## PREFACE

This booklet is designed to give a brief overview of the historical events and Treaties that shape the Leech Lake Reservation and Government today along with our relationships with some local and federal agencies. Through providing this background and analysis, we hope to prepare our staff and citizens with the necessary understanding of self-governance and what role we play in furthering the Leech Lake Band of Ojibwe.

Without understanding where we come from, it is impossible to know where we are going. This booklet we hope, provides a glimpse of the work and hardships our ancestors endured to get us to where we are now and sets the stage for conversations about our role in creating Leech Lake's future.

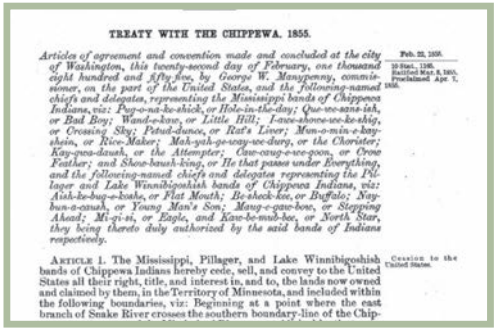
## INTRODUCTION

Often people think Treaties signed by Native Americans with the United States Government "gave" rights to native peoples. This is a misconception. In fact, most treaties traded away rights and lands for a smaller, limited land base with promises that Native peoples could practice their inherent rights there permanently. *Treaties* extinguished Indian title to the land and made it possible for the US government to settle and govern former Indian Lands. The rights that Natives retain are called "Reserved Rights," a fundamental doctrine of Indian Law today. Under this doctrine of reserved rights the courts have consistently ruled that any right not explicitly extinguished by a treaty or federal statute is considered to be "reserved" to the Tribe. These reserved rights are called usufructuary rights. Learning the history and the Treaties that Leech Lake signed is instrumental in understanding the *'usufructuary'* rights that we share as Leech Lake Tribal Citizens, our natural right to self-govern and our responsibility to live as Anishinaabeg in ways that make our Reservation stronger.

***Treaties** outline the specific rights that Tribes gave up, not those that they retain.*

***Usufructuary** – in civil law this refers to a person who has the right to the benefits of another's' property*

# HISTORY OF LEECH LAKE RESERVATION LANDS



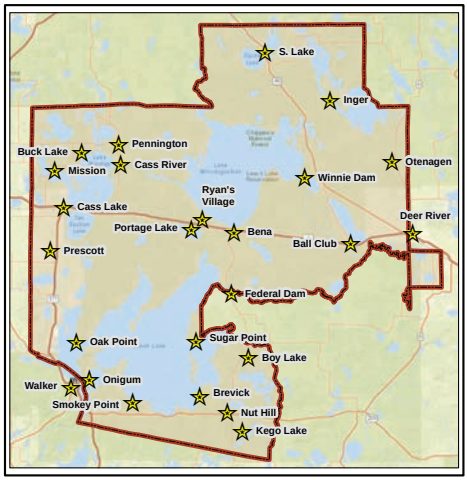
TREATY WITH THE CHIPPEWA. 1855.

Feb. 22, 1855.

Articles of agreement and convention made and concluded at the city of Washington, this twenty-second day of February, one thousand eight hundred and fifty-five, by George W. Manypenny, commissioner, on the part of the United States, and the following-named chiefs and delegates, representing the Mississippi bands of Chippewa Indians, viz: Pug-o-na-ke-shick, or Hole-in-the-day; Que-we-sans-ish, or Bad Boy; Wand-e-kow, or Little Hill; I-aus-shone-we-ke-shig, or Crossing Sky; Pezud-dunce, or Rat's Liver; Mun-o-min-e-kay-shein, or Rice-Maker; Mah-yah-ge-way-we-durg, or the Chorister; Kay-goo-dauah, or the Attempter; Caw-caug-e-we-goon, or Crow Feather; and Shoo-bush-king, or He that passes under Everything, and the following-named chiefs and delegates representing the Pillager and Lake Winnibigoshish bands of Chippewa Indians, viz: Aish-ke-bug-e-kshe, or Flat Mouth; Be-sheck-kee, or Buffalo; Nay-bun-a-aush, or Young Man's Son; Mang-e-gau-bow, or Stepping Ahead; Mi-gi-si, or Eagle, and Kaw-ke-mub-bee, or North Star, they being thereto duly authorized by the said bands of Indians respectively.

Cession to the United States.

ARTICLE 1. The Mississippi, Pillager, and Lake Winnibigoshish bands of Chippewa Indians hereby cede, sell, and convey to the United States all their right, title, and interest in, and to, the lands now owned and claimed by them, in the Territory of Minnesota, and included within the following boundaries, viz: Beginning at a point where the east branch of Snake River crosses the southern boundary-line of the Chip-




## *Treaty Making Era – Formation of Ojibwe Reservations in Northern Minnesota*

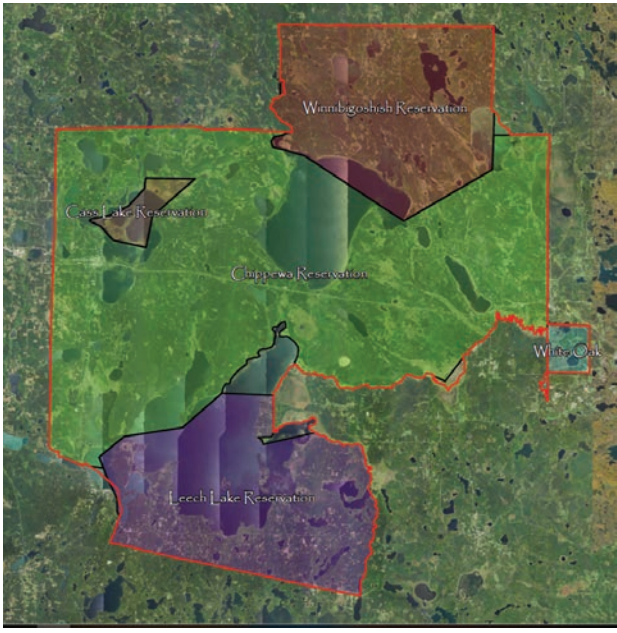
When the first settlers arrived in this area, the Ojibwe had been living throughout northern Minnesota for several hundred years. The US Federal Government recognized that lands in what would become north central and northern Minnesota were owned and managed by the Ojibwe. At this time, the United States was focused on obtaining Indian Lands for settlement and removing the Indians to Reservations without causing wars and uprisings. Interactions with Native people were executed by the President of United States and Tribal leaders through the negotiation of Treaties. These Treaties were then ratified by congress and implemented by the Bureau of Indian Affairs (BIA) which was then housed in the War Department of the United States.

To obtain territory that would form the northern portion of Minnesota and open up those lands to logging industry, a series of Treaties were negotiated with the Ojibwe to cede their occupancy rights and allow the federal government to acquire these lands. The first Treaty with the Ojibwe that ceded lands was the Treaty of St. Peters in 1837. This treaty formed what later became Wisconsin and Eastern Minnesota, including the land around Mille Lacs Lake. In 1854 the Lake Superior Band of Chippewa Indians ceded lands in the Northeastern part of Minnesota through the Treaty with the Chippewa and established Reservations for the Grand Portage and Fond du Lac Bands.

In 1855 the Chippewa of the Mississippi, including the Pillager, Winnibigoshish and Leech Lake Bands, ceded lands immediately to the west of the 1854 cessation that stretch to the Dakota border and established Reservations to be retained at Mille Lacs, Rabbit Lake, Gull Lake, Pokegama Lake, Sandy Lake, Rice Lake, Leech Lake, Lake Winnibigoshish and Cass Lake. From this Treaty, commonly called the 1855 Treaty of Washington, the Reservations of Leech Lake and Mille Lacs still remain but the landscape of Indian ownership continued to shift in subsequent treaties.

The 1864 Treaty, which superseded a similar Treaty in 1863 involved the cessassion of the Reservations at Mille Lacs, Rabbit Lake, Gull Lake, Pokegama Lake, Sandy Lake and Rice Lake to restore lands ceded that were ceded in the 1855 treaty to enlarge the remaining Reservations. The goal of this treaty was to consolidate all of the Mississippi Bands around Lake Winnibigoshish and Leech Lake. The thought in 1864 was to move all the Indians away from the small, scattered Reservations established in 1855 and concentrate them at a larger, closer Reservations.

The Treaty of 1867 furthered the US objective of concentrating the Ojibwe in North Central Minnesota and ceded the lands that were returned to the Mississippi Bands in the 1864 treaty back to the United States. In exchange for these ceded lands the White Earth Reservation was established and lands surrounding Leech Lake and Lake Winnibigoshish were retained. White Earth and Leech Lake were to be 'relocation' reservations for the Ojibwe people.




*The lands retained from the 1855, 1863, 1864 and 1867 Treaties form part of the present day Leech Lake Reservation with additional lands coming in three presidential orders in 1873 and 1874 under President Ulysses S. Grant.*

Treaty making ended in 1871 with the passage of the Indian Appropriation Act and the Tribal-US government relationship that rested with the President transitioned to Congress which still control this relationship today. With the passage of this legislation, it became Federal Policy that *"no Indian Nation or Tribe"* would be recognized *"as an independent Nation, Tribe, or power with whom the United States may contract by treaty."* This was a big step in diminishing Indian sovereignty, in which the US government shifted treating Indian peoples as independent nations to individual 'wards' of the government. This was an action to separate Indian people and bring them under Federal Control through congressional action with or without their consent. This action ended the Treaty-making era of Federal Indian Policy.

## REMOVAL AND ASSIMILATION ERA –

### *Fragmentation of Leech Lake Reservation & Formation of Chippewa National Forest*

Minnesota has a long history of timber harvesting where in many towns Paul Bunyan and Babe the Blue Ox are folk heroes. Many lakes and rivers were dammed in order to facilitate the transportation of timber. Timber interest is also the reason US surveyors such as "Lewis and Clark" and "Lewis Cass and Zebulon Pike" had explored this area and identified where the pines, swamps and resources were on the landscape. By the late 1800's the logging industry had reached the borders of the Leech Lake Indian Reservation but could not access the large expanses of virgin white and red pine forests that it contained as the entire Leech Lake Reservation was under Indian ownership and control. Gaining access to the lands and resources in the Leech Lake Reservation was done through legislative actions, the effects of which are still present today.

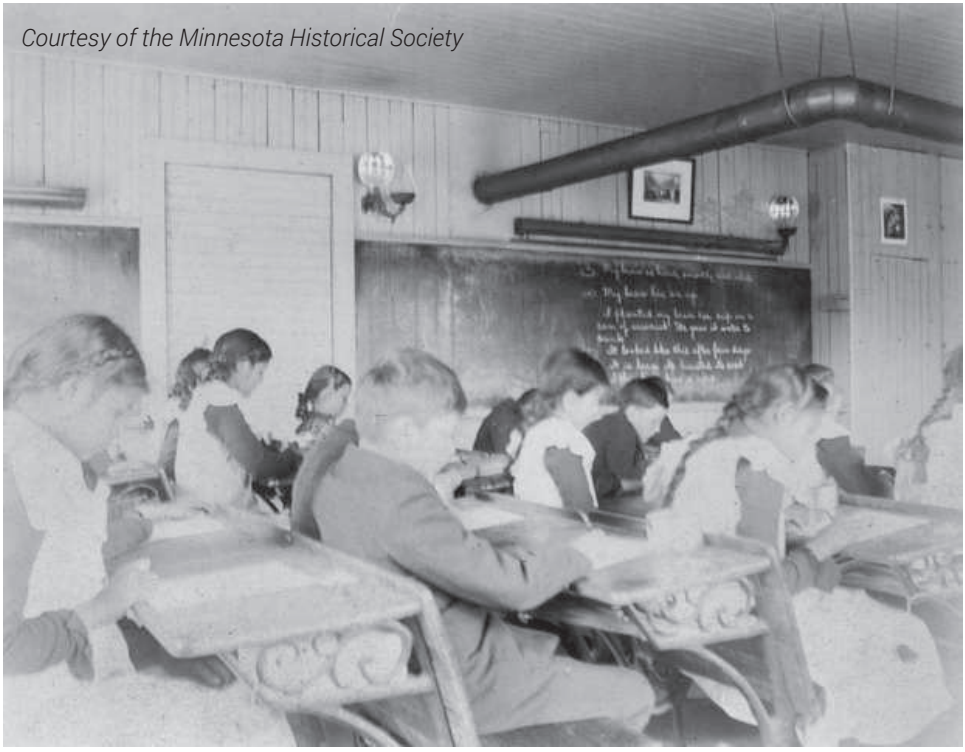
## THE NELSON ACT

The Nelson act of 1889, or *"The Relief and Civilization of the Chippewa Indians in the State of Minnesota"* opened the door to the Leech Lake Reservation and began the shift the ownership from Tribal owned land to the mixed ownership

*Dams on Leech Lake established to facilitate transportation of Leech Lake timber. This had the additional effect of altering the landscape and impacting the local populations.*

of Tribal, public and private that we have today. This Act of Legislation shifted ownership of land by:

- Mandating each Tribal family would receive an 80 acre parcel (called allotment) of non-pine land; and




*"Intermediate" students inside a classroom at an American Indian boarding school in Beaulieu, Minnesota, c.1900.*

- All unclaimed lands were:
  - To be auctioned off, if deemed pine rich lands; or
  - Opened to white settlement, if lands were deemed agricultural.
- Allotted Lands would be held in tax-free "trust" status for 25 years then shift into "fee" status where taxes would need to be paid by the landowner.

***The Nelson Act also coincides with other efforts to 'civilize' natives as the boarding school era was just beginning at this time.***

Born of the General Allotment Act (Dawes Act) of 1887, the idea behind this legislation was that the United States Government could "civilize" the natives by getting them to own and farm their allotment. This Act was designed to assimilate

the Indians into the western lifestyle so they would no longer require vast swaths of land to live a communal, migratory lifestyle. The Nelson Act was specific to Ojibwe Reservations in Minnesota, affecting the Grand Portage, Mille Lacs, Leech Lake, Boise Forte, Fond du Lac and White Earth Bands. This follows the federal policy shift from 1871 that changed interactions with Natives from a government to government platform, to a federal government and individual ward basis.

Another intent of this legislation was to concentrate the Ojibwe in Minnesota on the White Earth Reservation and dissolve the other Reservations by having Natives relocate and take allotments on White Earth. Rather than keeping the land in communal ownership, it forced families to choose an 80 acre parcel of land *(allotment)* either on their home Reservation or White Earth Reservation. This would have moved the Ojibwe out of the timber rich woodlands to the transition area between the northern forest and the prairie where timber is less of an issue and more agriculture is present. The Nelson Act was never fully implemented as many Indians chose to stay on their home Reservations rather than relocate to White Earth.

***Allotment** – a piece of land deeded by the government to a North American Indian, as part of the division of Tribally held land*

There are numerous injustices that came from opening the lands within the Leech Lake Reservation and the unscrupulous acts of the timber companies:

- The selection of allotments. Much of the land that was selected to be given for allotments was located in swamps and concentrated around the lakes of the region to keep the large blocks of pine forests available for auction and harvest.
- With the passage of the Nelson Act of 1889 the State of Minnesota illegally claimed that Tribal Citizens were subject to state hunting and fishing laws. No longer could Tribal Citizens hunt, fish and gather on the Leech Lake Reservation as promised by the Treaties they had negotiated. This illegal claim of state jurisdiction wouldn't be corrected for another 83 years.
- The "dead and burnt timber clause." This amendment to the Nelson Act allowed the timber barons to purchase wood at a greatly reduced price if the land was burnt over. Often they would start fires and quickly harvest the dead and live wood claiming it was all 'dead' reaping profits at the expense of the Ojibwe. This amendment came after much of the timber resources on the 'surplus' Reservation lands were extracted.
- Timber was appraised at significantly lower rate on Indian Reservations

than elsewhere in Minnesota. The profits from these timber sales, managed by BIA agents, was intended to sustain the Ojibwe people but was often mismanaged and spent by Indian Agents on 'behalf' of the Ojibwe. When payments would come, they were notoriously late much to the ire of the Pillager and other Bands around the current Leech Lake Reservation.

- Unsubstantiated liquor bootlegging charges were brought against Native men which forced them to travel long distances to defend themselves in federal court.
- Letters from Tribal leaders outlining these wrongs were written and are as yet still unanswered by the Federal Government who had claimed the Natives as wards.

These injustices led to growing animosity and poor relationships between the Ojibwe Bands and the US government. The theft, injustices and poor living conditions of the Natives on the Reservation would eventually lead to an Indian uprising. This tension culminated on October 6th, 1898 at the Battle of Sugar Point where 80 US soldiers from Fort Snelling departed Walker and arrived at the shores of Sugar Point attempting to apprehend Bug-O-Nay-Ge-Shig. How the battle began has been disputed throughout the years. The Pillager have held that the soldiers began firing on a canoe containing two women and a child as it rounded the corner of Sugar Point. The military claims that a rifle was accidentally discharged towards the Ojibwe side. Regardless, an intense firefight between the two sides erupted. The Pillager people went into that day not wanting battle but were prepared if it came. The battle continued into the night and no harm came to any of the Ojibwe people outside of Indian Officer Gay-Gway-Day-Be-Tung (George Russell), who was allegedly shot by mistake, by a soldier who assumed he was fighting alongside the Pillagers when in fact

*Sugar Point Memorial*


*Indian Officer Gay-Gway-Day-Be-Tung (George Russell)*

he was in service with the US government. The 3rd US Infantry experienced six causalities and ten wounded that night. On the morning of October 7, 1898, the soldiers retreated from Sugar Point, battered, hungry and cold.

Once word of the battle spread, hysteria and false rumors ran rampant in the surrounding areas that an "Indian Uprising" was coming. Additional troops were sent to the area, and outcries to the US Government for assistance and protection were pouring in from the non-native people in Minnesota. Memories of Custer's defeat at Little Big Horn, just 22 years prior in 1876, led the newspapers of the day to run wild with unsubstantiated headlines. In a twist of fate, the outcries and headlines put the nation's attention on Leech Lake, forcing the US Government to hear the grievances put forth by the Ojibwe people.

## FORMATION OF THE NATIONAL FOREST

Problems were rampant in this area in the late 1800's with implementing the Nelson Act and were centered over the various interests arguing over the 'surplus' pine lands in the Winnie-Cass Lake Reservation. Some of the groups involved in this debate were the timber industry, the Ojibwe Bands (Pillager, Winnibigoshish and Leech Lake) and the Federation of Women's Club, who had taken an interest in the area because of the runaway timber industry, and resulting impacts to the Band. All of this came together to create the Minnesota Forest Reserve through the Morris Act of 1902. The Morris Act was an amendment to the Nelson Act and put the supervision of timber under the Forester of the Department of Agriculture. It provided that:

- Lands logged over were to be placed into a forest reserve
- Reserved the Ten Sections area from either sale or settlement
- Dedicated timber sale receipts to a trust account to be paid to the Band
- Reserved areas of Indian land from oversight
- Stated an intent to hire Indian labor for timber harvest
- Opened agricultural land for settlement by non-Indians.

The Morris Act is a unique point of history. At that time Congress could see that the actions they had taken were resulting in negative effects on the Indian people. Rather than returning the lands to the Indians, they instead create a forest reserve so that the economic value associated with the timber and land stays in federal hands rather than the people it was promised to in the treaties.

Now that the timber industry had moved onto the non-allotted lands of the Leech Lake Reservation, timber barons soon realized that timber and profit could be

gained if they could get access to the allotted lands being held in governmental trust for the Indian Families by the Federal Government. Timber barons began lobbying state legislators to enact laws that would allow loggers to get at the timber on Tribal allotments. The first such law was the Steenerson Act of 1904. This law allowed the Department of Interior to issue an additional 80 acres of land to Tribal members they deemed "worthy." Attached to the Steenerson Act was a rider called the Clapp Act which allowed Tribal members to be able to sell the timber off their allotments, but the lands would still held in trust. This means that the allotted land could not be sold until the 25 years outlined in the Nelson Act had passed and the trust lands transferred into fee status.

In 1906 this changed with the passage of the Burke Act. The Burke Act gave the Secretary of Interior the authority to issue fee patents to Tribal member if he deemed them "competent and capable." A majority of the time, the land was taken out of trust and without the knowledge of the Tribal member/family, was subjected to forced fee patents (taxation) and the land was taken due to overdue taxes.

Even with the creation of the Minnesota Forest Reserve, the controversy regarding the forest and settlement of the area was ongoing. This lead to the Minnesota National Forest Act of 1908, yet another amendment to the Nelson Act. The Minnesota National Forest Act expanded the boundaries of the forest outlined in the Morris Act, and changed the forest from being designated as a "forest reserve" into a National Forest that would later be renamed the Chippewa National Forest. This set the stage for where we are today, with the Chippewa National Forest as the largest land manager within the Leech Lake Reservation with its origins and duties tied not only to federal policy but also to the Treaty of 1855, the National Forest Act and Morris Act.


*Old & new forest service supervisors office*

***In 1928 the name changed from the Minnesota National Forest to the Chippewa National Forest to reflect this history and whom this forest is managed for today.***

*Minnesota Chippewa Tribe building*

## FORMATION OF MINNESOTA CHIPPEWA TRIBE

By the mid 1920's the Leech Lake Band of Ojibwe had lost over 650,000 acres of Reservation land due to the Nelson Act, subsequent laws and failure of the Bureau of Indian Affairs to look protect the welfare of the Ojibwe people, which it is obligated to do by law. At the national scale, the US government commissioned a study of the tough times the American Indians across the US were facing. This resulted in what is called the Meriam report, which documented the deplorable conditions of Indian people across the U.S., the devastation of the Nelson act and other allotment statutes, and the failure of the BIA to do anything about it. At this same time the Leech Lake Ojibwe were demanding all the land lost under the Nelson Act be restored to them as they were living in poverty, had lost almost all their land, were illegally subject to state conservation laws and had never received the monies promised to them from the sale of their timber and land.

*Bois Forte Band of Chippewa*

*Fond du Lac Reservation*

*Grand Portage Chippewa*

*Leech Lake Band of Ojibwe*

*Mille Lacs Reservation*

*White Earth Nation*

In response to the Meriam report the Indian Reorganization Act of 1934 was enacted. This act put a stop to the sale of allotments, recognized the inherent rights of Tribes to establish their own governments and restored all surplus lands to the Tribes that had not been sold under various allotment Acts, including the Nelson act (The Restoration Act). On the Leech Lake Reservation, that meant the formation of the Minnesota Chippewa Tribe (MCT) and the surplus lands being returned to the six Bands that form the MCT.

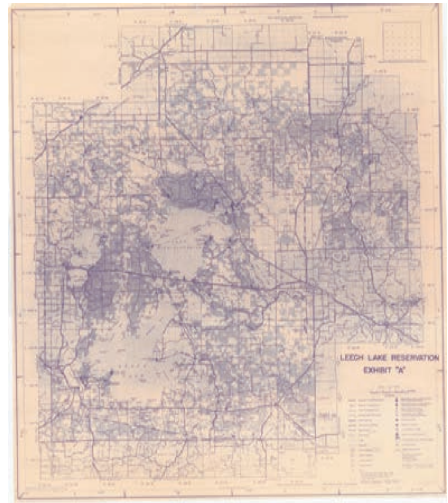
Even with the passage of the Indian Reorganization Act, the State of Minnesota continued to claim that the Leech Lake Indian Reservation was disestablished as were the rights retained through the Treaty of 1855 and prior Treaties. This false claim meant that Indian families could not hunt, fish and gather as they previously had under Tribal control and rather were now subject to Minnesota Conservation laws and seasons. This issue would not be resolved for nearly 80 years.

## SELF DETERMINATION ERA

### *The fight to have our Treaty Rights and Border Recognized*

In 1971, the Leech Lake Band challenged the Minnesota Commissioner of Natural Resources, Robert L. Herbst in federal court on the issue of Minnesota illegally forcing Indians to comply with Minnesota game and fish laws. The courts ruled that:

*"Plaintiff Indians have the right to hunt and fish and gather wild rice on public lands and public waters of the Leech Lake Reservation free of Minnesota game and fish laws. Defendants are enjoined from enforcing such laws."*




*Leech Lake Reservation Boundary – Exhibit A*

In addition to getting a positive ruling, these rights were identified as property rights and therefore required Minnesota to pay Leech Lake Band for non-Indian's privilege of hunting, fishing or trapping on any lands within the boundaries of the Reservation. Also as a results of the Herbst decision, the gathering of wild rice and bait fish on Leech Lake Reservation is exclusively regulated by the Leech Lake Band of Ojibwe.


This decision means more than just having our gathering rights recognized. This decision affirmed the Leech Lake Reservation boundaries and jurisdiction authority of the Leech Lake Band as an independent sovereign capable of self-regulation. In all treaty cases, including the Herbst decision it is clearly stated that the reason Native Americans are free from federal or state government regulation is there is a Tribal Government or decision making authority with a geographical jurisdiction whose role is being infringed upon. The Leech Lake Band of Ojibwe is that governing body that our Tribal citizens have given power to regulate our collective rights through the Constitution and elections. The Herbst decision affirmed that power and the Reservation boundaries as identified in Exhibit A and recognized by federal and state government today.

## RIGHTS AND THE RESPONSIBILITY OF SELF-DETERMINATION

The history of this area lays out the roadmap for what rights and responsibilities exist for both the Leech Lake Band of Ojibwe citizens and our government. The ability of our forefathers to sign a Treaty with the United States Government as a Tribal Nation recognizes our sovereignty as an independent Nation with natural self-governance and self-determination. A treaty is a contract between sovereign nations and are signed for two main reasons:

(1) Transfer of Land – Cessation Treaty; or

(2) Establish alliances or peace – Peace Treaty

A common misconception of Treaties is that Indians have "special rights" granted to them by the Treaties. This is untrue. The rights that Native people retain were never given, rather these rights are what are known as inherent rights that have always existed. Treaties are legal, international diplomacy documents that are to be forever honored. The United States Constitution Article VI declares treaties to be the "supreme law of the land" and thus are not subject to state laws. Treaties today are important because they:


***"I understand what you want... from the few words I have heard you speak. You want land." —Flat Mouth [Aish-Ke-Vo-Go-Zhe, or Bird with Leaf Green Bill], Ojibwe leader at 1855 treat***

- Show that we are not a product of the US political system rather that we predate them and our system of government is retained through treaties
- We are not just an ethnic group, we are a political entity

In the same way that our forefathers ensured that we have these rights today by not giving them away in the Treaties, it is our responsibility as Tribal Citizens to:

(1) To ensure that our rights are maintained.

(2) To ensure that resources are available for our children.

We accomplish these objective as individuals, however we also elect Government leaders who are tasked with these missions as outlined in our Constitution. Our Tribal Government is now and always has been derived from and for the people. A government is only as strong as the people who make it up and the leaders that come from within our communities. The Herbst case is an example of the recognition of our inherent sovereignty, as well as our collective voice and actions that shape our government and future.

## ENSURING OUR RIGHTS AND RESOURCES ARE PRESERVED

The Reservation Business Committee (RBC) has tasked the Division of Resource Management (DRM) with writing laws, policy, management plans and codes that ensure the protection of our natural resources that align with our values as Ojibwe. These regulations outline how citizens should hunt and gather, what standards of pollutants are allowed and create policy that shape

*Buying rice at Division of Resource Management*

management for the lands within the Leech Lake Reservation – our homeland.

Rights and resources are held 'in common,' meaning that they belong to the Leech Lake Tribal Community not individual Tribal Citizens. Gathering with respect and the understanding that our resources are gifts from the Creator is important as we harvest and teach others to do so. As Anishinabeg we are charged to protect and preserve these resources for everyone who has a right to them. Regulations are one tool that we have as a people to ensure that bad actors are not abusing resources and harming the overall community and our children's ability to access these resources in the future.

To date these codes and regulations are:

- Conservation Code (1973)
- Bough Permitting (1994)
- Solid Waste (1995)
- Pesticides Code (1996)
- Traffic Code (1999)
- Wild Rice Beds (1999)
- Bowstring River (1999)
- Hazardous Waste Ordinance (2001)
- Land Use Ordinance (2006)
- Burning Ordinance (2006)
- Wetlands Ordinance (2014)
- Desired Vegetative Conditions (2019)

***"If our communities and individual community members do not understand why we have environmental regulations then it does not matter how great our written environmental law are, because true environmental protection will come from individual community members being good stewards of the land."***

In addition to enacting codes and regulations designed to protect the resources, the Leech Lake Band of Ojibwe government consults with other governments and agencies that operate within the Leech Lake Reservation and 1855 Ceded Territory to ensure that our citizen's rights are being respected, honored and that the resources we rely on today are still available for our children.

## CONTEMPORARY ISSUES/ RELATIONSHIPS

### *Federal vs. State Agencies*

The Treaties that the Ojibwe signed were with the US Federal Government. The promises that the United States made in those treaties cannot be delegated from the Federal Government to a State Government. Those promises today include what are called *Trust obligations*, requiring Federal agencies (US Forest Service, Bureau of Indian Affairs, Environmental Protection Agency, US Fish and Wildlife Service, Army Corps of Engineers and other federal agencies) to act a Trustee for the Beneficiary (Leech Lake Band of Ojibwe) to fulfill Treaty promises. If States impinge upon these rights, the Federal Government is obligated to take action to remedy the situation, often in the form of legal action.

***The 'trust responsibility' is a legal principle that the Supreme Court noted in United States v. Mitchell (1983) is "the undisputed existence of a general trust relationship between the United States and the Indian people." The purpose behind the trust doctrine is and always has been to ensure the survival and welfare of Indian tribes and people. This includes an obligation to provide those services required to protect and enhance tribal lands, resources, and self-government, and also includes those economic and social programs which are necessary to raise the standard of living and social well-being of the Indian people to a level comparable to the non-Indian society.***

Some of the ways that Federal Agencies deal with the unique legal and political relationship with Tribal governments is through consultation and coordination as outlined in Executive Order 13175 (Nov. 6, 2000). Government to government consultation is designed to consider effects that a federal agency's activity can or will have on Native American lands, resources, lifeways and protected rights. This consultation process is intended to happen early and provide a meaningful opportunity for productive participating in agency planning and decision making. Most federal agencies have policies and procedures that outline their process of consultation with Indian Tribes.

### *Tribe's relationship with the State of Minnesota*

Leech Lake Band of Ojibwe's relationship with the State of Minnesota has been shaped by the Herbst agreement. With the passage of the Nelson Act in 1889, the State of Minnesota illegally claimed that Congress abolished the Leech Lake Reservation and the jurisdictional authority of the Leech Lake Band to regulate hunting and fishing within the Leech Lake Reservation exterior boundaries. It took almost 80 years to correct this action, when the Leech Lake Band filed suit against Robert L Herbst, the Commissioner of Natural Resources for the State of Minnesota (MNDNR).

DEPARTMENT OF NATURAL RESOURCES

The Tribe asserted that federal treaty rights were being violated by the State and its' offices. On January 25th, 1972 the 3rd Federal District Court affirmed that the Leech Lake Band

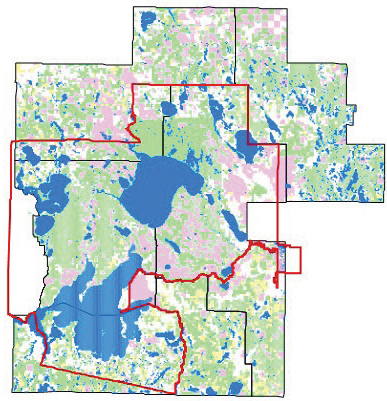
*"has a treaty right to hunt, fish, trap and gather wild rice within the boundaries of the Leech Lake Reservation without state regulation or control"*

This judgement was appealed and ultimately a settlement was reached between the Leech Lake Band and the State of Minnesota resulting in a Memorandum of Agreement and Settlement that was signed by all parties on January 26, 1973.


This agreement outlines the Tribal governments' role to maintain and enforce a conservation code that would apply to Indians living within the boundaries of the Reservation, to not commercially harvest certain species and the role of the State to regulate non-Indians who utilize the natural resources within the Reservation boundaries. Through the court filings, the US asserted that the rights the Tribe has within the boundaries of the Reservation are "property rights" of the Leech Lake Band. Through the settlement agreement and subsequent amendments, the Leech Lake Band receives 5% of all MNDNR State license sales as compensation for non-Indians to have the privilege to hunt, fish and gather on the Leech Lake Reservation. This agreement has been in place since 1973 and is the foundation of our relationship with the MNDNR.

## *Relationship with Chippewa National Forest*

The Chippewa National Forest (CNF) is a unique forest in the United States from its creation to the role it serves today. It was created by congressional action from lands that were originally set aside to serve as a Treaty-reserved homeland for the Ojibwe people. Today the CNF and the Leech Lake Band of Ojibwe share almost 1,900 miles of



boundary, with roughly 90% of the Leech Lake Reservation being overlaid by the Chippewa National Forest boundaries. Through the congressional actions taken to shape ownership of this landscape, the National Forest is the largest land holder within the Leech Lake Reservation boundaries. This is important when you think about the formation of the forest through congressional action as this history has direct implications to the trust responsibility that exists today. The provisions that where included in the Morris Act of 1902:

- Encouraged employment of Indian labor; as well as
- Dedicating timber sale receipts to a trust account.

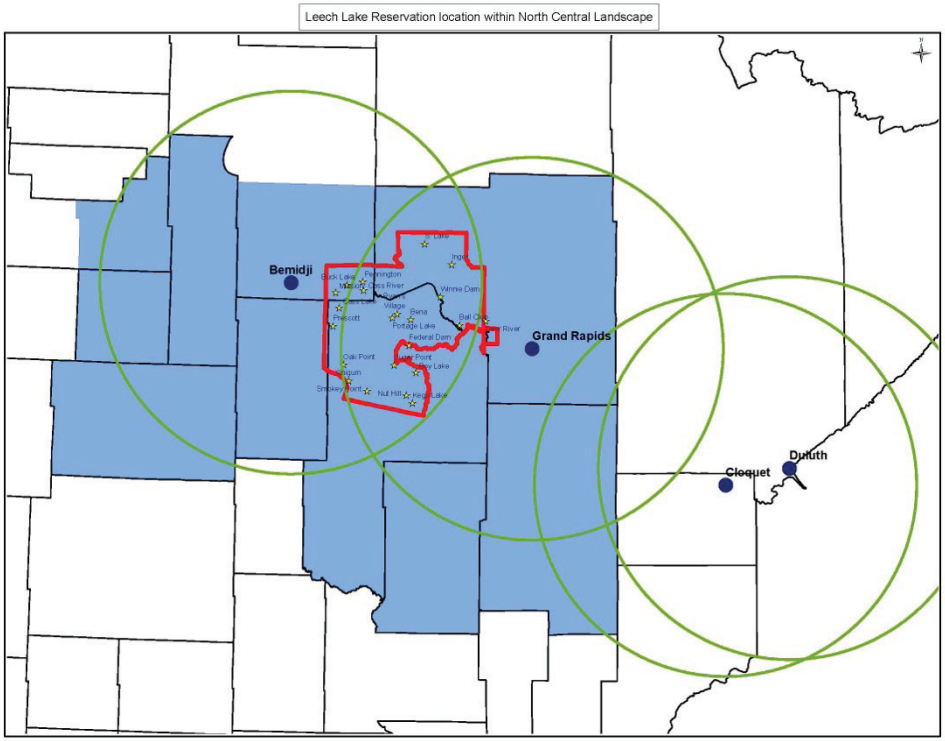
And the Minnesota National Forest Act of 1908:

- Officially established the National Forest, current day Chippewa National Forest;
- Shared decisional authority with Leech Lake Band in oversight of timber valuation; and
- Protects Indian graves with continued right to bury dead on National Forest Land.

These additional provisions and the recognition that this forest is unique with its creation for the benefit of Indian people amplifies the legal trust obligation owed by the Forest Service to the Leech Lake Band.

National Forests are governed by the federal government and have authority delegated to them from Congress to make decisions and acquire lands. National Forests have the mission "to sustain the health, diversity and productivity of the nation's forests and grasslands to meet the needs of present and future generations." This multi-purpose mission today means that the Chippewa National Forest is tasked with generating and maintaining timber for the logging industry in the Leech Lake area.

Historically and today there is heavy pressure to increase timber cutting and managing this land as a tree farm versus a natural forest. This timber focused management approach has led the CNF to be one of the most harvested forests in the country and has had negative impacts on the resources that Leech Lake Citizens need for spiritual, cultural and economic well-being. Historically this region has been dominated by timber industry and today they remain a vocal industry as the Forest Service plans projects within the Leech Lake Reservation.




Today Leech Lake Division of Resource Management (DRM) works with the Chippewa National Forest under a Memorandum of Understanding for training, to plan projects and to be a constant reminder to them that as it does management under Forest Service authority, it cannot manage lands in a manner that will negatively affect Tribal lifeways.

## *Relationship with Environmental Protection Agency*

The trust responsibility of the federal government and the Environmental Protection Agency (EPA) to sovereign Tribal governments in ongoing. One of these trust obligations is to ensure that the homelands of indigenous people reserved in executive treaties are protected from unnecessary encroachment. The contamination of the Reservation's soil, water and air is dangerous and an unnecessary encroachment onto the homelands of the Tribe. To protect our homeland the DRM partners with the EPA to implement environmental programs that are consistent with federal law and regulate the environment in ways that protect our homeland and our treaty rights.

The document that guides the relationship between the Tribe and the EPA is the 1984 Indian Policy. This document recognizes the unique legal relationship with

Tribal governments and the right of Tribes as sovereign governments to *self-determination.*

***The U.S. Environmental Protection Agency stands ready to work directly with Indian tribal governments on a one-to-one basis (the "government-to-government" relationship) rather than as subdivisions of other governments.***

***The EPA will recognize tribal governments as the primary parties for setting standards, making environmental policy decisions and managing programs for reservations, consistent with EPA standards and regulations.***

***The EPA will take affirmative steps to encourage and assist tribes in assuming regulatory and program management responsibilities for reservation lands.***

***The EPA will take appropriate steps to remove existing legal and procedural impediments to working directly and effectively with tribal governments on reservation programs.***

***The EPA, in keeping with the federal trust responsibility, will assure that tribal concerns and interests are considered whenever the EPA' s actions and/or decisions may affect reservation environments.***

***The EPA will encourage cooperations between tribal, state and local governments to resolve environmental problems of mutual concern.***

***The EPA will work with other federal agencies that have related responsibilities on Indian reservations to enlist their interest and support in cooperative efforts to help tribes assume environmental program responsibilities for reservations.***

***The EPA will strive to assure compliance with environmental statutes and regulations on Indian reservations.***

***The EPA will incorporate these Indian policy goals into its planning and management activities, including its budget, operating guidance, legislative initiatives, management accountability system and ongoing policy and regulation development processes.***

## *Relationships moving forward*

The arc of justice is slow. It has taken the Leech Lake people years to have our rights recognized, build capacity, establish programs, and provide services for our people. Today conflicts still exist in ceded territories and around issues within the Leech Lake Reservation Boundaries. The federal and state relationships explained in this document exist today but this is a snapshot in time and will change in the coming years as the Tribe continues to gain expertise, build capacity and further develops leaders to best represent and serve the Leech Lake Tribal Citizens. This expansion, use and understanding of our own sovereignty, will shift our

dependence away from other governments onto ourselves to further create our own future.

## Conclusion

Protecting our water, soil, air, forests and all they encompass while making our federal partners honor their treaty trust obligations will ensure that:

- The air is safe to breath
- The water is safe to drink
- The fish, animals and plants we harvest are healthy and safe;
- The forest will provide the resources that we continue to rely upon; and most importantly
- Our culture, mino-bimaadiziwin, will be protected and we can share the resources and stories with our children.

Treaty rights have always been, and will continue to be of great social, economic and cultural importance. Outside governments will continue to attempt to suppress these rights of Tribal members as tourism, timber, mining and other interests grows. Understanding our rights, sovereignty and how the history and treaties affect our government and relationships with outside parties is essential to keeping our homeland strong and resources available for the next seven generations.

## Definitions – interdisperse as call out in document

- ***Ward of the state***
- ***Usufructuary***
- ***Allotment***
- ***General Cass Pike***
- ***Ceded Territory***
- ***Trust Land***
- ***Fee Land***
- ***Treaty trust responsibility***
- ***Self-determination***
- ***Government to government consultation***
- ***Soverienty***
- ***Cessation***

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