

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LAC COURTE OREILLES BAND OF
LAKE SUPERIOR CHIPPEWA INDIANS;
RED CLIFF BAND OF LAKE SUPERIOR
CHIPPEWA INDIANS; SOKAOGON
CHIPPEWA INDIAN COMMUNITY;
ST. CROIX CHIPPEWA INDIANS OF
WISCONSIN; BAD RIVER BAND OF THE
LAKE SUPERIOR CHIPPEWA INDIANS;
and LAC DU FLAMBEAU BAND OF
LAKE SUPERIOR CHIPPEWA INDIANS,

Plaintiffs,

v.

Case No. 74-C-313-C

STATE OF WISCONSIN, WISCONSIN
NATURAL RESOURCES BOARD,
CATHY STEPP, KURT THIEDE and
TIM LAWHERN,

Defendants.

AFFIDAVIT OF RANDALL STARK

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Randall Stark, being first duly sworn on oath, deposes and says:

1. I make this affidavit on the basis of my own personal knowledge.
2. At all times relevant to this proceeding I have been employed as a credentialed law enforcement officer with the Wisconsin Department of Natural Resources (WDNR). I have been a credentialed law enforcement officer in the State of Wisconsin for nearly 29 years.

3. My current position with WDNR is Chief Conservation Warden. I have held this position since October 2002. My current duties include the overall supervision, management and administration of the conservation and environmental enforcement programs of WDNR. I have been a conservation warden throughout my career with the WDNR, and was appointed as such in 1984. In 1989 I was promoted from field warden to Warden Supervisor, responsible for the supervision of the activities of wardens in Marinette, Oconto, Shawano, and Florence Counties. In 1997 I was promoted to Regional Warden for WDNR's South Central Region, which encompasses twelve counties. In this position I supervised the law enforcement and environmental enforcement programs, and the environmental assessment staff. In 1999, I accepted the position of Training Director for the WDNR Bureau of Law Enforcement. In this position I was responsible for statewide recruitment, hiring, recruit training, in-service training, and fleet management for the law enforcement program. I am a 1995 graduate of the Northwestern University School of Police Staff and Command, and a 2003 graduate of the FBI National Academy (214th Session). I also pursued a Bachelor's Degree in Management of Criminal Justice from Concordia (Wisconsin) University from 1997 to 2002. In 2006, I participated in the inaugural class of the National Conservation Leadership Institute. I am currently the President of the National Association of Conservation Law Enforcement Chiefs, and an ex-officio member of the Wisconsin Chiefs of Police Association and the Badger Sheriffs Association.

4. I have seen and read Great Lakes Indian Fish and Wildlife Commission (GLIFWC) Order No. 2012-05 (Commission Order), which amends the Tribes' night hunting regulation for deer in the Wisconsin portion of the 1837 and 1842 ceded territory. A copy of this Commission Order is attached hereto as Exhibit A.

5. I have seen and read two prior draft versions of the Commission Order supplied to WDNR by GLIFWIC. I participated in identifying WDNR's safety concerns with the draft orders. I agree with the safety concerns identified by my supervisor, Division Administrator Tim Lawhern, in his affidavit in this matter, dated November 20, 2012.

6. I have identified the changes between the final draft of the order and the issued Commission Order. I believe that the issued Commission Order, including the revisions from the final draft, does not address the safety concerns identified by myself and Division Administrator Lawhern. Specifically:

- a. Sub-subsubd. 2.6.3.2 (Exhibit A p. 4) was revised to clarify that a firearm may not be discharged until a member has accurately identified a deer. This is not a substantive change of the section, and does nothing to reduce human error associated with identifying a target, especially at night. In the course of my career I have investigated and reviewed reports of numerous instances where a person was shot when mistaken for a deer.
- b. Subsubd. 2.6.5. (Exhibit A p.5) was revised to exclude a reference to a shooting plan being presumed as compliant if no areas specified in that section are included in the "safe zone of fire". This revision includes no other standards and does not address the safety concern that a "safe zone of fire" cannot automatically be established based on proximity to the specified areas alone.

7. I make this affidavit in support of the defendants' motion to enforce the prohibition on shining deer.

Dated this 21st day of November, 2012.

/s/ **Randall Stark**
RANDALL STARK

Subscribed and sworn to before me
this 21st day of November, 2012.

/s/ **Michael Scott**
Notary Public, State of Wisconsin
My Commission: is permanent.