

1854 Treaty Authority Inter – Tribal Natural Resources



2008 Indian General Assistance Program Conference
April 1 - 2, 2008



1854 Treaty Authority – Organizational History/Governance Structure

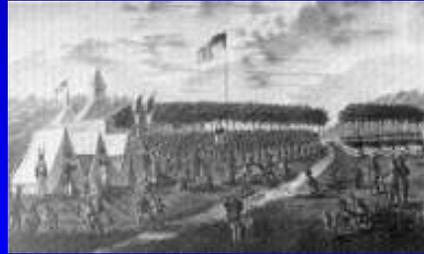
The 1854 Treaty Authority is an inter-Tribal natural resource management organization that implements the off-reservation hunting, fishing and gathering rights of the Grand Portage and Bois Forté Bands of the Lake Superior Chippewa in the territory ceded under the Treaty of 1854



1854 Treaty Authority – Organizational History/Governance Structure

Treaty of September 30, 1854

The Chippewa of Lake Superior entered into a treaty with the United States whereby the Chippewa ceded to the United States ownership of their lands in what is now called Minnesota (northeastern portion). These lands are referred to as the **1854 Ceded Territory** (a.k.a. 1854 Treaty area).



Article 11 of the 1854 Treaty provides:

....and such of them as reside in the territory hereby ceded, shall have the right to hunt and fish therein, until otherwise ordered by the President.



1854 Treaty Authority – Organizational History/Governance Structure

The Constitution of the United States

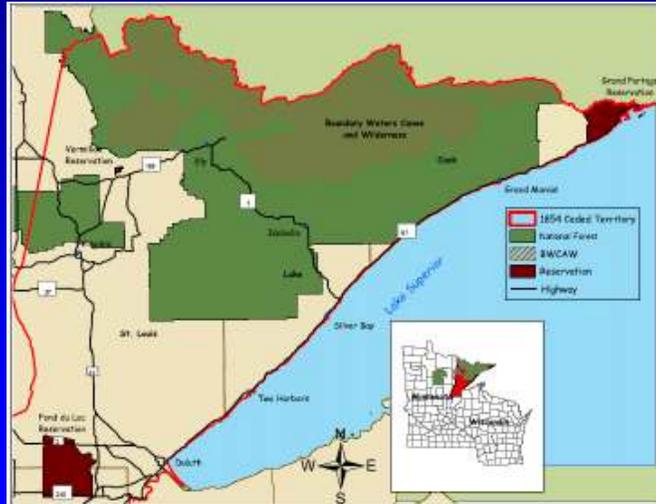
Article VI.

This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all **Treaties** made, or which shall be made, under the authority of the United States, **shall be the supreme law of the land**; and the judges in every state shall be bound thereby, any Thing in the Constitution or Laws of any state to the contrary notwithstanding.





1854 Treaty Authority – Organizational History/Governance Structure



1854 Treaty Authority – Organizational History/Governance Structure

1942 Tulee vs. the State of Washington – The U.S. Supreme Court decided that because a **treaty right takes precedence over state law**, Indians with tribal treaty rights can not be required to buy a state license to exercise their treaty fishing rights.

1969 U.S. vs. the State of Oregon (Belloni Decision) – Federal Judge Belloni held that the **state is limited in its power to regulate treaty Indian fisheries**. The decision indicated that the state may only regulate when "reasonable and necessary for conservation"; and state conservation regulations must not discriminate against the Indians and must be the least restrictive means.

1983 Lac Courte Oreilles vs. Wisconsin (Voight Decision) – On January 25th, 1983, the U.S. Supreme Court of Appeals for the 7th Circuit **agreed with the Lake Superior Chippewa that hunting, fishing and gathering rights were reserved and protected** with a series of treaties between the Chippewa and the United States Government.



1854 Treaty Authority – Organizational History/Governance Structure

1985 The Grand Portage Band of Lake Superior Chippewa filed suit in U.S. District Court seeking a declaratory judgment that the 1854 Treaty reserved the Band's right to hunt and fish in the ceded territory free of state regulation. The other Bands that signed the treaty and resided in the territory (Fond du Lac, Bois Forte) subsequently joined the lawsuit.

1988 The State and the three bands entered into an agreement to resolve the suit. Key elements:

- Bands regulate member activities (Conservation Code):
 - No tribal seasons outside State seasons
 - No spearing or netting, except netting permitted in zones adjacent to reservations
 - No commercial harvest, except in special zone adjacent to Grand Portage
- Cross-Deputization for enforcement (Joint Powers Agreement)
- Establish a Judicial Services Division



1854 Treaty Authority – Organizational History/Governance Structure

1988 The Tri-Band Authority was established to implement the agreement and was governed by a Board of Directors which consisted of the duly elected officials of each of the Grand Portage, Bois Forte, and the Fond du Lac Bands.

1989 The Fond du Lac Band withdrew from the agreement (any party could withdraw with a one year notice).

1989 The Tri-Band Authority became the 1854 Authority and continued to implement the agreement for the Bois Forte and Grand Portage Bands.

2008 The 1854 Treaty Authority continues to implement the agreement. We currently have eleven (11) full-time employees and our organization consists of an Administrative Division, a Resource Management Division, and an Enforcement Division.



1854 Treaty Authority – Organizational History/Governance Structure

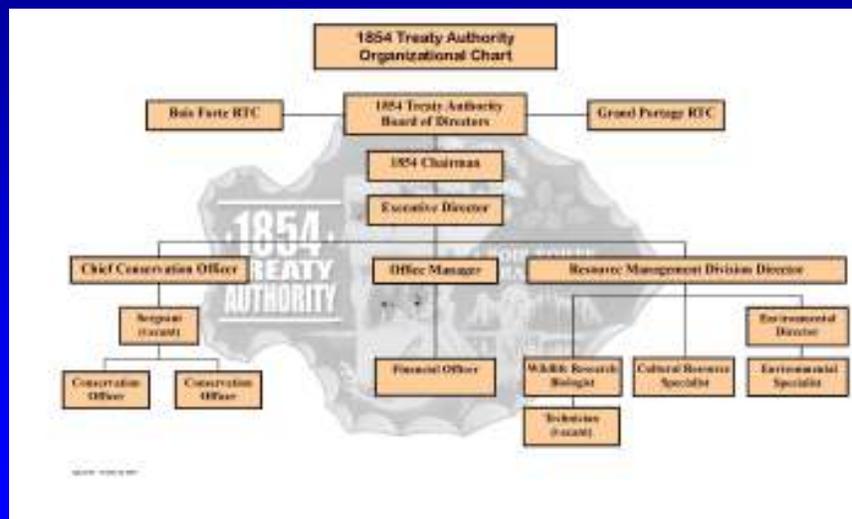
1994 Mille Lacs Band and the U.S. Department of Justice vs. the State of Minnesota, Nine Counties and Landowners – the Mille Lacs Band's treaty rights to hunt, fish and gather on lands ceded in the 1837 Treaty were upheld by U.S. District Court Chief Judge Diana Murphy in August of 1994.

1996 Fond du Lac vs. the State of Minnesota – In March of 1996, District Judge Richard Kyle ruled that the Fond du Lac Band reserved and currently retains the right to hunt, fish and gather in the territory ceded under the Treaty of 1854.

1999 Mille Lacs Band and the U.S. Department of Justice vs. the State of Minnesota, Nine Counties and Landowners – In March of 1999, the U.S. Supreme Court upheld the rights of the Mille Lacs Band to hunt, fish and gather in the territory ceded under the Treaty of 1837.



1854 Treaty Authority – Organizational History/Governance Structure





1854 Treaty Authority – Authority & Jurisdiction

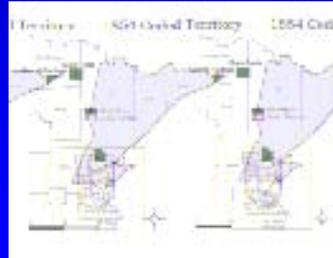
The 1854 Treaty Authority is created by the Bois Forte and Grand Portage Reservation Tribal Councils jointly exercising powers under Article VI, Section (C) of the revised constitution of the Minnesota Chippewa Tribe*, which includes the authority to manage hunting, fishing and gathering rights reserved by the Bands in the Treaty of September 30, 1854, and Article VI, Section (e) by delegating authority to this organization.

What does that mean?

We have judicial and regulatory authority over qualified Band members exercising their **off-reservation treaty rights in the 1854 Ceded Territory.**

Through our agreement with the State of Minnesota, we have legislative authority (Joint Powers Agreement) to enforce state hunting and fishing laws over non-Band members within the 1854 Ceded Territory.

All our officers are P.O.S.T. certified and hold all powers bestowed upon peace officers.



1854 Treaty Authority – Constituency

Any duly enrolled member of the **Grand Portage** or **Bois Forte** Bands of the Lake Superior Chippewa.

Upon eligibility determination, we will issue an Identification Card which allows for full right to all programs and services.





1854 Treaty Authority – So why are we here?

Mission Statement

The 1854 Treaty Authority shall provide an inter-Tribal natural resource program to ensure that the rights secured to member Indian tribes by treaties of the United States to hunt, fish, and gather within the 1854 Ceded Territory shall be protected, preserved, and enhanced for the benefit of present and future members of member Indian Tribes in a manner consistent with the character of such rights, through provision of services.



1854 Treaty Authority – So why are we here?

Organizational Goals

Provide an organization capable of delivering programs to its qualified participants.

Protect, preserve, and enhance the hunting, fishing, and gathering rights of the Grand Portage and Bois Forte Bands of the Lake Superior Chippewa.

Protect, preserve, and enhance the trust resources of the 1854 Treaty Area.



1854 Treaty Authority – Natural Resource Activities

1854 Resource Management



1854 Treaty Authority – So why are we here?





1854 Treaty Authority – So why are we here?

Industrial Impacts to the 1854 Ceded Territory

- Large number of projects being developed or proposed (mining, power generation, etc)
- Potential impacts to resources of 1854 Ceded Territory (fish, wildlife, wild rice, air, water, etc.)
- Cumulative impacts

Tribes are concerned about impacts to the resources of the Ceded Territory, and thus also to effects on the exercise of treaty rights.



1854 Treaty Authority – So why are we here?





1854 Treaty Authority – So why are we here?

Trust Responsibility

- **Responsibility of the United States to protect tribal lands, assets, resources, and treaty rights; and carry out mandates of federal law and executive orders relating to tribes.**
- **Federal assistance in resource development and management (land, timber, wildlife, fisheries, etc.)**
- **Government-to-government relationship.**



1854 Treaty Authority – So why are we here?

Trust Responsibility

Federal Programs for air and water permitting may be delegated to the state, but EPA still maintains oversight and trust responsibility.



1854 Treaty Authority – So why are we here?

EPA Role in Meeting Trust Responsibility

1. **Early notification and meaningful involvement of tribal interests.**

Permits, environmental impact statements

2. **Provide oversight and assistance**

Address tribal concerns – technical review and assistance, ensuring regulatory compliance



1854 Treaty Authority – So why are we here?

EPA Role in Meeting Trust Responsibility

3. **Funding assistance to the Tribes for Ceded Territory resource protection.**

- *Tribal programs should have equivalent capabilities to state programs*
- *Adequate funding is needed for protection of trust resources.*



1854 Treaty Authority – So why are we here?



1854 Treaty Authority – The Present and Future





1854 Treaty Authority – More Information

Web Site

www.1854treatyauthority.org

