

WHITE EARTH RESERVATION BUSINESS COMMITTEE
WHITE EARTH BAND OF THE MINNESOTA CHIPPEWA TRIBE

Resolution No. 057-23-040

Ordinance Prohibiting

**Early Blue-Winged Teal Season on Active Manoomin Waters within the Exterior Boundaries of the
White Earth Reservation**

WHEREAS, the White Earth Reservation Business Committee (WERBC) is the duly elected governing body of the White Earth Reservation pursuant to Article VI, Section 1, of the revised constitution of the Minnesota Chippewa Tribe, as amended and organized under Section 16, of the Act of June 18, 1934 (48 Stat. 984), and

WHEREAS, the WERBC is the duly authorized governing body of the White Earth Band (Band), and

WHEREAS, the WERBC adopted the White Earth Reservation Environmental and Conservation Codes for the protection of tribal members and natural resources within the boundaries of the White Earth Reservation, and

WHEREAS, the WERBC established the White Earth Division of Natural Resources (WEDNR) to protect, restore and regulate the natural resources on the White Earth Reservation in order to ensure human health and spiritual, cultural and economic sustainability of the Band,

WHEREAS, tribal members depend on natural resources within the exterior boundaries of the White Earth Reservation to support the exercise of their federal hunting, fishing and gathering property rights,

WHEREAS, tribal members have a federally protected treaty right to gather manoomin (wild rice) within the exterior boundaries of the White Earth Reservation,

WHEREAS, manoomin is a culturally, economically and spiritually significant resource to the Band that is critical to maintaining the health and welfare of tribal members,

WHEREAS, peak harvest time for manoomin occurs during the month of September on the White Earth Reservation,

WHEREAS, each year, WEDNR issues hundreds of harvest permits to tribal members,

WHEREAS, in productive years, the Band and tribal members may harvest and process hundreds of thousands of pounds of manoomin for personal consumption and sale to the public or other Bands working on manoomin reseeding efforts,

WHEREAS, in 2021, the State of Minnesota began a three-year experimental early blue-winged teal season to take place annually from September 2nd - September 6th,

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WHEREAS, blue-winged teal live among manoomin waters on the White Earth Reservation during the month of September,

WHEREAS, hunters use 12 or 20-gauge shotguns to hunt blue-winged teal,

WHEREAS, pellets from a 12 or 20-gauge shotgun may travel up to 200 yards,

WHEREAS, tribal members gathering manoomin in low-lying canoes alongside blue-winged teal are often invisible or difficult to see among the tall emergent manoomin stalks in the water,

WHEREAS, blue-winged teal hunters' shots pose an imminent threat of bodily harm to tribal members gathering manoomin in on-Reservation waters and also disrupt the sacred tradition and spiritual practice of manoomin harvest,

WHEREAS, in September 2021 and September 2022, during the State of Minnesota's experimental early teal season, the WEDNR received several complaints of gunshots from tribal members harvesting manoomin on waters within the White Earth Reservation,

WHEREAS, the Band possesses "inherent powers of a limited sovereignty which has never been extinguished" and has exclusive power over its territory subject only to limitations imposed by federal law, *United States v. Wheeler*, 435 U.S. 313, 322-23 (1978), *Worcester v. Georgia*, 31 U.S. 515, 555 (1832),

WHEREAS, the Band retains inherent power to exercise civil authority over the conduct of non-Indians within its reservation when that conduct threatens "the political integrity, the economic security, or the health or welfare of the tribe." *Montana v. United States*, 450 U.S. 544, 565-66 (1981),

NOW, THEREFORE, in consideration of the above recitals, which are incorporated herein by reference, the WERBC pursuant to the above referenced authority and scientific and empirical review of the WEDNR ordains as follows:

Section 1: Title:

1.1 Title. The title of this ordinance is The Ordinance Prohibiting Early Blue-Winged Teal Season on Active Manoomin Waters within the Exterior Boundaries of the White Earth Reservation.

Section 2: Purpose:

2.1 Health, Welfare and physical safety. The first purpose of this ordinance is to protect the health, welfare and physical safety of White Earth Band members exercising their federally protected right to gather manoomin on waters within the exterior boundaries of the White Earth Reservation.

2.2 Cultural and Spiritual Integrity. The second purpose of this ordinance is to protect the cultural and spiritual integrity of the Band.

2.3 Economic Security. The third purpose of this ordinance is to protect the economic security of the Band.

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Section 3: Authority:

3.1 Ordinance Authority. The White Earth Reservation Business Committee relies on the authorities set forth in the Recitals.

3.2 White Earth Department of Natural Resources Authority. The White Earth Department of Natural Resources and its conservation wardens, pursuant to the agency's delegated authority to protect, restore and regulate the natural resources of the White Earth Reservation in order to ensure environmental and human health and spiritual, cultural and economic sustainability of the Band are authorized to implement and enforce the provisions of this ordinance.

Section 4: Scope:

4.1 Geographic Scope. This ordinance applies to hunting of blue-winged teal on active manoomin waters within the exterior boundaries of the White Earth Reservation.

4.2 Map. Active manoomin waters to which this ordinance applies are identified on the map included as Appendix A to this ordinance.

Section 5: Prohibited Act:

5.1 Prohibition. Early hunting of blue-winged teal, prior to the conclusion of the manoomin harvest season, is prohibited on active manoomin waters within the exterior boundaries of the White Earth Reservation.

5.2 Conclusion of Manoomin Harvest Season. Manoomin harvest season will conclude annually on the date determined by the Manoomin Committee appointed by the White Earth Reservation Business Committee.

5.3 End of Season Resolution. The White Earth Reservation Business Committee will post a resolution announcing the conclusion of manoomin harvest season annually on the Band's website at: <https://whiteearth.com/rbc/resolutions>.

Section 6: Civil Administrative Penalty

6.1 Any person who violates this ordinance may be assessed a civil administrative penalty of not more than \$1,000 for each violation.

Section 7: Judicial Review

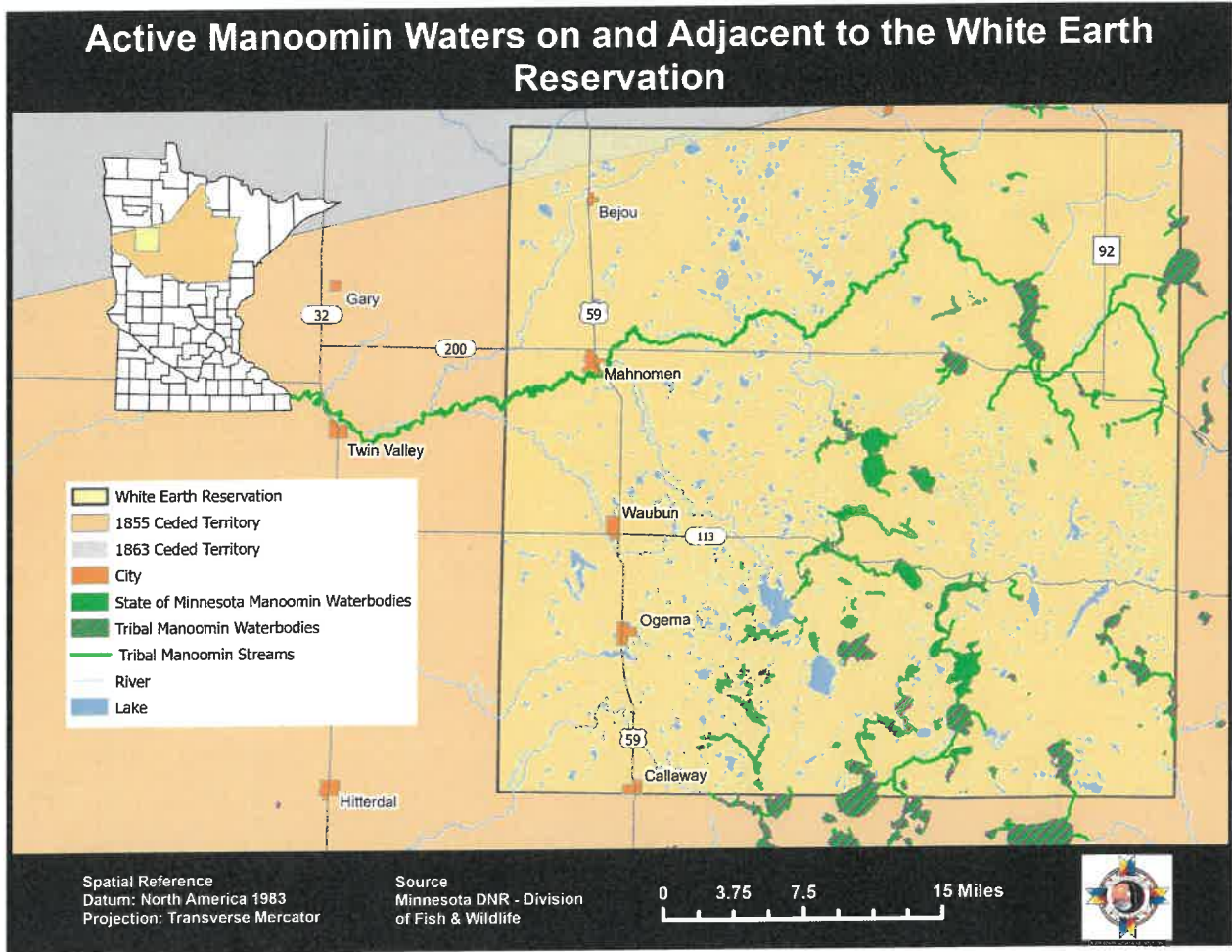
7.1 Hearing. Any person who receives a civil administrative penalty pursuant to this ordinance may request and shall be granted an evidentiary hearing on the matter before the White Earth Tribal Court. Such person shall file with the Court a written petition requesting the hearing including name, address, telephone number and a brief statement of the grounds for the hearing. Such petition shall be filed within thirty days of the date a civil administrative penalty is assessed. Parties to the hearing include the petitioners and the White Earth Department of Natural Resources. Parties may present evidence, cross examine witnesses, and submit post-hearing briefs. A record of oral proceedings shall be made.

6.2 Decision. After a hearing pursuant to this ordinance, the White Earth Tribal Court shall sustain, modify or reverse imposition of a civil administrative penalty based on the evidence provided at the hearing. The decision shall include findings of fact and conclusions of law and shall be issued in writing.

Section 7: Effective Date:

7.1 The ordinance shall be effective at the time of its passage by the White Earth Reservation Business Committee.

Appendix A



The White Earth Reservation Business Committee does hereby certify that the foregoing resolution and ordinance was adopted by a vote of 4 for, 0 against, 0 silent, a quorum being present at a meeting of the White Earth reservation Business Committee held on August 31, 2023 in White Earth, Minnesota.


Michael A. Fairbanks, Chairman


Michael LaRoque, Secretary/ Treasurer