

Report on treaty harvest rights set for Blainbrook Thursday, Dec 1

Beacon Hill Institute to provide analysis of impact on Mille Lacs area

PERM has launched a study on the economic impact of treaty harvest rights on the Mille Lacs area following the US Supreme Court's 1999 decision on the 1837 Treaty. Findings will be released for the first time at PERM's annual 'Save Minnesota' event being held Thursday December 1 at Blainbrook Entertainment Center in Blaine.

PERM retained the Beacon Hill Institute at Suffolk University to research two separate, but related, issues of the case. The first is whether the Mille Lacs Band has achieved a "moderate standard of living." The second is an analysis of the economic impacts of the Band's harvest rights on non-tribal residents and businesses since the Court's ruling.

PERM launched the study to help ban the use of gillnets on spawning game fish on Mille Lacs. At the same time, the study could address costs and economic benefits of the hunting and fishing privilege, and hugely expensive "co-management," which appear to be way out of balance.

An Eighth Circuit court ruling (upheld) said that the "moderate standard of living" doctrine could not be used to drive allocation of the 1837 Treaty harvest rights. However, the doctrine may be appropriate to consider in the future, according to the Court, if either conservation of the resource becomes an issue, or, if a party's right to the resource

is substantially harmed due to another party's harvest of that resource.

Allowing gillnetting of game fish during spawning not only contradicts DNR restrictions to protect spawning fish in many other lakes and streams, but also mother nature's efforts to regenerate the species. That makes conservation an issue. The recent DNR report of a decline in the Walleye population on Mille Lacs also raises the conservation issue.

Analysis of economic impact also supports use of the moderate standard doctrine. Here, the analysis could show whether a party's right to the resource is substantially harmed.

The US State Supreme Court still "maintains jurisdiction" in the 1837 Treaty case. Thus, using study results to initiate consideration of the moderate standard doctrine by the courts would not be an entirely cold start.

An immediate use of the study results

would be to provide context for the "negotiations" that set the Mille Lacs walleye harvest quotas every year. The courts have ruled that honoring treaty harvest rights does not impinge on a state's sovereignty, nor can conservation be used as an excuse to not honor those rights. Instead, the exercise of those rights must be negotiated.

However, how does 2,000 lb, 40,000 lb, and 142,000 lb limits each mean honoring treaty harvest rights? Here is where the study's results could be used to help the State and DNR's understanding of the need for representing all Minnesotans.

Applying the study's results this way would require that the negotiation process be open and above board. Input would then come before announcement of the quotas. That is why PERM has also started a petition to engage the Governor, Attorney General, the DNR, and the Legislature on the need to ban gillnetting game fish on Mille Lacs.

Paul Bachman to report on BHI study at Blainbrook



Paul Bachman will discuss the economic impact of treaty harvest rights on the Mille Lacs area, from a study being sponsored by PERM.

Bachman is Director of Research at Beacon Hill Institute, a free-market think tank at Suffolk University in Boston. Grounded in the principles of limited government, fiscal responsibility, and free markets, BHI conducts state-of-the-art economic research for citizens, legislators, and policy makers.

Paul Bachman manages the Institute's research projects, including the State Tax Analysis Modeling Program. STAMP is an "economic model" that shows how changes in state tax policy affect state economic activity. It enables voters and policy makers to make decisions rooted in facts and rigor, not just rhetoric.

Bachman has authored research papers on state and national tax policy, state labor policy, and produces the Institute's Massachusetts revenue forecasts for the Joint Legislative Committee for Ways and Means.

BHI publications have been in over 1,000 reports, stories, and opinion pieces in major newspapers and magazines, TV networks, radio, and wire services throughout the US.

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Proper Economic Resource Management

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“Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, that is the only thing that ever has.”

Margaret Mead

Member/Board Meetings

PERM Member meetings are held on the second Monday of the month. Meetings are at 7:30 p.m. in the Conference Room at the Cinema Professional Building, 657 Main Street, in Elk River.

PERM Board meetings are held after Member meetings in March, June, September, and December.

Annual Meeting is held the second Monday of March.

Supreme Court Redirect on Tribal Sovereignty?

Report from CERA Workshop on Federal Indian Policy

A major shift in Supreme Court rulings was the main theme of the Citizen Equal Rights Alliance Regional Workshop on Federal Indian Policy held the last weekend of October in Shwano, Wisconsin.

Presenters explained how recent Court rulings have significantly strengthened State sovereignty, constrained Executive Branch authority, and diminished the federal “trust” relationship with Indian Tribes. These groundbreaking shifts in federal Indian policy have state, county, and local impacts specific to land status, fee-to-trust, and the expansion of “Indian country.”

One example cited included the City of Sherrill v. Oneida Indian Nation in 2005. In Sherrill, the Court ruled that the disruptive nature of awarding a land claim after 200 years precluded the tribe from claiming its rights to the land. In October of this year the US Supreme Court refused to hear an Oneida land claim on the basis of Sherrill.

Another landmark decision was Carcier v. Salazar, in 2009, which limited the federal government’s authority to transfer land in trust for Indian tribes. Again, in October of this year, the U.S. Supreme Court declined to rule on Pachak v. Salazar on the basis of the Carcier decision. This allowed an individual to have the “standing” needed to sue because the Gun Lake tribe did not meet the Indian Reorganization Act requirements for transferring land into trust for the tribe.

A recently discovered memorandum from President Richard Nixon explained his Indian policy for his successor Gerald

Ford. The memo provided a basis for an almost unlimited expansion of federal power to define federal Indian policy—and bypass Congress in the process.

Nixon’s Indian policies were bolstered by a Department of Justice-initiated lawsuit leading to the 1974 US Supreme Court decision Morton v. Mancari. The Morton decision ruled that federal race-based preferential treatment of tribes was not discriminatory because that preferential treatment was based on tribes being a “political entity, and not a racial distinction.

That could all change if the Supreme Court elects to review Corboy v. Louie. Corboy involves a tax exemption status based on race, and the question of an individual having standing to take legal action. If the Supreme Court’s current shift prevails, it could rule that preferential treatment of Indian tribes does violate the equal protection clause of the Civil Rights Act. Preferential treatment might then be vulnerable to legal actions to end or even reverse such treatment.

The CERA presentation was brought to the State Capitol in Madison the next day for the benefit of Wisconsin legislators. However, word got out and most RSVPs were from tribal attorneys based in Minnesota. This very informative workshop was aired on Wisconsin Eye, a public affairs television network.

An Indian law attorney posted a call on the Internet for his readers to “show up and let your voice be heard against hate and intolerance.” That helped create a very lively debate!



2012 CERA/CERF Annual Conference

The next CERA / CERF conference will be held on March 18th and 19th at the Holiday Inn, Arlington VA

Sign up for details as they become available. Request listing at feedback@citizensalliance.org

Mille Lacs walleye population dropping

A recent assessment of Lake Mille Lacs identified a smaller than anticipated walleye population, according to the Minnesota DNR.

Based on recent netting assessments, the lake's walleye index dropped 30% by weight. This is the second lowest walleye abundance since DNR monitoring began in 1983.

The long-term trend of walleye population assessments on Mille Lacs since the mid-1980s has been declining overall. Fisheries biologists are evaluating the new data to better understand how they might influence future management options.

Northern pike abundance also went down, but that could be due to regulation changes to support trophy size over harvest volume.

Before setting the 2012 regulations, DNR managers will meet with the Mille Lacs Fisheries Input Group, an advisory group of anglers and local business interests, to discuss the status of the lake's fish populations.

Any discussion on banning gillnets?

From the Chairman's Deer Stand ...

While sitting in my deer stand with the wind trying to blow me out, hearing shots and seeing occasional spotlights drift across the westerly landscape made me start thinking about tribal harvests. You see, my west meadow property abuts the Red Lake Indian Reservation. I can start shooting at proper daylight, but much of the Tribal Harvest is just ending. Huh.

My mother's heritage is east coast, and yes, it goes back to the beginning of the history of North America. We are descendants of John Alden and Priscilla Mullins of Mayflower fame. So, much like the American Indians, they too were looking for a better life in the new world. My mother's heritage is 1/4 American Indian, so you see I have descended from multiple spectrums of American History.

The walleye count is down in the latest DNR Mille Lacs Netting Assessments. Duh!

And what did large scale gillnetting on Red Lake do? Tribal estimates say the large lake will again be in major decline over the next 3-5 years. So much for

restocking! It has been a slower decline in Mille Lacs only because of the number of gillnets and the time those nets are in the water. When I asked the Executive Director of GLIFWC, during a public meeting, why the netting during the spawn? His response, "Its not because of the spawn, it is because it is easier to net fish when they are bunched up in the shallows" (spawning.)

It is a good thing he doesn't set other harvesting seasons. Deer? Let's hunt them in the spring when the does will be fat and slow (ready to deliver new life in the forest.) Ducks and upland birds in the spring? Shoot them on the nest hoping to only crack a few eggs.

If my ramblings send any kind of message, may it be that two different cultures start out helping each other co-exist, yet go two separate trails to survive. At some point, these two trails must once again come together to harvest under one law.

My deer season? Wind burn, no deer!

Ron, start asking the hard questions!!

Doug

Interior Dept pushing shooters off public lands

Gun owners who have historically been able to use public lands for target practice would be barred from potentially millions of acres under new rules drafted by the Interior Department, the first major move by the Obama administration to impose limits on firearms.

Officials say the administration is concerned about the potential clash between gun owners and encroaching urban populations who like to use same land for hiking and dog walking.

The Interior's Bureau of Land Management, which oversees 245 million acres, admits it's not about safety, but about "social conflict." They say the conflict comes from urbanites who "freak out" when they hear shooting on public lands. The BLM also raises a laundry list of concerns including how shooting can cause a public disturbance, hurt plants, and litter public lands.

If approved, some public access to Bureau lands by hunters would also be limited, potentially reducing areas deer, elk, and bear hunters can use in the West.

Conservationists and hunting groups belonging to the Wildlife and Hunting Heritage Conservation Council are mounting a fight. They claim that shooters are being held to a much higher safety standard than other users of public lands, such as ATV riders. They note that the policy fails to recognize that recreational shooting has one of the lowest incidences of death and injury compared to virtually any other outdoor recreational activity.

What's more, the group charged that the BLM is acting in a contradictory fashion, encouraging the shooting sports while limiting shooting areas.

From US News "Washington Whispers," November 16, 2011

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States lose sovereignty—again

Dept. of Interior (home of the Bureau of Indian Affairs) Secretary Ken Salazar, on October 11, signed Secretarial Order 3315. The Order consolidates the Office of Surface Mining Reclamation and Enforcement (OSM) within the Bureau of Land Management (BLM.) Rationale for the Order is the “integration of fee collections and regulation, inspection and enforcement, and state program oversight.”

This is the exact opposite of his rationale last year, when he split the Minerals Management Service (MMS) into three parts after the BP oil spill. Then, he was ending the conflict of interest between departments due to the leasing and regulatory functions being in one agency.

The obvious contradiction, along with the complete lack of consultation with the stakeholders, states, or Congress, flags the true purpose of the BLM swallowing the OSM—targeting the administration’s favorite villain, coal. The result of this

consolidation will be to make coal mining more difficult, to delay permitting.

That’s because OSM deals with mines on private or Indian lands. They cooperate with the states and do regulation. Normally, a coal mine can be permitted through OSM in less than a year. The BLM generates revenue from federal lands. They have little experience with private lands or state agencies. Permitting of a hard rock mine through the BLM can take 7-10 years.

This will be bad news for the states—more loss of sovereignty to the federal government. But it’s also bad news for many Indian tribes. Tribes with coal or mineral resources now have another barrier to independence.

SO-3315 is one more effort to take away authority from the states and move it to the federal government. It expands the previous federal land grab SO 3310, signed last December.

Last year the Omnibus Lands Bill—which would have accelerated the fed’s land grabs and locked up extensive areas—failed to pass before Congress adjourned for the year. However, the very next day, Interior issued SO-3310.

SO-3310 created a new designation: “Wild Lands.” Previously, it took an act of Congress to declare a “wilderness area.” Now, the BLM is able to circumvent Congress—much as the EPA has done with CO2 and the FDA has done with accelerated drug approval. Wild Lands is a new designation with similar regulations and restrictions as wilderness areas. But, it does not require Congressional approval.

SO-3315 is scheduled to become effective December 1, 2011—following consultation with applicable congressional committees. Which means calls to Congress before then could push back on federal power grabs, agency mission creep, and a crashing economy.

Will your Senators protect property rights?

The EPA and the Army Corps of Engineers have relentlessly expanded the definition of wetlands under the Clean Water Act by stretching the meaning of navigable waters. It started out meaning a boat could navigate the waterway, but it eventually included ditches and any patch of land that was “wet” for part of the year.

In two recent cases, the Supreme Court said the EPA and Army Corps went too far, ruling that “navigable” actually means something. Former Congressman Jim Oberstar angered Minnesota voters enough to end his 36-year career in Congress when he responded by trying to delete the word navigable and create federal jurisdiction over every drop of moisture in the country.

Note that his first attempt was called the “Clean Water Authority Restoration Act.” Expanding Federal authority didn’t sell, so his next several attempts were all entitled Clean Water Restoration Act.

But the EPA and the Army Corps are ignoring the American people and trying to go back to a nearly unlimited definition of wetlands by abusing a regulatory

function called “guidance documents.” Originally designed to manage operations, guidance documents can be used to bypass the intent of congress and the Courts.

The recent “Clean Water Protection Guidance” issued by the Environmental Protection Agency expands the jurisdiction of the U.S. Army Corps of Engineers too far. This expansion could place all navigable waters as well as all interstate, intrastate, and even non-navigable waters under the control of the Corps. The Barrasso-Heller Amendment prevents this expansion, protecting property owners from this federal “land grab” and respecting their property rights.

This week the U.S. Senate will vote on the Barrasso-Heller Amendment, blocking any funding for the Army Corps that’s used to expand wetlands jurisdiction.

The Barrasso-Heller Amendment would prevent the U.S. Army Corps of Engineers from overstepping its intended bounds under the Clean Water Act and usurping the rights of property owners.

The expanded jurisdiction will create a tremendous amount of uncertainty for

homeowners, as it increases the already excessive power given to the government under the Clean Water Act. Without this Amendment, landowners will be at a greater risk of fines, regulations and in some cases, the loss of their land altogether.

This uncertainty has been limited in the past by two U.S. Supreme Court cases, which clarified the scope of federal jurisdiction over wetlands and other “waters of the United States” under the Clean Water Act. The Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (2001) and Rapanos v. U.S. (2006) have significantly reduced the potential for abuse under the Clean Water Act, by limiting the previously broad definition of navigable water.

Unfortunately, the new Guidance seeks to subvert the court’s ruling, ceding power back to the federal government from the landowner. The Barrasso-Heller Amendment prevents this expansion of government power by clearly defining and limiting the waterways, which the federal government can regulate.

James Meger - Wildlife Artist and PERM Advocate: 1941 - 2011

By Howard B. Hanson

PERM's members and friends were deeply saddened August 28th by the passing of James Meger at age 69 from sarcoma cancer, which has been traced to Agent Orange. James had served as an officer in the war in Vietnam for 14 months.

Meger was one of the most inspired people we have met. His drive and work ethic led him to become one of the most respected artists in the country. His standards for excellence were noticed by all. He was forever critiquing his work and never happy with a painting until he had tried every skill to make a bird, a dog, a moon, or a playing child look better. Only after he tried everything to make the perfect painting, would he sign his name, giving a lifetime of viewing pleasure to his customers. His love and desire to provide for his wife Laurene and daughter Elise added greatly to Megers' work ethic.

The award-winning artist was the ultimate conservationist, giving to causes he knew would help the sustainability and economic value of our valuable natural resources—and equally as important, of our quality of life.

Meger became a friend and supporter when we brought the commercial gillnetting battles from Lake of the Woods and Rainy Lake to the Twin City conservation clubs in the early 80's.

He also supported the efforts of The Hunting and Angling Club as we lobbied for aquaculture starting in 1983. Politically savvy, he understood, like Bud Grant, Les Kouba, Mark Rotz, Joe Karpen and many others, that "something fishy" was going on when corporate revisionist treaty rights claims surfaced in the late 80's. We all understood it wasn't a "race issue" but rather a battle affecting the heart and soul of our local sports-fishing tourism economies and the quality of our lives.

After the Hunting and Angling Club stopped the secretly-negotiated Mille Lacs Treaty Settlement at the Legislature in 1992, PERM was created to protect the interests of the private landowners, which the state admitted they would not protect. In the continuing legal battle, PERM started a "Save Minnesota" campaign. It raised \$1.5 million to protect the interests of the private landowners.



James Meger and the original painting he made, with an assist from Bud Grant, for a limited edition print series for PERM fundraising.

We put together a business plan to hire Les Kouba and James Meger to collaborate with Bud Grant to produce original paintings to use in fundraising. Meger threw his heart and soul into the effort. He signed prints at PERM booths at sport shows and at Game Fair. Meger and Bud were like magnates attracting buyers and helped us reach our goal.

Meger showed his respect and admiration for PERM by having his PERM print featured in his obituary in the Minneapolis Star Tribune. To PERM folks James wasn't only a great artist. He was also a great American

Howard Thurber memorial

Howard Thurber was a pioneer in restoring equal hunting and fishing rights at Mille Lacs

Howard Thurber was a tireless volunteer and board member for PERM, beginning as one of our original citizens to protest the secretly-negotiated settlement between the State of Minnesota and the Mille Lacs Band of Chippewa. This forced the legislature to revisit the settlement and led to the case going to the US Supreme Court. Even as Howard tired, he would burn up his gas to take volunteers to meetings, public forums, and solicit donations.

In memory of Howard Thurber, and his all his steadfast work with PERM to protect the Mille Lacs heritage for all Minnesotans, PERM has planted a tree in his honor in Lake View Park, in Isle on the shore of Mille Lacs, the lake he loved.

"In memory of Howard Thurber and his work to protect the Mille Lacs heritage for all Minnesotans."



Fall Fiesta maple planted in honor of Howard Thurber

Sign Our Petition! (And mail it in to the address below)

“I believe that all hunting and fishing in Minnesota should be done under the same rules.”

Governor Mark Dayton
Candidate Forum
Game Fair, August 2010



How about it, Governor?

Can we make it happen?

We the undersigned users of Minnesota’s natural resources petition the Minnesota Governor, Attorney General, DNR Commissioner, and Legislature to protect the interests of all sportsmen and women, and Minnesota’s economic future by:

- Using all available means to ban the use of gillnets for game fish;
- Standing up for the interests of all citizens, sportsmen and women, property owners, and resort owners in any potential expansion of “treaty harvest rights”;
- Making any such negotiations transparent to the public and subject to Minnesota’s good government “open meeting” laws;
- Making a legal analysis on the DNR’s wild rice harvest working paper’s constitutionality, and claims for the continued existence of the original Mille Lacs Indian Reservation;
- Requiring the Attorney General to appear on behalf of the state in prosecutions of game and fish violations when a defense is based on Indian treaty rights.
- Enforcing the U.S. Supreme Court Holt Decision, stating Red Lake belongs to ALL citizens, and thereby...

Making your vision for equal protection of the law a reality.

PLEASE PRINT

Name _____ Signature _____

Email _____ Phone _____

Address _____

City _____ State _____ ZIP _____

Legislative District (if known) _____

(All personal information will be CONFIDENTIAL and never shared)

Please return as soon as possible! Use envelope or mail to to:

PERM (Proper Economic Resource Management) 657 Main St #102, Elk River, MN 55330

Why Join PERM

PERM is a non-profit, tax-exempt conservation club dedicated to balanced solutions to natural resource management.

PERM believes that public natural resources should be managed for ALL citizens—not just special interests or those with political access and clout.

For example, PERM supports hunting and fishing as a means for conservation and economic benefit to the tourism industry. In fact, most natural resource programs would not exist without the license and tax dollars from outdoor sports enthusiasts.

PERM helped sportsmen statewide

PERM raised over \$1.5 million to defend the 1837 Treaty area and fishing rights on Mille Lacs. Although the courts affirmed a tribal right to fish, it was not involved in allocation. The result was a state-tribal agreement that erred against any over-harvest by the tribe, and leaned heavily toward under-harvest for anglers.

Still, PERM funded research, which so clearly countered proposed limits, that the DNR eased the restrictions. Unfortunately, ongoing boundary issues and harvest negotiations can undo any progress.

PERM continues to raise awareness about balanced solutions to natural resource management. And it keeps members informed about these issues. This newsletter has more examples.


PERM members are passionate about the cause. They aren't giving up on saving Minnesota. Working together gets results as it has in the past.

Your support is critical for you to be heard while state bureaucracies and tribal "governments" make decisions about Minnesota's economic resources.

PERM succeeds because you're part of it. Stand up with your friends. Send your membership contribution today.

Last chance to get your raffle tickets! Drawing on December 12

Mail coupon below to PERM office.

<p style="text-align: center; font-weight: bold;">No 000</p> <p style="text-align: center;">Name _____</p> <p style="text-align: center;">Address _____</p> <p style="text-align: center;">Phone _____</p>	<p>\$5 PERM LEGAL FUND GUN RAFFLE \$5</p>  <table style="width: 100%; font-size: small;"> <tr> <td>1 Browning A-Bolt II 270 WSM</td> <td>2 Savage 114 American Classic 30-06</td> </tr> <tr> <td>3 Remington 870 Express 12 ga</td> <td>4 Mossberg 500 Camo 12 gauge</td> </tr> <tr> <td>5 Marlin 60 22 caliber</td> <td>6 Traditions PursuitXLT Muzzleloader 50</td> </tr> <tr> <td>7 Henry H001 22 caliber</td> <td>8 Moultrie M80 Trail Camera</td> </tr> <tr> <td>9 Garmin eTrex Venture GPS</td> <td>10 Set of exclusive PERM Prints</td> </tr> </table> <p style="font-weight: bold; font-size: small;">Ban the Gillnets! www.PERM.org</p> <p style="font-weight: bold; font-size: small;">Drawing <u>December 12, 2011</u></p> <p style="font-size: x-small;">8:30 pm at the Cinema Professional Building, 657 Main St., Elk River Need not be present to win Permit No. X4387</p> <p style="text-align: right; font-size: x-small; font-weight: bold;">Permit No. X4387-10-02 No 000</p>	1 Browning A-Bolt II 270 WSM	2 Savage 114 American Classic 30-06	3 Remington 870 Express 12 ga	4 Mossberg 500 Camo 12 gauge	5 Marlin 60 22 caliber	6 Traditions PursuitXLT Muzzleloader 50	7 Henry H001 22 caliber	8 Moultrie M80 Trail Camera	9 Garmin eTrex Venture GPS	10 Set of exclusive PERM Prints
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Yes, I want to support PERM!

Enclosed is \$ ____ for ____ 2011 Legal Fund Gun Raffle tickets.
(We will fill in stubs and mail you the tickets.)

Enclosed is \$ ____ for Membership Join / Renew
 ___ 1 yr – \$25 ___ 2 yr – \$45 ___ 5 yr – \$100 ___ 1 yr Corp / Club – \$100

\$ ____ Other as a tax-deductible contribution Total enclosed \$ _____

Name _____

Address _____

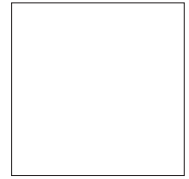
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Proper Economic Resource Management
 Cinema Professional Building
 657 Main Street, Suite 102
 Elk River, Minnesota 55330



ADDRESS SERVICE REQUESTED



'Save Minnesota' Metro Area Fundraiser

Thursday, December 1

Blainbrook Entertainment Center's Brook Hall
 12000 Central Ave NE (Hwy 65) in Blaine Free Admission

Guest Speaker Paul Bachman

Hear Paul Bachman on the economic impact of treaty harvest rights on the Mille Lacs area, from a study being sponsored by PERM. Bachman is Director of Research at Beacon Hill Institute. BHI is a free-market think tank that conducts state-of-the-art economic research for citizens, legislators, and policy makers.

It will be the first time findings are made public.

Grand Doorprize Drawing

Borderview Lodge Lake of the Woods 3-night 2-day ice fishing trip for two
Door Prize drawings all evening

Raffles ♦ Live Auction ♦ Silent Auction ♦ Games

Join us for Gun raffles, Silent and Live Auctions, and Games with great prizes. Includes toys and gift items for Christmas shopping, and a new-item tag-sale table for the guys.

PLUS: a special event-edition of an engraved, signed PERM Commemorative Rifle!



You can help! Additional item donations will make this an even more successful event.
 Call 763-360-3777. All donations are tax deductible, get PERM 501(c)(3) receipt letter.

5:00 - Social Hour

6:30 - Catfish/Chicken Dinner

7:30 - 9:30 Program

Cash Bar

Tickets \$15 (\$12 Advance. Call 763-360-3777)

Show your support Have a great time!