrying case.

(c) Exceptions.

(i) Subsections (b) (i), (ii), (iii) and (iv) shall not apply to any person authorized by Section 4.02 to enforce the provisions of this ordinance who, in the line of duty places, possesses, transports, loads or discharges a firearm in, on or from a vehicle or motorboat or discharges a firearm from or across a highway or within 50 feet of the center of a highway.

(ii) Subsection (b)(i), (ii) and (vi) shall not apply to a member otherwise authorized by law to place, possess, load, or transport a handgun.

(iii) ~~(ii)~~ Subsection (b)(ii) shall not prohibit a member from placing or possessing a firearm on ~~leaning an unloaded firearm against a vehicle that is stationary.~~

(iv) ~~(iii)~~ Subsections (b)(ii) and (iii) shall not apply to a member in or on a stationary vehicle which is parked off a highway and parked more than 50 feet from the center of the roadway.

(v) Subsections (b)(ii) and (iii) shall not apply to a member legally hunting from a stationary non-motorized vehicle that is not attached to a motor vehicle.

(vi) ~~(iv)~~ Subsections (b)(iv) and (v) shall not apply to a member who is lawfully hunting small game with a shotgun loaded with shotshell or chilled shot number BB or smaller, if the surface of the highway or roadway is anything other than concrete or blacktop.

(vii) ~~(v)~~ Subsections (b)(ii), (iii), (iv) and (v) shall not apply to a member who possesses a valid disabled hunters permit issued pursuant to Section 3.32 of this ordinance and who is hunting in or on a stationary vehicle in accordance with the provisions of that permit.

(viii) Subsection (b)(vi) shall not apply to a member who possesses a valid hunting permit in areas of a state park, state fish hatchery, or tribally designated wildlife area which are open to tribal hunting, therein a tribal member may uncase and load their firearm for the purpose of hunting after removing it from their vehicle at the location they will be hunting.

[Subsection (4) unchanged]

VOIGT STIPULATION REVIEW PROCESS: THIRD AMENDMENT

Issue Set # XIII – Proposed Stipulation Change:

Tribal Set Line, Open Water Hook & Line, and Ice Fishing Regulatory Amendments

I. Tribal Set Line, Open water Hook & Line, and Ice Fishing Regulatory Amendments – Tribal Proposal.

The Tribes propose to amend their regulatory provisions pertaining to tribal set and unattended line fishing establishing revision to model code §9.09 allowing for the use of 4 rather than 1 set lines in up to three bodies of water at any one time, §9.12(1) allowing for the open water fishing by the use of hook and line with 12 lines rather than 6 lines, §9.12(2) allowing for open water fishing by the use of unattended hook and lines attached to a dock, §9.13(3)(a) allowing for the use of treble hooks, and §9.13(3)(f) allowing for the use of no more than 50 rather than 30 attended or unattended lines in no more than 3 bodies of water at any one time.

The language of *Section 3.g* of the *Stipulation for Biological and Certain Remaining Issue* (Docket Number 911) 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) is proposed to be amended to reflect this regulatory change. The proposed stipulation amendment to capture this change is set forth below.

II. Draft Stipulation Amendment – Regarding Tribal Set Line, Open water Hook & Line, and Ice Fishing Regulatory Amendments

Proposed Stipulation amendment revisions regarding the establishment of changes to the tribal set line, open water hook & line, and ice fishing regulatory provisions are set forth below:

TBD

III. Draft Model Code Amendments – Regarding a ?

Proposed Model Code revisions regarding the establishment of changes to the tribal set line, open water hook & line, and ice fishing regulatory provisions are [§9.09, §9.12(1), §9.12(2), §9.13(3)(a), §9.13(3)(f)] (deletions shown by ~~strikeout~~ and additions by **redline**):

9.09 Setlines and Set or Bank Poles Regulated.

(1) No member shall fish with or set any setline or set or bank pole except in accordance with the following provisions:

(a) A maximum of 20 set or bank poles and ~~4~~ setline may be used in no more than 3 bodies of water at any one time.

(b) Setlines shall be marked at one end by a white flag ten inches square or larger held by a pole three feet or more above the surface of the water or bank; the pole shall not be more than two-and-one-half inches in diameter and, if a buoy is used to hold the pole, it shall be round or ovate in shape and have a diameter of fifteen inches or less; the pole shall not be placed in the main channel of any navigable waterway;

(c) Each set or bank pole and each setline shall have attached securely to it an identification tag issued by the Tribe showing the member's tribal affiliation and tribal identification number.

(d) Setlines or set or bank poles shall not be equipped with stainless steel hooks.

(e) A set or bank pole may not be equipped with more than one line which shall not have more than 2 hooks.

(f) A setline shall not have more than 10 hooks.

(g) Each set or bank pole and setline shall be lifted and the catch removed at least once each day following the day it was set.

(h) Set or bank poles and setlines may only be set, attended or lifted from one hour before sunrise to one-half hour past sunset.

(i) The tribal conservation department 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.

(2) No member shall fish with any set or bank pole or setline which does not meet the requirements of Section 9.01(10) [Set or Bank Pole Defined] or Section 9.01(11) [Setline Defined].

(3) No member shall possess any fish harvesting device other than a set or bank pole or setline while setting, lifting or attending a set or bank pole or setline.

(4) No member shall share any set or bank pole or setline with any person who is not a member of a signatory tribe, except as provided in Section 3.30 [Permissible Conduct/Assistance by Non-Members].

* * * * *

9.12 Open Water Hook & Line Fishing Regulated.

Except as provided in Section 9.09 [Setlines and Set or Bank Poles Regulated], no member shall:

(1) Engage in open water fishing by the use of hook and line with more than ~~12~~ six lines with a maximum of two hooks or lures per line; or

(2) Engage in open water fishing by the use of any unattended hook and line, ~~unless the unattended hook and lines are attached to a dock.~~

[Subsections (3) unchanged]

* * * * *

9.13 Ice Fishing Regulated.

[Subsections (1) - (2) unchanged]

(3) No member shall ice fish with unattended lines except in compliance with the following provisions:

(a) All unattended lines shall have attached a single iron hook with a maximum 1/2 inch point to shank gape ~~or have attached a treble hook;~~

(b) All unattended lines shall be of biodegradable material and shall be securely anchored so as not to be dislodged by a hooked fish;

(c) All unattended lines shall be tagged with a valid identification tag obtained from the tribe indicating the member's tribal affiliation and tribal identification number;

(d) Any member fishing with unattended lines shall, prior to doing so, inform the tribal conservation department of his or her name, address, phone number and lakes upon which the member intends to fish with unattended lines;

(e) Each unattended line shall be checked at least once every 24 hours unless severe weather conditions render it impractical to do so;

(f) No more than a total of ~~50~~ 30 attended or unattended lines shall be used in no more than 3 lakes at any one time; and

(g) All poles used for unattended lines shall be marked so as to be visible to vehicular traffic, and all openings more than twelve inches in diameter or across shall be marked in a manner which identifies them as a hazard when unused.

[Subsections (4) - (7) unchanged]

VOIGT STIPULATION REVIEW PROCESS: THIRD AMENDMENT

Issue Set # XIII – Proposed Stipulation Change:

Tribal Set Line, Open Water Hook & Line, and Ice Fishing Regulatory Amendments

I. Tribal Set Line, Open water Hook & Line, and Ice Fishing Regulatory Amendments – Tribal Proposal.

The Tribes propose to amend their regulatory provisions pertaining to tribal set and unattended line fishing establishing revision to model code §9.09 allowing for the use of 4 rather than 1 set lines in up to three bodies of water at any one time, §9.12(1) allowing for the open water fishing by the use of hook and line with 12 lines rather than 6 lines, §9.12(2) allowing for open water fishing by the use of unattended hook and lines attached to a dock, §9.13(3)(a) allowing for the use of treble hooks, and §9.13(3)(f) allowing for the use of no more than 50 rather than 30 attended or unattended lines in no more than 3 bodies of water at any one time.

The language of *Section 3.g* of the *Stipulation for Biological and Certain Remaining Issue* (Docket Number 911) 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) is proposed to be amended to reflect this regulatory change. The proposed stipulation amendment to capture this change is set forth below.

II. Draft Stipulation Amendment – Regarding Tribal Set Line, Open water Hook & Line, and Ice Fishing Regulatory Amendments



Proposed Stipulation amendment revisions regarding the establishment of changes to the tribal set line, open water hook & line, and ice fishing regulatory provisions are set forth below:

TBD

III. Draft Model Code Amendments – Regarding a ?

Proposed Model Code revisions regarding the establishment of changes to the tribal set line, open water hook & line, and ice fishing regulatory provisions are [§9.09, §9.12(1), §9.12(2), §9.13(3)(a), §9.13(3)(f)] (deletions shown by ~~strikeout~~ and additions by **redline**):

9.09 Setlines and Set or Bank Poles Regulated.

(1) No member shall fish with or set any setline or set or bank pole except in accordance with the following provisions:

(a) A maximum of 20 set or bank poles and **4** ~~1~~ setline may be used in no more than 3 bodies of water at any one time.

(b) Setlines shall be marked at one end by a white flag ten inches square or larger held by a pole three feet or more above the surface of the water or bank; the pole shall not be more than two-and-one-half inches in diameter and, if a buoy is used to hold the pole, it shall be round or ovate in shape and have a diameter of fifteen inches or less; the pole shall not be placed in the main channel of any navigable waterway;

(c) Each set or bank pole and each setline shall have attached securely to it an identification tag issued by the Tribe showing the member's tribal affiliation and tribal identification number.

(d) Setlines or set or bank poles shall not be equipped with stainless steel hooks.

(e) A set or bank pole may not be equipped with more than one line which shall not have more than 2 hooks.

(f) A setline shall not have more than 10 hooks.

(g) Each set or bank pole and setline shall be lifted and the catch removed at least once each day following the day it was set.

(h) Set or bank poles and setlines may only be set, attended or lifted from one hour before sunrise to one-half hour past sunset.

(i) The tribal conservation department 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.

(2) No member shall fish with any set or bank pole or setline which does not meet the requirements of Section 9.01(10) [Set or Bank Pole Defined] or Section 9.01(11) [Setline Defined].

(3) No member shall possess any fish harvesting device other than a set or bank pole or setline while setting, lifting or attending a set or bank pole or setline.

(4) No member shall share any set or bank pole or setline with any person who is not a member of a signatory tribe, except as provided in Section 3.30 [Permissible Conduct/Assistance by Non-Members].

* * * * *

9.12 Open Water Hook & Line Fishing Regulated.

Except as provided in Section 9.09 [Setlines and Set or Bank Poles Regulated], no member shall:

(1) Engage in open water fishing by the use of hook and line with more than 12 ~~six~~ lines with a maximum of two hooks or lures per line; or

(2) Engage in open water fishing by the use of any unattended hook and line, **unless the unattended hook and lines are attached to a dock.**

[Subsections (3) unchanged]

* * * * *

9.13 Ice Fishing Regulated.

[Subsections (1) - (2) unchanged]

(3) No member shall ice fish with unattended lines except in compliance with the following provisions:

(a) All unattended lines shall have attached a single iron hook with a maximum 1/2 inch point to shank gape **or have attached a treble hook;**

(b) All unattended lines shall be of biodegradable material and shall be securely anchored so as not to be dislodged by a hooked fish;

(c) All unattended lines shall be tagged with a valid identification tag obtained from the tribe indicating the member's tribal affiliation and tribal identification number;

(d) Any member fishing with unattended lines shall, prior to doing so, inform the tribal conservation department of his or her name, address, phone number and lakes upon which the member intends to fish with unattended lines;

(e) Each unattended line shall be checked at least once every 24 hours unless severe weather conditions render it impractical to do so;

(f) No more than a total of ~~50~~ 30 attended or unattended lines shall be used in no more than 3 lakes at any one time; and

(g) All poles used for unattended lines shall be marked so as to be visible to vehicular traffic, and all openings more than twelve inches in diameter or across shall be marked in a manner which identifies them as a hazard when unused.

[Subsections (4) - (7) unchanged]

VOIGT STIPULATION REVIEW PROCESS: THIRD AMENDMENT

Issue Set # IX – Proposed Stipulation Change:

Tribal Shining Regulatory Amendment

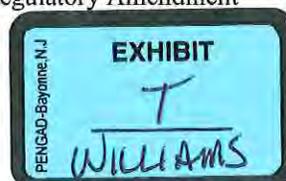
I. Tribal Shining Regulatory Amendment – Tribal Proposal.

The Tribes propose to amend their regulatory provisions pertaining to shining establishing revision to model code §3.14, §6.20, §7.26, §8.16(1), and §15.20 thereby allowing shining while hunting on foot with the use of a flashlight at the point of kill for deer, bear, raccoon, fox, coyote, unprotected species, elk and wolves.

The language of *Section B.3* of the *Stipulation for the Deer Trial* (Docket Number 1167), *Section 5* of the *Stipulation for Black Bear, Migratory Birds and Wild Plants* (Docket Number 1607, subpart 1), *Section C.5* of the *Stipulation for Fisher, Fur Bearers and Small Game* (Docket Number 1289), and *Section C.6.a* of the *Stipulation for Miscellaneous Species and Regulatory Matters* (Docket Number 1607, subpart 2) 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) are proposed to be amended to reflect these regulatory changes. The proposed stipulation amendments to capture these changes are set forth below.

II. Draft Stipulation Amendment – Regarding the Tribal Shining Regulatory Amendment.

Proposed Stipulation amendment revisions regarding the establishment of a change to the tribal shining regulations are set forth below:



TBD

III. **Draft Model Code Amendments – Regarding the Tribal Shining Regulatory Amendment.**

Proposed Model Code revisions regarding the establishment of a change to the tribal shining regulations are [§3.14, §6.20, §7.26, §8.16(1), and §15.20] (deletions shown by ~~strikeout~~ and additions by **redline**):

3.14 **Shining Animals.**

(1) Definitions. As used in this ordinance:

(a) **“Flashlight”** means a battery operated light designed to be carried and held by hand.

(b) **“Light”** includes flashlights, automobile lights and other lights.

(c) **“Point of Kill”** means the location at which a light is used to illuminate and kill a wild animal whose position or location is already known by the hunter.

(d)-(e) **“Shining”** means the casting of rays of light on a field, forest, or other area for the purpose of illuminating, locating or attempting to illuminate or locate wild animals.

(2) Presumption. A person casting the rays of light on a field, forest or other area which is frequented by wild animals is rebuttably presumed to be shining wild animals.

(3) Shining Wild Animals While Hunting or Possessing Weapons Prohibited.

(a) Prohibition. Except as otherwise provided in subs. (b), no member shall use or possess with intent to use a light for shining wild animals while the member is hunting or in possession of a firearm, bow and arrow or crossbow.

(b) Exceptions. This subsection shall not apply to:

(i) a member who possesses a flashlight or who uses a flashlight at the point of kill while hunting on foot pursuant to the express provisions of this ordinance which allow shining during the open season for the animals hunted;

(ii) a person authorized to enforce the provisions of this ordinance on official business;

- (iii) an employee of the Tribe or the Commission on official business; or
- (iv) a person authorized by the Tribe or the Commission to conduct a game census.

(v) a member engaged in hunting authorized by Sections 6.20, 7.26, 8.16 or 15.20 of this ordinance.

(4) Shining Wild Animals After 10 P.M. During Certain Times of the Year Prohibited.

(a) Prohibition. Except as otherwise provided in subs. (b), no member shall use or possess with intent to use a light for shining wild animals between 10 p.m. and 7 a.m. from the ~~day after labor day September 15~~ to the first Sunday following New Years Day or as otherwise provided by a GLIFWC Commission Order ~~December 31~~.

(b) Exceptions. This subsection shall not apply to:

(i) a member who possesses a flashlight or who uses a flashlight at the point of kill while hunting on foot pursuant to the express provisions of this ordinance which allow shining during the open season for the animals hunted;

(ii) a member who possesses a flashlight or who uses a flashlight while on foot and training a dog to track or hunt raccoons, foxes or other unprotected animals;

(iii) a person authorized to enforce the provisions of this ordinance on official business;

(iv) an employee of the Tribe or the Commission on official business;

(v) a person authorized by the Tribe or the Commission to conduct a game census; or

(vi) if the tribe's governing body specifically permits a member to use or possess a light for shining wild animals during these times.

(vii) a member engaged in hunting authorized by Sections 6.20, 7.26, 8.16 or 15.20 of the ordinance; or

(viii) a member engaged in fishing authorized by Section 9.06 of this ordinance.

* * * * *

6.20 Shining Deer. Shining Prohibited.

~~No member shall hunt deer while shining as defined in Section 3.14.~~

(1) The tribal conservation department may issue permits that authorize hunting deer, including shining, between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise, provided that no such permit shall be effective during the middle deer season established pursuant to Section 6.07(3).

(2) No member shall hunt or shine deer under this section unless in possession of a permit issued under subsection (1). Any member hunting or shining deer under this section shall be subject to all terms and conditions in this section and in the permit issued under subsection (1), as well as all other provisions of this ordinance regulating hunting, unless expressly provided otherwise in this section.

(3) No member hunting or shining deer under this section shall:

(a) hunt or shine deer between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise except from a stationary position or at the point of kill;

(b) hunt or shine deer between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise except with the aid of electronic or other calling techniques or when hunting over bait as otherwise authorized by this ordinance;

(c) discharge a firearm between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise except from a stationary position or at the point of kill for the purpose of accurately identifying the deer and safely aiming the weapon and killing the deer;

(d) discharge a firearm between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise except while illuminating a deer.

(4) A member hunting deer under this section may pursue and take a deer wounded by the member while shooting from a stationary position, provided that a light may be used at the point of kill for the purpose of accurately identifying the deer and safely aiming the weapon and killing the wounded deer prior to 45 minutes (or one-half hour) before sunrise.

* * * * *

7.26 Shining Bear.

~~No member shall hunt bear while shining, as defined in Section 3.14.~~

(1) The tribal conservation department may issue permits that authorize hunting bear, including shining, between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise.

(2) No member shall hunt or shine bear under this section unless in possession of a permit issued under subsection (1). Any member hunting or shining bear under this section shall be subject to all terms and conditions in this section and in the permit issued under subsection (1), as well as all other provisions of this ordinance regulating hunting, unless expressly provided otherwise in this section.

(3) No member hunting or shining bear under this section shall:

(a) hunt or shine bear between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise except from a stationary position or at the point of kill;

(b) hunt or shine bear between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise except with the aid of electronic or other calling techniques or when hunting over bait as otherwise authorized by this ordinance;

(c) discharge a firearm between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise except from a stationary position or at the point of kill for the purpose of accurately identifying the bear and safely aiming the weapon and killing the bear;

(d) discharge a firearm between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise except while illuminating a bear.

(e) hunt or shine bear between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise with the use or aid of dogs;

(4) A member hunting bear under this section may pursue and take a bear wounded by the member while shooting from a stationary position, provided that a light may be used at the point of kill for the purpose of accurately identifying the bear and safely aiming the weapon and killing the wounded bear prior to 45 minutes (or one-half hour) before sunrise.

* * * * *

8.16 Shining Raccoon, Fox or Unprotected Species.

(1) No member shall hunt raccoon, fox or any unprotected species while shining as defined in Section 3.14 except:

(a) While hunting on foot **or from a stationary position** during the open season for the animal hunted, a member may possess or use a flashlight at the point of kill; or

(b) While hunting or shining raccoon, fox or any unprotected species, a member may hunt or shine with the aid of electronic or other calling techniques or hunting over bait as otherwise authorized by this ordinance;

(c) ~~(b)~~ While on foot training a dog to hunt or track raccoon, fox or any unprotected species, a member may possess or use a flashlight.

(2) No member shall hunt raccoon, fox or any unprotected species while shining during the middle deer season established pursuant to Section 6.07(3).

* * * * *

15.20 Shining Elk Prohibited.

~~No member shall hunt elk while shining as defined in Section 3.14.~~

(1) The tribal conservation department may issue permits that authorize hunting elk, including shining, between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise, provided that no such permit shall be effective during the middle deer season established pursuant to Section 6.07(3).

(2) No member shall hunt or shine elk under this section unless in possession of a permit issued under subsection (1). Any member hunting or shining elk under this section shall be subject to all terms and conditions in this section and in the permit issued under subsection (1), as well as all other provisions of this ordinance regulating hunting, unless expressly provided otherwise in this section.

(3) No member hunting or shining elk under this section shall:

(a) hunt or shine elk between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise except from a stationary position or at the point of kill;

(b) hunt or shine elk between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise except with the aid of electronic or other calling techniques or when hunting over bait as otherwise authorized by this ordinance;

(c) discharge a firearm between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise except from a stationary position or at the point of kill for the purpose of accurately identifying the elk and safely aiming the weapon and killing the elk;

(d) discharge a firearm between 35 minutes (or 20 minutes) after sunset and 45 minutes (or one-half hour) before sunrise except while illuminating a elk.

(4) A member hunting elk under this section may pursue and take a elk wounded by the member while shooting from a stationary position, provided that a light may be used at the point of kill for the purpose of accurately identifying the elk and safely aiming the weapon and killing the wounded elk prior to 45 minutes (or one-half hour) before sunrise.

From: Zebro, David A - DNR
Sent: Thursday, August 16, 2012 11:01 AM
To: Williams, Quinn L - DNR
Subject: FYI



RE: Tribal Tribal Night-Time
Night-Time Hunting Hunting Rule...



From: Dryja, Andrew D - DNR
Sent: Wednesday, August 15, 2012 9:36 PM
To: Sealander, Michael L - DNR; Dahlquist, Bradley N - DNR; Zebro, David A - DNR
Cc: Walz, David J - DNR; Novesky, Patrick C - DNR; Jung, James D - DNR; Crotty, Kelly R - DNR; Thole, Richard A - DNR; Price, Timothy S - DNR; Ebert, Timothy T - DNR; Bowe, Scott A - DNR
Subject: RE: Tribal Night-Time Hunting Rule

Spoke with Tom Kroepelin tonight. Brads right. The tribe will be able to shine and shoot deer "at the point of kill". This is a direct result of the states "point of kill" rule in the new wolf hunt.

If it goes through, which it looks like it is all set, all one will have to do is shut off the truck hop out and pop a deer in the headlights. May be time for the state to rethink some of the MOU's that are in place in regards to illegal hunting activities.

From: Sealander, Michael L - DNR
Sent: Wednesday, August 15, 2012 7:07 PM
To: Dahlquist, Bradley N - DNR; Zebro, David A - DNR
Cc: Walz, David J - DNR; Novesky, Patrick C - DNR; Jung, James D - DNR; Crotty, Kelly R - DNR; Thole, Richard A - DNR; Price, Timothy S - DNR; Ebert, Timothy T - DNR; Dryja, Andrew D - DNR
Subject: RE: Tribal Night-Time Hunting Rule

You cant be serious??

Michael Sealander

Conservation Warden
Saint Germain

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Website: dnr.wi.gov

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From: Dahlquist, Bradley N - DNR
Sent: Wednesday, August 15, 2012 6:44 PM
To: Zebro, David A - DNR
Cc: Walz, David J - DNR; Novesky, Patrick C - DNR; Jung, James D - DNR; Crotty, Kelly R - DNR; Thole, Richard A - DNR; Sealander, Michael L - DNR; Price, Timothy S - DNR; Ebert, Timothy T - DNR; Dryja, Andrew D - DNR
Subject: Tribal Night-Time Hunting Rule

Dave Z,



I had a conversation with Roger McGeshick today regarding a rule proposal being looked at by the Mole Lake tribe allowing tribal members to shine/shoot deer at night while in the ceded territory. The way I took this information was the tribes are upset with the state for allowing a wolf season, and a possible "retaliation" would be to slip in the hunting of deer with the aid of artificial light at the point of kill. This would also include the shining/shooting of deer, not just on the reservations, but in all ceded territory. I'm not sure if this is being pushed by the Mole Lake tribe, another tribe, or by all the Chippewa tribes. According to Roger it sounds like this rule change is imminent and will likely be in place by October of this year.

I'm not sure if this information is new to you, if not can you explain in more detail to the field wardens on what we can expect the tribal rules to be? Or, if this is also news to you can we look in to this more? I'm sure I don't have to explain to anyone the ramifications of this possible rule change and the increased difficulty of enforcement...

Thanks much,
Brad

Bradley N. Dahlquist
Wisconsin Dept. of Natural Resources
404 N. Lake Street
Crandon, WI 54520
Phone: (715) 478-5610
Email: bradley.dahlquist@wi.gov

Website: dnr.wi.gov

Find us on Facebook: www.facebook.com/WIDNR

VISIT OUR WARDEN WIRE News Service - <link> [Warden Wire](#)

From: Dahlquist, Bradley N - DNR
Sent: Wednesday, August 15, 2012 6:44 PM
To: Zebro, David A - DNR
Cc: Walz, David J - DNR; Novesky, Patrick C - DNR; Jung, James D - DNR; Crotty, Kelly R - DNR; Thole, Richard A - DNR; Sealander, Michael L - DNR; Price, Timothy S - DNR; Ebert, Timothy T - DNR; Dryja, Andrew D - DNR
Subject: Tribal Night-Time Hunting Rule

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Bradley N. Dahlquist
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