

August 24, 2017

Dear Commissioner Landwehr,

We recently acquired a copy of an agreement called "Consensus: Mille Lacs Fishery Harvest Plan, 2017-2020", dated March 31, 2017 between the DNR, GLIFWIC, the Mille Lacs Band of Ojibwe and the Fond du Lac Band of Lake Superior Chippewa (copy attached below).

We were shocked to say the least. No one from the DNR had ever spoken to MLFAC about this agreement, either before or after its signing. This agreement was never disclosed to the public at any time. Why would the DNR secretly negotiate a settlement like this without disclosing it to anyone? This is exactly the type of thing that reinforces our position that more transparency is needed in connection with DNR and Band discussions and negotiations. It is an example of why we have requested participation of some kind in FTC meetings.

We also need to consider that this agreement resulted from an overharvest of 6,800 pounds in 2016. It was an estimated hooking mortality, not an actual harvest. These numbers come from expansions of creel census data, which have always been suspect to us, as well as an estimated hooking mortality study which we have questioned since its release. We also believe that this overage may well be within the margin of error of all of these calculations, as well. In addition, the DNR has stated several times that they do not believe that any harm was done to the spawning stock biomass, the 2013 year class or any part of the walleye population as a result of the overage. So why, given the insignificant overage and its minimal impact, did the DNR give up so much?

The DNR gave the Bands 50% of any harvestable surplus over 64,000 pounds. They set harvestable surplus levels, which could severely reduce our potential harvest in the future. They locked us in to a hooking mortality based on the suspect hooking mortality study. They locked us in to an overage program which all comes due in 2020 and will probably significantly reduce our harvest potential in 2018-2020.

At this point, what did you have to lose by letting them go back to court and fighting it? Maybe a Phase II lawsuit would settle the allocation issues with a more favorable outcome for Minnesota sportsmen.

We believe MLFAC, as well as the public deserves answers to these and many other questions and we request an open meeting with the DNR, MLFAC and anyone else who is interested within 2 weeks. Please respond to this as soon as possible.

Dean Hanson  
Co-Chair, MLFAC

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**Consensus: Mille Lacs Fishery Harvest Plan, 2017-2020**  
**March 31, 2017**

The State of Minnesota exceeded its Mille Lacs Lake walleye allocation in the 2016 fishing year in Mille Lacs Lake. The plaintiff Bands in the 1837 treaty rights litigation initiated the dispute resolution process established by the court seeking a remedy for the State's overage and the implementation of measures to prevent future overages. The Bands and the State made progress in resolving the dispute at the January 2017 Fisheries Technical Committee meeting. However, certain issues remained unresolved after the committee meeting. The unresolved issues were described in a February 1, 2017, letter from James E. Zorn, Executive Administrator, Great Lakes Indian Fish and Wildlife Commission, to Tom Landwehr, Commissioner of Natural Resources, State of Minnesota.

In accordance with the dispute resolution process, the State Fisheries Chief and the Bands' designated fisheries managers discussed the unresolved issues in an effort to reach consensus. This document reflects a consensus between the State Fisheries Chief and the Bands' designated fisheries managers that resolves the unresolved issues described in Mr. Zorn's letter.

In arriving at this consensus, the shared management goals are: to restore the walleye population with a long-term goal of reaching 20 pounds of mature walleye per net lift,<sup>1</sup> and to protect the 2013 year class by setting harvestable surplus levels in accordance with this plan.

- I. **Harvestable Surplus Levels.** The 2017 harvestable surplus is 64,000 pounds. The harvestable surplus for fishing years 2018, 2019 and 2020 will be based on the male and female spawner biomass goals, applying the  $F=0.085$  (64,000 lbs in 2017) harvest line in the attached graph. Harvest strategies for 2018-2020 will be intended to direct the population toward these goals. Projected male and female biomass expressed as percentages of 2017 male and female biomass are as follows:

Year	Males	Females
2018	103	131
2019	103	158
2020	103	173

- II. **Allocation.** The 2017 harvestable surplus will be allocated 70% to the State (44,800 pounds) and 30% to the Bands (19,200 pounds). If the harvestable surplus for 2018, 2019, or 2020 is 64,000 pounds or less, it will be allocated 70% to the State and 30% to the Bands. If the harvestable surplus for 2018, 2019 or 2020 is more than 64,000 pounds, the first 64,000 pounds will be allocated 70% to the State and 30% to the Bands and the amount in excess of 64,000 pounds will

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<sup>1</sup> The pounds of mature walleye per net lift are derived from the State's 52 gill nets (including the original 32 gill nets and the 20 offshore gill nets) set during the period 2002 to 2016.

be allocated 50% to the State and 50% to the Bands. The State's allocation in 2018, 2019, and 2020 will be adjusted as provided in Section IV.B below.

III. **Hooking Mortality.** Hooking mortality in the State's fishery will be based on the point estimate from the new hooking mortality study starting in 2017.

IV. **Allowable Overages in the State's Fishery.**

- A. Except as provided in Section IV.D below, the State may exceed its allocation in 2017, 2018, 2019 and 2020, *provided* that the State may not exceed its overage cap in any year and may not have an overage at the end of the 2020 fishing season. The State will begin the 2017 fishing year with an overage of 6,800 pounds from 2016. The State's overage at the end of each fishing year will be the sum of all overages and underages in its fishery commencing with the overage from 2016 (the calculation of the State's overage will not be affected by any underages in the Bands' fishery). For example, if the State's total kill in 2017 is 44,000 pounds (800 pounds under its allocation), its overage at the end of 2017 will be 6,000 pounds ( $6,800 - 800 = 6,000$ ).
- B. The State's allocation in 2018, 2019 and 2020 will be adjusted if it has a net overage at the beginning of the fishing year. The adjustment will be designed to re-pay the overage pro rata over the number of years remaining until the end of the 2020 fishing year. For example, if the State has an overage of 6,000 pounds at the beginning of the 2018 fishing year, its allocation will be reduced by 2,000 pounds per year in 2018, 2019 and 2020.
- C. The State's overage cap in 2017 is 55,800 pounds (11,000 pounds more than its 2017 allocation of 44,800 pounds). The State's overage cap in 2018 is 125 percent of the State's allocation (as adjusted in accordance with Section IV.B above). The State's overage cap in 2019 is 110 percent of State's allocation (as adjusted in accordance with Section IV.B above). The State's overage cap in 2020 will be established to ensure that the State does not have an overage at the end of the 2020 fishing season.
- D. No overage will be allowed if the spawning stock biomass is below 10 lbs per net in the 52 net fall survey. In any such year, the State's overage cap shall equal its allocation (as adjusted in accordance with Section IV.B above).

V. **Mechanisms to Prevent Overages.** The State will take the following actions to prevent overages and ensure that it does not exceed its overage cap in any year and does not have an overage at the end of the 2020 fishing season:

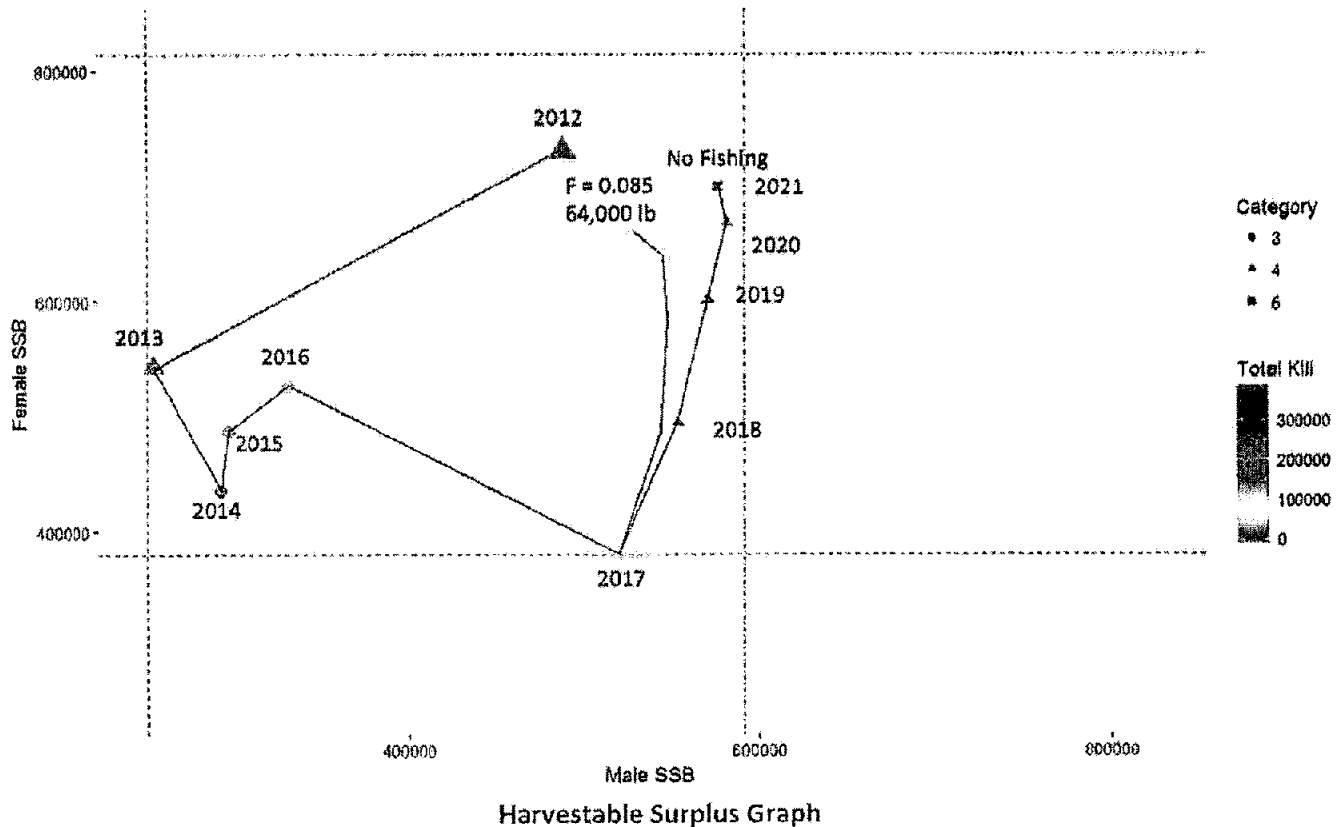
- A. In 2017, the State will close its fishery when its total kill reaches its overage cap of 55,800 pounds or on the day after Labor Day, whichever comes first (*i.e.*, if the State does not reach its overage cap of 55,800 pounds before Labor Day, the State will close its fishery on the day after Labor Day even if it has not reached its 44,800-pound allocation). In addition, in 2017, the State will close its Mille Lacs Lake walleye season for 21 days during July (the July period will

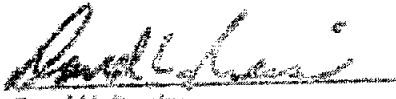
include 3 weekends, run Friday through Thursday, and include artificial lures only or sucker minnows larger than 8" when fishing for other species).

- B. In 2018, 2019 and 2020, the State will close its fishery no later than when its total kill reaches its overage cap.
- C. The State will take the following measures to close its fishery when it reaches its overage cap as much as its administrative process allows:
  1. The State will project kill for the current creel period based on observed catch rate and effort trends in previous periods.
  2. The State will begin the administrative process for closure if within period projections indicate that the overage cap could be reached within the current creel period.

VI. **Review.** The Fisheries Committee will review at least annually the implementation of this Consensus Plan to ensure that its underlying conservation and equity purposes are being fulfilled. The parties acknowledge that this Plan may be changed consistent with those purposes by subsequent consensus in light of new information or changed circumstances.

VII. **Enforcement.** The Bands and the State have the right to enforce this Consensus Plan in court without reinitiating the dispute resolution process.





Donald L. Farrell  
Fisheries Chief  
Minnesota Dept. of Natural Resources

3/31/2017  
Date



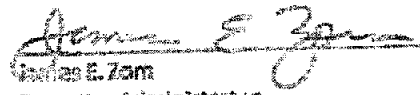
Susan Nepal  
Commissioner of Natural Resources  
Mille Lacs Band of Ojibwa

4/12/2017  
Date



Regina DeToro  
Regional Office  
Director of Resource Management  
Sond du Lac Band of Lake Superior Chippewa

04/12/17  
Date



James E. Zorn  
Executive Administrator  
Great Lakes Indian Fish and Wildlife Commission

7 April 2017  
Date