



## **Tribal Wild Plant Gathering on State Properties Harvest Season 2011 - 2012**

by

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## Introduction

The Ojibwe Tribes used virtually all natural resources in their environment in the course of their lives. This use of natural resources was and continues to be inextricably tied to their cultural practices and to their spiritual well-being. These natural resources included nearly all plant species. Many authors have documented the use of plants by the Ojibwe people for a myriad of purposes including Densmore (1928) and Moermond (1986). Meeker et al. (1993) documented the uses of 384 species of plants by the Great Lakes Ojibwa people. The implementation of the tribes' treaty harvesting rights would not be complete until wild plant harvesting was addressed.

This extensive use of wild plants (herein called miscellaneous forest products) was further acknowledged by the Federal Court in a 1991 proceeding when it wrote:

“The tribes' treaty reserved right includes the right to gather miscellaneous forest products, namely, such items as firewood, tree bark, maple sap, lode poles, boughs and marsh hay.”  
*Lac Courte Oreilles v. State of Wisconsin (LCO X)*, 775 F.Supp. 321, 322 (W.D. Wis. 1991).

However, the Court also concluded that:

“With respect to the regulation of the tribes' treaty protected right to gather miscellaneous forest products, the state may impose a permit requirement and a 14 day response time for the issuance of such permits. *Lac Courte Oreilles v. State of Wisconsin (LCO IX)*, 758 F.Supp. 1262, 1276 (W.D. Wis. 1991). The State was granted this authority due to the fact that the tribes' proposed regulations did not make explicit the manner in which the tribal permits would be administered or how the tribes would implement and regulate gathering activities on state or county land.”

Since these court rulings and stipulated agreements tribal members were required to obtain authorization to harvest non-timber forest products from State Forests and nearly all wild plant species from other selected properties owned or managed by the State.

### US Forest Service – Memorandum of Understanding (MOU)

The above proceedings only applied to lands controlled or managed by the state (and counties). This opinion did not apply to the US Forest Service and lands controlled by the USDA Forest Services. As a result the GLIFWC member tribes entered into such an agreement (*Memorandum of Understanding Regarding Tribal-USDA-Forest Service Relations on National Forest Lands within the Territories Ceded in Treaties of 1836, 1837 and 1842*) in 1998 which, among other things, recognized treaty gathering rights for non-timber forest products, allowed for tribal authority in issuing harvest permits and encouraged tribal involvement in the development of forest management plans. (See Admin Report 12-09 for harvest and permit information).

### **Stipulation Amendment Process**

On June 13, 2001 the court found that the Tribes and the State could change previous stipulations to account for ever-changing circumstances in natural resources management, including those provisions cited above. In compliance with this order on March 15, 2011 the “Second Amendment to the Voigt Stipulations” was filed. Those amended stipulations included, under section XII, the “Tribal Gathering on State Lands – Two Year Joint Assessment,” which provided a mechanism to determine whether or not, during a two year study period, the implementation of tribal self-management and self-regulatory provisions for tribal gathering of “miscellaneous forest products” could be consistent with the management objectives of various DNR properties, and whether the tribes’ harvest related activities do not pose a serious threat to the resource.

The state properties included in the assessment were:

Big Bay State Park  
Copper Falls State Park  
Crex Meadow Wildlife Area  
Flambeau River State Forest  
Governor Knowles State Forest  
Northern Highlands/American Legion State Forest  
Powell Marsh/ Eddy Creek  
Willow Flowage

The purpose of this report is to summarize the results of permit issuance and wild plant gathering by tribal members on the above listed properties from April 1, 2011 through March 31, 2012.

## **Permits, Stamps, and Data Collection**

Permits for non-timber forest product gathering on the selected state properties were required by the ten of the eleven GLIFWC member tribes. Permits (and *stamps*) were issued by tribal registration station and GLIFWC personnel using the Native American Game and Fish Application (NAGFA™), an on-line permitting system (Integrated Technologies and Consulting, Fargo, ND). Data summaries for the 2011-2012 season were generated based on queries of the NAGFA™ system. Obtaining a permit did not mean a tribal member actually gathered any wild plant resource.

### *State Property Gathering Permit*

A State Property Gathering Permit (SPGP) was required for each state property where a member wished to gather one or more of the five non-timber forest products that required a permit *stamp*. This permit provided a means to monitor interest in gathering by state property.

### *State Property Gathering Permit - Permit Stamps*

A permit *stamp* was required for five forest products: ginseng (jisens) plus four non-timber forest products - conifer boughs (primarily zhingob, balsam fir), birch bark (wiigwaas), lodgepoles (abanzh), and firewood (misan). These *stamps* provided a means to monitor tribal interest in gathering these five forest products

### *General Gathering Permit*

A General Gathering Permit was not property specific and authorized the gathering of all other non-timber forest products, such as nuts, berries, wild leeks, not covered by a permit *stamp*. In addition to the 8 State properties in Wisconsin, this permit also authorized gathering on the four National Forests in the Ceded Territory. These permits provided a means to monitor tribal interest in gathering forest products not covered by a permit *stamp*.

### *Maple Sap Gathering Permit*

Harvesting sugar maple sap was authorized under a separate site permit and process. No sugar bush site permit was authorized in 2011 – 2012 for any state property.

## Results

### Number of Tribal Members by Registration Office and Tribe of Enrollment

For the 2011-2012 Harvest Season, the number of tribal members who received at least one State Property Gathering or General Gathering permit was 642. Lac Courte Oreilles members obtained and issued the most State Forest Gathering and General Gathering permits, followed by Lac du Flambeau.

Table 1: Number of members who obtained at least one National Forest Gathering or General Gathering permit by registration office and tribe of enrollment.

Registration Office	Tribe of Enrollment											
	BRV	BM	FDL	KB	LCO	LDF	LVD	MIL	MLK	RC	STC	TOTAL
<b>BRV</b>	<b>41</b>	-	-	-	4	2	-	-	-	5		52
<b>BM</b>	-	-	-	-	-	-	-	-	-	-		0
<b>FDL</b>	-	-	-	-	-	-	-	-	-	2		2
<b>GLIFWC</b>	5	-	-	-	4	1	-	-	-	4		14
<b>KB</b>	-	-	-	-	-	-	-	-	-	-		0
<b>LCO</b>	2	-	-	-	<b>200</b>	7	-	-	-	6	3	218
<b>LDF</b>	10	-	-	-	8	<b>164</b>	-	-	2	3		187
<b>LVD</b>	1	-	-	1	7	-	<b>49</b>	-	-	-	1	59
<b>MIL</b>	-	-	-	-		-	-	-	-	-		0
<b>MLK</b>	-	-	-	-		-	-	-	-	-		0
<b>RC</b>	6	1	-	-	2	3	-	-	-	<b>85</b>		97
<b>STC</b>	6	-	-	-	4	-	-	-	-	-	<b>3</b>	13
<b>TOTAL</b>	71	1	0	1	229	177	49	0	2	105	7	642

\*Numbers in boldface and larger font are for the number of members that received their permit from their tribe's registration office (N=542).

## Number of Members by Permit Type

Of the 642 members who obtained at least one permit, 76 selected only State Property Gathering Permit(s) (SPGP), 477 selected only a General Gathering Permit, and 89 selected both types of permit (Table 2). Interestingly, for National Forest Properties, of the 566 General Gathering permits that were issued, 479 also obtain a National Forest Gathering Permit. This trend was not seen for SPGP.

Table 2: Number of tribal members who obtained only State Property Gathering Permit(s), only a General Gathering Permit(s) or both types of permit.

Tribe of Enrollment	Number of Members Obtaining a SPGP or a General Gathering Permit			Total Members Permitted
	SPGP Only	General Gathering Permit Only	Both	
<b>BRV</b>	6	52	13	71
<b>BM</b>	-	1	-	1
<b>FDL</b>	-	-	-	-
<b>KB</b>	-	1	-	1
<b>LCO</b>	57	120	52	229
<b>LDF</b>	8	152	17	177
<b>LVD</b>	-	49	-	49
<b>MIL</b>	-	-	-	-
<b>MLK</b>	-	1	1	2
<b>RC</b>	4	97	4	105
<b>STC</b>	1	4	2	7
<b>TOTAL</b>	76	477	89	642

### Number of Members by Tribe of Enrollment and Property

For the 2011-2012 harvest season, a total of 165 tribal members received at least one State Property Gathering permit (Tables 4 and 5). Of these, 60 members received a SPGP for more than one property (Table 4).

Table 3. Number of members by tribe of enrollment that obtained a State Property Gathering Permit for from 1-8 State Properties (SP).

Tribe of Enrollment	Members Selecting One or More State Property (SP)								Total
	1 SP Selected	2 SP Selected	3 SP Selected	4 SP Selected	5 SP Selected	6 SP Selected	7 SP Selected	8 SP Selected	
<b>BRV</b>	16	1	2	-	-	-	-	-	19
<b>BM</b>	-	-	-	-	-	-	-	-	0
<b>FDL</b>	-	-	-	-	-	-	-	-	0
<b>KB</b>	-	-	-	-	-	-	-	-	0
<b>LCO</b>	64	11	3	1	1	-	1	28	109
<b>LDF</b>	14	4	1	1	2	1	-	2	25
<b>LVD</b>	-	-	-	-	-	-	-	-	0
<b>MIL</b>	-	-	-	-	-	-	-	-	0
<b>MLK</b>	1	-	-	-	-	-	-	-	1
<b>RC</b>	7	-	-	-	-	-	-	1	8
<b>STC</b>	3	-	-	-	-	-	-	-	3
<b>TOTAL</b>	105	16	6	2	3	1	1	31	165

The majority of the State Property Gathering permits were issued for the Flambeau River State Forest (102), followed by Copper the Falls State Park (83), the Northern Highlands/American Legion (NHAL) State Forest (52), Powell Marsh/Eddy Creek (46), Crex Meadows (43), Big Bay State Park (42), Governor Knowles State Forest (37) and the Willow Flowage (34). Tribal members could obtain permits for more than one property. There were 439 property-specific permits issued to the 165 members obtaining permits or about 2.66 property permits per gatherer.

The number of both State Property Gathering permits and members receiving a General Gathering permit was greatest for Lac Courte Oreilles (335 and 172, respectively), followed by Lac du Flambeau (61 and 169) (Table 5).

Table 4. Number of members by tribe of enrollment who obtained at least one State Property Gathering Permit by State Property (SP) and Total, or a General Gathering Permit.

Tribe of Enrollment	Total Members Permitted	State Property Gathering Permit										General Gathering Permit	
		Total Members Permitted for SP	State Property										Number of Members
			Big Bay	Copper Falls	Crex Meadows	Governor Knowles	NHAL	Powell/Eddy	Willow Flowage	Flambeau River	Total Permits		
BRV	71	19	3	14	2	-	1	-	-	4	24	65	
BM	1	-	-	-	-	-	-	-	-	-	0	1	
FDL	-	-	-	-	-	-	-	-	-	-	0	-	
KB	1	-	-	-	-	-	-	-	-	-	0	1	
LCO	229	109	32	60	36	31	32	31	29	84	335	172	
LDF	177	25	6	5	3	4	16	14	4	9	61	169	
LVD	49	-	-	-	-	-	-	-	-	-	0	49	
MIL	-	-	-	-	-	-	-	-	-	-	0	-	
MLK	2	1	-	-	-	-	1	-	-	-	1	2	
RC	105	8	1	4	2	1	2	1	1	3	15	101	
STC	7	3	-	-	-	1	-	-	-	2	3	6	
<b>TOTAL</b>	<b>642</b>	<b>165</b>	<b>42</b>	<b>83</b>	<b>43</b>	<b>37</b>	<b>52</b>	<b>46</b>	<b>34</b>	<b>102</b>	<b>439</b>	<b>566</b>	



## Number of Forest Product Stamps Issued

Of the 642 members who obtained gathering permits (Table 1), 165 members obtained at least one State Property Gathering permit (Tables 4 and 5). These 165 members selected 853 *stamps* for the five forest products or an average of 5.2 *stamps* per gatherer (Table 6).

By forest product, the greatest number of *stamps* were for balsam boughs (400) followed by firewood (128), birch bark (119), Ginseng (105) and lodgepoles (101) (Table 6). By State Property, the greatest number of *stamps* was issued for the Flambeau River State Forest (273), followed by Copper Falls State Park (170), Northern Highland American Legion State Forest (97), Crex Meadows (79), Powell Marsh/Eddy Creek (74), Big Bay State Park (65), Governor Knowles State Forest (49), and the Willow Flowage (46).

Table 5: Number of forest product stamps issued by Forest Product and State Property

Forest Product	State Property								TOTAL
	Big Bay	Copper Falls	Crex Meadows	Governor Knowles	NHAL	Powell/Eddy	Willow Flowage	Flambeau River	
<b>Balsam Boughs</b>	39	79	39	33	44	40	31	95	400
<b>Birch Bark</b>	9	25	13	6	13	6	4	43	119
<b>Firewood</b>	8	24	10	-	17	12	6	51	128
<b>Lodgepoles</b>	5	19	7	4	12	9	3	42	101
<b>Ginseng</b>	4	23	10	6	11	7	2	42	105
<b>TOTAL</b>	65	170	79	49	97	74	46	273	853

## Summary

For the 2011-2012 harvest season, the number of tribal members who received at least one State Property Gathering or General Gathering permit was 642. Lac Courte Oreilles members obtained the most State Property and General Gathering permits followed by Lac du Flambeau members.

Of the 642 members who obtained at least one permit, 76 selected only State Property Gathering permit(s), 477 selected only a General Gathering permit and 89 selected both types of permit. The 165 members who obtained at least one State Property Gathering permit selected 853 *stamps* for the five forest products that required a stamp or an average of 5.2 *stamps* per gatherer.

Of the 853 *stamps* that were selected, nearly half (400) were for balsam boughs, while around 100 stamps were issued for each of the other four forest products. The majority of *stamps* were selected for the Flambeau River State Forest (273) followed by Copper Falls (170).

## Literature Cited

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