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John F. Kennedy School of Government • Harvard University

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Minnesota 1837 Ceded Territory Conservation Code Department of Natural Resources, Mille Lacs Band of Ojibwe

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Fishing, hunting, and gathering have long been central to the Mille Lacs Band of Ojibwe's collective identity. So when the Band yielded a large amount of territory to the United States government in Treaty of 1837, its members retained hunting, fishing, and gathering privileges on the ceded land. Unfortunately, ongoing treaty rights violations—and the mere passage of time—left Band members with a limited ability to exercise their rights. Although they continued to hunt and fish in the Treaty area according to Ojibwe tradition, they did so hesitantly and with a certain degree of fear. Their practices were inconsistent with State of Minnesota regulations, and without the protection of clearly enunciated treaty law, Band members were subject to gear seizure, hefty fines, and possible arrest by State game wardens.

A dramatic turnaround occurred in the 1980s when the Band began to investigate its treaty rights. In 1990, the Mille Lacs filed suit against the State of Minnesota in federal district court to halt State regulation, protect the Band's treaty rights, and gain control of the right to regulate members' hunting and fishing. A series of negotiations, State legislature votes, and court challenges ensued. Responding to the concerns of the anti-treaty lobby (largely sport fishermen), the State legislature, and Band members themselves, tribal negotiators eventually produced a 200-point document stipulating the Band's rights and responsibilities regarding the major issues in dispute—conservation and public safety. As decisions of the U.S. District Court, Court of Appeals, and Supreme Court affirmed Band members' rights to hunt, fish, and gather in east-central Minnesota, the document solidified as the Mille Lacs Band of Chippewa 1837 Ceded Territory Conservation Code.

The 111-page Code addresses a wide range of issues and governs treaty hunting, fishing, and gathering activities of Band members. For example, the Code establishes hunting and fishing seasons, regulates hunting and fishing licenses, sets bag limits, and requires hunters and fishermen to report their takings from the treaty area. Band officials, the Great Lakes Indian Fish and Wildlife Commission, and State conservation officers coordinate enforcement cooperatively.

The Code's careful enunciation and enforcement of rights serves both Band members and non-members well. Most basically, it allows Band members to exercise their hunting and fishing rights without fear. By protecting traditional territory and practices, the Code also affirms the Ojibwe lifestyle and, with its strong emphasis on conservation, provides a means for the continued practice of Ojibwe traditions. Among non-Indians, the Code has assuaged

fears that Band members will over-hunt or over-fish shared resources. In fact, the enforcement and information mechanisms put in place by the Code show that in the year following its adoption, Band members took only 140 of the 900 deer and 37,000 of the 40,000 pounds of fish they were allowed.

In addition to these virtues, the Conservation Code stands as an example of the methods and benefits of effective government-to-government negotiation. For instance, the Band's Chief Executive insisted on maintaining transparency in the process of Code development—a decision which was intended to, and succeeded in, averting violence of the type that had erupted over similar tribal-state hunting and fishing disputes in Wisconsin. The Band held meetings for State law enforcement officers to educate them about the Code and to discuss enforcement options. Similarly, they used open hearings to educate, gather input, and garner support from the public overall. This diligence paid off. The negotiation process leading up to the Code was able to replace historical disregard with positive tribal-state relations in the area of resource use and management. The Code has been particularly instrumental in forging a strong working relationship between tribal conservation officers and State game wardens.

Many American Indian nations face dilemmas over the use of resources shared with other governments. Against this backdrop, the Mille Lacs Band's Ceded Territory Conservation Code demonstrates that Indian tribes can successfully develop, implement, and monitor important natural resource programs in cooperation with non-Indian governments, and it stands as a model of effective government-to-government relations.

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