

The Bois Forte Code

For

Non-Commercial Netting of Game Fish

In the

**Waters Adjacent to the Vermilion
Reservation**



2011 Version
Valid January 1 – December 31, 2011

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**CHAPTER I
INTRODUCTION**

SECTION 1.1 TITLE

This ordinance shall be known as the Bois Forte Code for Non-Commercial Netting of Game Fish in the Waters Adjacent to the Lake Vermilion Reservation (the “Code”).

SECTION 1.2 AUTHORITY

This Code is enacted pursuant to Article VI of the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe which authorizes the Bois Forte Band of Chippewa (the “Band”) to manage lands and other resources; and pursuant to the Band's inherent power of self-governance and regulation of the exercise of rights reserved under the Treaty of September 30, 1854 (10 Stat. 1109).

SECTION 1.3 PURPOSE

The purposes of this Code are to:

- (A) Provide for the regulation of the non-commercial harvest of fish in waters adjacent to the Lake Vermilion Reservation; and
- (B) Promote public safety and conserve and manage fish populations in those waters.

SECTION 1.4 TERRITORIAL APPLICABILITY

This Code shall apply within the territory ceded to the United States of America by Article I of the Treaty of September 30, 1854.

SECTION 1.5 EFFECTIVE DATE

This Code shall be effective on the date it is enacted by the Bois Forte Reservation Tribal Council.

SECTION 1.6 INTERPRETATION

The provisions of this Code shall:

- (A) Be subject to interpretation by the 1854 Treaty Authority Court, which shall have jurisdiction over violations of the Code;
- (B) Be liberally construed in favor of the Band and the 1854 Treaty Authority;

- (C) Not be construed to be a repeal, waiver or limitation of any power, authority or immunity of the Band or the 1854 Treaty Authority.

SECTION 1.7 SEVERABILITY AND NON-LIABILITY

If any provision of this Code is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected thereby. Nothing herein shall constitute or be construed to be a waiver of the immunity of the Band or any committee, officer, employee or agent of the Band nor shall this Code subject the Band to liability for damages or other relief resulting from enforcement of this Code, reliance upon it, or conformance to it.

SECTION 1.8 REPEAL OF PRIOR INCONSISTENT ORDINANCES

Any ordinance, law or code previously enacted by the Band or the 1854 Treaty Authority that is inconsistent with this Code is hereby repealed. It is the intent of the Band and the 1854 Treaty Authority that this Code shall govern the activities of persons subject to the jurisdiction of the Band and the 1854 Treaty Authority in or on waters of Lake Vermilion adjacent to the Lake Vermilion Reservation.

CHAPTER II DEFINITIONS

SECTION 2.1 1854 TREATY AUTHORITY CONSERVATION CODE

"1854 TREATY AUTHORITY CONSERVATION CODE" shall mean a conservation code jointly enacted by the Grand Portage Band and Bois Forte Band, regulating hunting, fishing, trapping and gathering in the Ceded Territory and into which this Code is incorporated by reference.

SECTION 2.2 BAND MEMBER

"BAND MEMBER" shall mean a person who is an enrolled member of the Bois Forte Band of Chippewa Indians.

SECTION 2.3 BOIS FORTE CODE FOR NON-COMMERCIAL NETTING

"BOIS FORTE CODE FOR NON-COMMERCIAL NETTING" shall mean a code enacted by the Bois Forte Band regulating non-commercial taking of game fish or rough fish in the waters adjacent to the Lake Vermilion Reservation.

SECTION 2.4 BOIS FORTE DEPARTMENT OF NATURAL RESOURCES (BFDNR)

"BOIS FORTE DEPARTMENT OF NATURAL RESOURCES (BFDNR)" means the Band's Department of Natural Resources established by the Bois Forte Reservation Tribal Council.

SECTION 2.5 BOIS FORTE RESERVATION TRIBAL COUNCIL

"BOIS FORTE RESERVATION TRIBAL COUNCIL" and "Tribal Council" mean the duly elected governing body of the Bois Forte Band of Chippewa.

SECTION 2.6 COMMERCIAL PURPOSE

"COMMERCIAL PURPOSE" shall mean for purpose of sale or barter.

SECTION 2.7 GAME FISH

"GAME FISH" means walleye, sauger; yellow perch; members of the pike family: Esocidae, including muskellunge and northern pike; members of the sunfish family; Centrarchidae, including largemouth bass, smallmouth bass, sunfish, rock bass, white crappie, black crappie; members of the temperate bass family: Percichthyidae, including white bass and yellow bass. Game fish includes hybrids of game fish. For purposes of netting for personal consumption, lake whitefish shall be considered game fish.

SECTION 2.8 **GILL NET**

"GILL NET" shall mean any net set to take fish by entanglement rather than entrapment.

SECTION 2.9 **IDENTIFICATION CARD**

"IDENTIFICATION CARD" shall mean the Ceded Territory identification card issued to Bois Forte Band members by the 1854 Treaty Authority.

SECTION 2.10 **LAW ENFORCEMENT OFFICER**

"LAW ENFORCEMENT OFFICER" means officers authorized to enforce the 1854 Treaty Authority Conservation Code, including Band conservation officers, officers of the Bureau of Indian Affairs Nett Lake Police Department, and any other law enforcement officer authorized by the Tribal Council to enforce Band laws on the Reservation.

SECTION 2.11 **NETTING**

"NETTING" shall mean taking of fish by seine, trap, gill net, hoop net, cast net or hand held dip net.

SECTION 2.12 **PERSONAL FLOTATION DEVICE or PFD**

"PERSONAL FLOTATION DEVICE" or "PFD" shall mean a U.S. Coast Guard approved type I, II, III, IV or V, personal flotation device.

SECTION 2.13 **POSSESSION**

"POSSESSION" shall mean both actual and constructive possession and control of things referred to.

SECTION 2.14 **ROUGH FISH**

"ROUGH FISH" shall mean carp, buffalo, sucker, sheepshead, bowfin, burbot, cisco, gar, goldeneye and bullhead.

SECTION 2.15 **SALE**

"SALE" shall mean an exchange for consideration and includes barter, offer to sell and possess with intent to sell.

SECTION 2.16 **NETTING PERMIT**

"NETTING PERMIT" and "Permit" shall mean a permit required, in addition to the 1854 Treaty Authority Ceded Territory Identification Card, for the taking of fish pursuant to this Code.

Netting permits shall be issued by the Bois Forte DNR or its authorized agent to eligible members.

SECTION 2.17 TAKING

"TAKING" shall mean pursuing, capturing, trapping, angling, spearing, or netting fish, or placing, setting, drawing, or using a net, trap, or other device to take fish. Taking includes attempting to take fish and assisting another person in taking fish.

SECTION 2.18 TRANSPORT AND TRANSPORTATION

"TRANSPORT and TRANSPORTATION" shall mean causing or attempting to cause fish to be carried or moved by a device and includes accepting or receiving fish for transportation or shipment.

**CHAPTER III
GENERAL PROVISIONS**

SECTION 3.1 GENERAL REQUIREMENTS

No Band member shall use a net to take game fish except in those portions of Lake Vermilion adjacent to the Lake Vermilion Reservation designated on the map in Appendix A to this Code and during a season established by the Bois Forte Department of Natural Resources.

SECTION 3.2 PERMITS / IDENTIFICATION CODES REQUIRED

No Band member shall take fish by net without a valid Netting Permit and an 1854 Identification Card in his/her possession. To be valid, a Netting Permit must be issued by an authorized agent of the BFDNR or the 1854 Treaty Authority to a Band member who applies in person and signs for the Permit.

SECTION 3.3 PERMITS / ELIGIBILITY / AGE

Bois Forte Band members are eligible for a Netting Permit, provided that their privileges are not suspended or revoked by order of the 1854 Treaty Authority Court.

SECTION 3.4 NET RESTRICTIONS

- 3.4.1. All nets shall be identified with the Band member's name and Ceded Territory Identification Card number plainly printed on the first float on one end of the float line.
- 3.4.2. Each net shall be marked with two markers (buoys), one on each end of the net.

SECTION 3.5 SETTING/TENDING NETS

- 3.5.1. All nets must be set and lifted by the permittee only. Any person assisting must also have a valid Netting Permit and an 1854 Identification Card.
- 3.5.2. Nets may be set no earlier than 3 p.m. on any day.
- 3.5.3. Nets must be removed no later than 10:00 a.m. on the day following the day it was set.

SECTION 3.6 LENGTH OF NET

No Band member shall use no more than 200 feet of net at any one time. The ends of the nets shall be set at least 50 feet apart and in a manner which allows for fish to freely pass.

SECTION 3.7 MESH SIZE

Each net used for taking fish shall have a mesh size no smaller than 1-3/4 (one and three quarter) inches and no larger than 2-1/4 (two and one quarter) inches stretch mesh.

SECTION 3.8 USE OF FISH

3.8.1. No game fish taken during netting shall be used for a commercial purpose, discarded, or wasted.

3.8.2 Rough fish incidentally taken during netting shall be disposed of properly.

SECTION 3.9 TRANSPORTATION

Any Band member transporting fish taken pursuant to this code and transporting off the Lake Vermilion Reservation must have in his/her possession both a valid 1854 Ceded Territory Identification Card and a valid Netting Permit.

SECTION 3.10 PROHIBITED ACTS

It shall be a violation of this Code for any Band member:

3.10.1 to allow or assist another person to take, possess, or transport fish taken in violation of this Code.

3.10.2 to allow another to use or possess an Identification Card or Netting Permit issued to the Band member.

3.10.3 to use or possess an Identification Card or Netting Permit issued to another person.

3.10.4 to give false information when applying for or obtaining a Netting Permit under this Code.

3.10.5 to willfully fail or refuse to comply with any lawful order or directive of a law enforcement officer authorized to enforce this Code.

3.10.6 to obstruct the efforts of any law enforcement officer engaged in the enforcement of this Code.

3.10.7 to take fish by means or in a manner not in conformance with this Code.

3.10.8 to possess fish taken in violation of this Code.

SECTION 3.11 WASTE OF GAME FISH

A Band member may not waste game fish intentionally, knowingly, or with reckless disregard for the consequences. In this section “waste” means the failure to use the majority of the carcass, excluding the viscera, of a game fish for consumption by humans. It shall be a violation if game fish taken in the 1854 Ceded Territory under this Code are wasted outside the 1854 Ceded Territory.

SECTION 3.12 PERSONAL FLOTATION DEVICE

No Band member may set or remove a net under this Code without wearing or having in their watercraft a Personal Flotation Device for each person.

SECTION 3.13 MOTOR USE

No Band member shall use a motor-propelled watercraft to set or remove a net.

APPENDIX A



Bois Forte Reservation Tribal Council

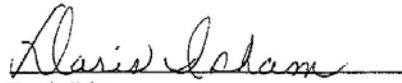
*Box 16
Nett Lake, Mn. 55772*

Resolution # 126-99

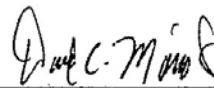
- WHEREAS,** The Bois Forte Band of Chippewa Indians is a federally recognized Indian tribe organized under the Indian Reorganization Act of 1934 and operating under the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe; and
- WHEREAS,** By Resolution No. 77-88, February 5, 1988, the Reservation Tribal Council approved the terms of an Agreement with the State of Minnesota regarding the exercise of hunting, fishing and gathering rights reserved under the Treaty of September 30, 1854; and
- WHEREAS,** Article I of the Agreement defines the Bois Forte Reservation and the Ceded Territory, and Section II of the 1854 Authority Ceded Territory Conservation Code reiterates those definitions; and
- WHEREAS,** The Agreement and the Code both permit the use of nets for non-commercial fishing in the waters adjacent to the Lake Vermilion, subject to certain restrictions; and
- WHEREAS,** The Reservation Tribal Council finds that it is in the interests of the Band to clarify jurisdiction over Band members who fish in the waters of Lake Vermilion; and
- NOW, THEREFORE, BE IT RESOLVED THAT:** The Bois Forte Reservation Tribal Council finds that the waters of Lake Vermilion surrounding the Reservation established by the Executive Order of December 20, 1881, are part of the Ceded Territory described in Article I of the Treaty of September 30, 1854, and it is the intent of the Reservation Tribal Council that the Ceded Territory Conservation Code shall apply to the activities of Bois Forte Band members in and on the waters of Lake Vermilion:

CERTIFICATION

We do hereby certify that the foregoing resolution was duly presented and enacted upon by a vote of 4 for, 0 against, 0 abstaining, at a special meeting of the Bois Forte Reservation Tribal Council, a quorum being present, held on April 15, _____, 1999, at Nett Lake _____, Minnesota.



Doris Isham
Chairwoman



David C. Morrison, Sr.
Secretary-Treasurer

APPENDIX B



Bois Forte Reservation Tribal Council

Box 16
Nett Lake, Mn. 55772

Resolution No. 108-2000

WHEREAS, the Bois Forte Band of the Minnesota Chippewa Tribe is a federally-recognized Indian tribe organized under the Indian Reorganization Act of 1934; and

WHEREAS, the Bois Forte Band is a party to an Agreement with the State of Minnesota setting out the circumstances under which the Bois Forte Band and the Grand Portage Band will regulate hunting, fishing, and gathering activities within the 1854 Ceded Territory; and

WHEREAS, in furtherance of the Agreement the Bands have authorized the 1854 Treaty Authority to enforce the 1854 Ceded Territory Code; and


WHEREAS, the Agreement authorizes subsistence netting in waters adjacent to the Lake Vermilion Reservation subject to the provisions of the 1854 Ceded Territory code; and


WHEREAS, the Reservation Tribal Council finds that more effective enforcement of 1854 Ceded Territory regulations will be possible if officers of the 1854 Authority are able to enter the Lake Vermilion Indian Reservation for enforcement purposes; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Bois Forte Reservation Tribal Council hereby authorizes Conservation Officers employed by the 1854 Authority to enter the Lake Vermilion Indian Reservation for the purpose of enforcing the subsistence netting provisions of the 1854 Ceded Territory Conservation Code.

Certification

We do hereby certify that the foregoing resolution was duly presented and enacted upon by a vote of 4 for, 0 against, 0 abstaining, at a special meeting of the Bois Forte Reservation Tribal Council, a quorum being present, held on March 9, 2000 at Nett Lake, Minnesota.


Doris Isham
Chairwoman


David C. Morrison, Sr.
Secretary-Treasurer

APPENDIX C



Airpark Square
4428 Haines Road
Duluth, MN 55811-1524
218/722-8907
Fax No. 218/722-7003

Resolution No. 04-23-01-1

WHEREAS, the Board of Directors of the 1854 Authority is authorized to promulgate rules and regulations governing hunting, fishing, and gathering activities within the Ceded Territory; and

WHEREAS, the Board of Directors has adopted regulations governing the taking of fish for non-commercial purposes within the Ceded Territory, including the waters adjacent to the Lake Vermilion Reservation; and

WHEREAS, the Board of Directors finds that it is necessary to designate the waters adjacent to the Lake Vermilion Reservation that have customarily been used for the traditional harvest of fish; and

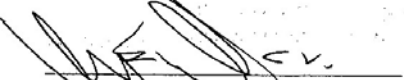
NOW, THEREFORE, BE IT RESOLVED that for purposes of taking game fish with nets for non-commercial purposes under Section X, Subd. 12 of the Ceded Territory Conservation Code, the waters in which nets may be placed are designated on the attached map; and

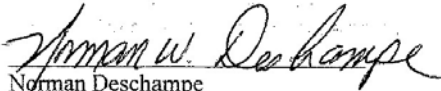
BE IT FURTHER RESOLVED that this designation shall be effective on April 24, 2001, notwithstanding the posting and publication requirements of Section X, Subdivision 17(B) and (C); and

BE IT FINALLY RESOLVED that the 1854 Authority shall make the map available to all persons applying for a non-commercial gillnetting permit.

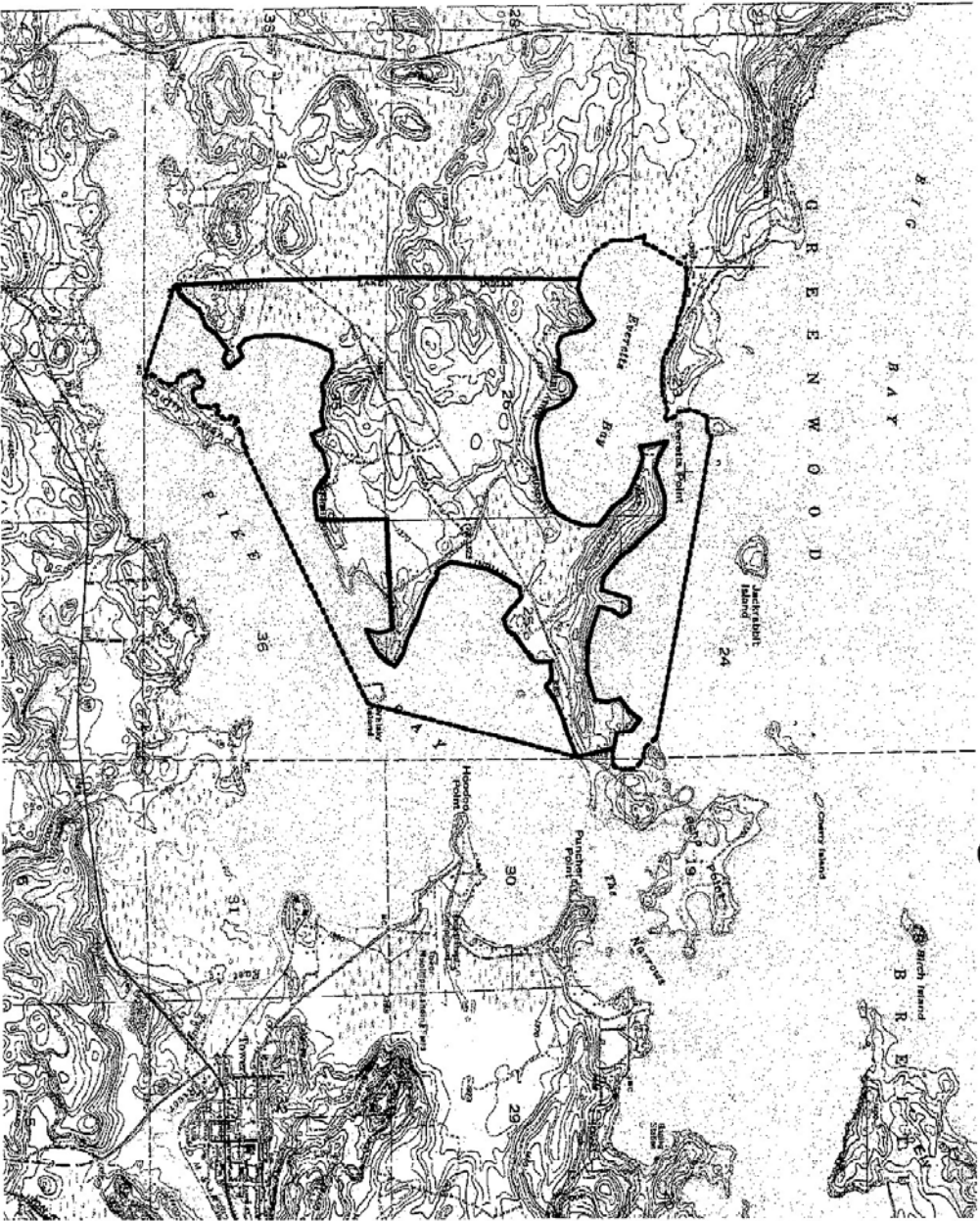
Certification

We do hereby certify that the foregoing resolution was duly presented and enacted upon by a vote of 9 for, 0 against, 0 abstaining, at a special meeting of the 1854 Authority Board of Directors, a quorum being present, held on April 23, 2001 at Duluth, Minnesota.



Ray Willebrun
Chairman


Norman Deschampe
Secretary

Vermilion Reservation Netting Boundaries



Nets may be placed in the waters between the netting boundary (dashed line) and the shore of the reservation (solid line).

 Netting Boundary
 Vermilion Reservation

Approved by 1854 Authority Board of Directors
 Effective April 24, 2001