



**Tribal Wild Plant Gathering on National Forests and  
Wisconsin State Lands  
During the 2013-2014 Season**

by

Alexandra Wrobel  
Forest Ecologist

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**Great Lakes Indian Fish  
& Wildlife Commission**  
Biological Services Division  
P.O. Box 9  
Odanah, WI 54861  
(715) 682-6619

## INTRODUCTION

Traditionally, the Ojibwe gathered and used hundreds of plant species in the course of their lives. This use of wild plants was and continues to be inextricably tied to the cultural practices and spiritual well-being of the people. Many authors have documented the use of wild 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 Ojibwe.

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

In order to provide for the exercise of treaty gathering rights on lands managed by the USDA Forest Service (USFS) within the 1836, 1837, and 1842 ceded territories, GLIFWC member tribes and the USFS negotiated interim agreements annually beginning in 1995. At the same time the parties continued discussions to develop a more comprehensive and long term agreement.

The discussions resulted in a Memorandum of Understanding (MOU) entitled *Tribal - USDA Forest Service Relations on National Forest Lands within the Ceded Territory in Treaties of 1836, 1837, and 1842*. The MOU was ratified by nine GLIFWC member tribes (Bay Mills, Bad River, Lac Courte Oreilles, Lac du Flambeau, Lac Vieux Desert, Mille Lacs, Mole Lake, St. Croix and Red Cliff) in 1998, a tenth GLIFWC member tribe (Keweenaw Bay) in 2000 and an eleventh GLIFWC member tribe (Fond du Lac) in 2012. The MOU was signed by the USFS in 1998. The National Forests addressed in the MOU include the Chequamegon-Nicolet in Wisconsin; and Ottawa, Hiawatha, and Huron-Manistee in Michigan (Figure 1).

### **State of Wisconsin Properties**

The above MOU only applied to federal lands managed by the United States Forest Service; it did not apply to lands managed by the State of Wisconsin. Gathering of wild plants and plant parts was the subject of a trial and ruling in 1991 where the Federal Court found that:

“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).

Furthermore, the Court 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.”

So, for nearly two decades following this Federal Court ruling (and related stipulated agreement), tribal members were required to obtain authorization from the State to harvest miscellaneous forest products from Wisconsin state forests and from other properties owned or managed by the State.

After years of discussions between the parties, an agreement was reached that led to increased tribal opportunity for wild plant gathering on Wisconsin state properties. In 2011 the “Second Amendment to the Voigt Stipulations” was filed with the Federal Court and included a provision for the establishment of “Tribal Gathering on State Lands – Two Year Joint Assessment”. The study was to determine whether or not 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 would pose a serious threat to the resource.

Upon completion of this two year study (Stark and Williams 2013) the parties jointly concluded that tribal gathering was consistent with management objectives of the 9 State Properties studied, that it did not pose a threat to the resources available for gathering, and that the study should be extended for an additional 6 years and include more properties.

#### **Tribal Gathering during 2013-2014**

The purpose of this report is to summarize the results of permits issued to tribal members for gathering non-timber forest products and wild plants during the 2013-2014 harvest season (April 1, 2013 – March 31, 2014) regardless of whether that gathering was on the National Forests covered by the MOU or on Wisconsin state properties.

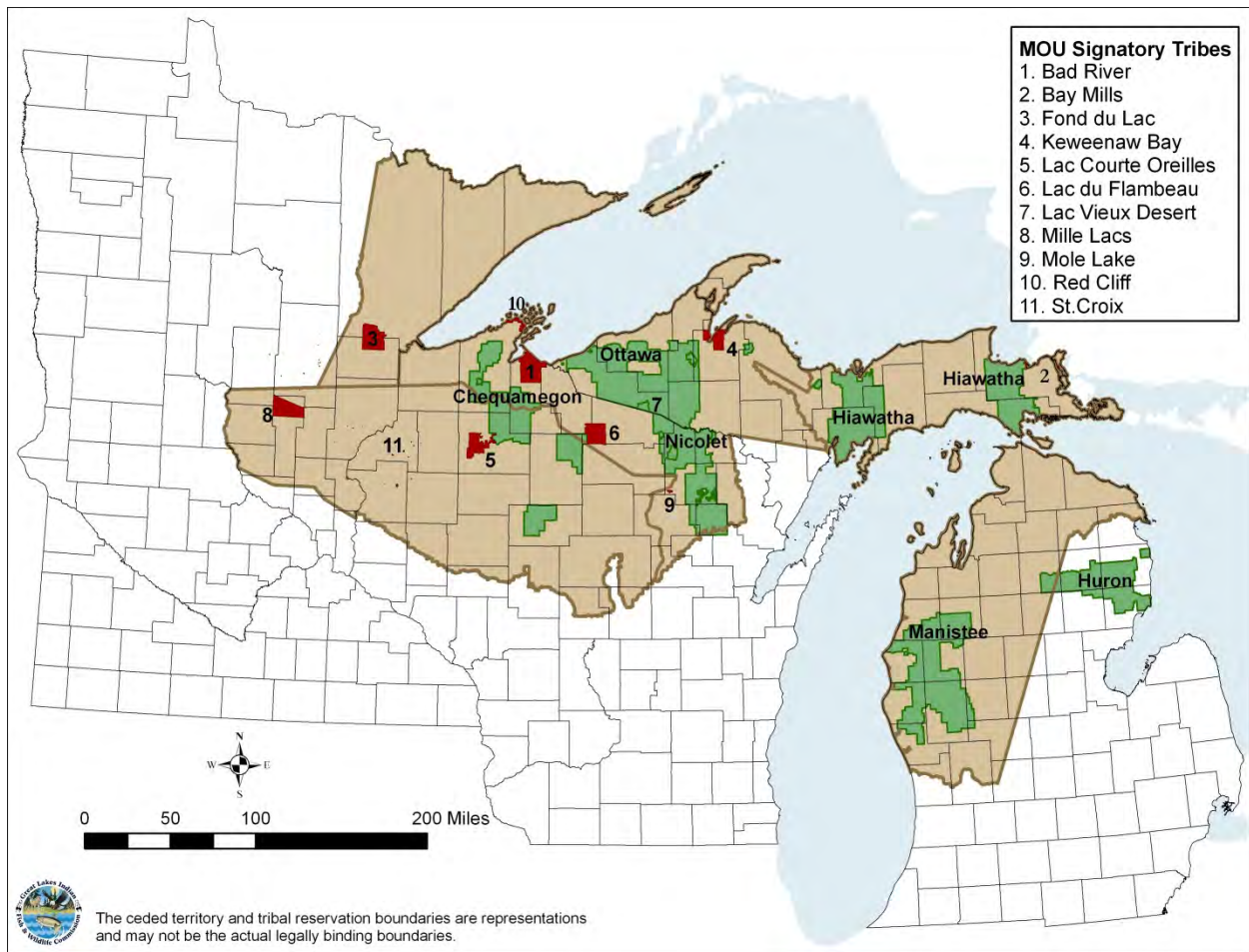


Figure 1: Ceded territories and national forests covered in the Memorandum of Understanding (MOU) entitled “Tribal - USDA Forest Service Relations on National Forest Lands within the Ceded Territory in Treaties of 1836, 1837, 1842 and 1854.”

## METHODS

### Permit and Data Collection

A permit to gather miscellaneous forest products on National Forest lands was required by ten of the eleven GLIFWC member tribes that ratified the MOU. Keweenaw Bay members were not required to obtain permits, but could use their tribal identification card instead. For selected Wisconsin state properties, a permit was also required to gather miscellaneous forest products. Permits 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).<sup>1</sup>

A Miscellaneous Forest Product permit covered two categories of gathering.

1. *Non-Timber Forest Product (NTFP) Gathering.* This category of gathering included the following five products: conifer boughs (primarily zhingob, balsam fir), bark (e.g. wiigwaas-birch, giizhik-cedar), lodgepoles (abanzh), firewood (misan) as well as ginseng (jisens). For members interested in gathering one or more of these five products, the permit had to list each product. This permit requirement provided a means to monitor interest in gathering each of the five products.
2. *General Gathering.* This category authorized the gathering of all other wild plants and “gathering products” (see Appendix A for definitions) such as nuts, berries, wild leeks and others not covered by the NTFP. Having this permit category provided a means to monitor tribal interest in gathering forest products other than those 5 covered by the NTFP. Harvesting sugar maple sap was authorized by a different permit and process, and data for this activity were not included in this report.

In the past, a permit would list not only species information (i.e. for NTFP gathering) but also property specific information (e.g. which National Forests). Tribal members were required to indicate the property from which they planned to harvest. However, due to the incorporation of numerous Wisconsin State properties along with the National Forests, it was decided to issue one permit to cover all properties starting with the 2013-2014 harvest season. In order to collect information on the total amount of a NTFP gathered and the number of people gathering on each property, a method to survey harvesters is being developed.

Previous harvest reports only included information on permits issued for gathering in National Forests. The totals for the three harvest seasons included in this report are for both National Forest and select Wisconsin State Properties.

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<sup>1</sup> Note, this is a summary of permits issued and that obtaining a permit did not mean a tribal member actually did any gathering.

## RESULTS

### Number of Tribal Members Permitted

For the 2013-2014 harvest season, the number of tribal members who received a Miscellaneous Forest Product permit for gathering in National Forest and select Wisconsin state properties was 1,928 (Figure 2). Compared to the previous harvest season the number of members permitted increased by 200 persons or 12%.

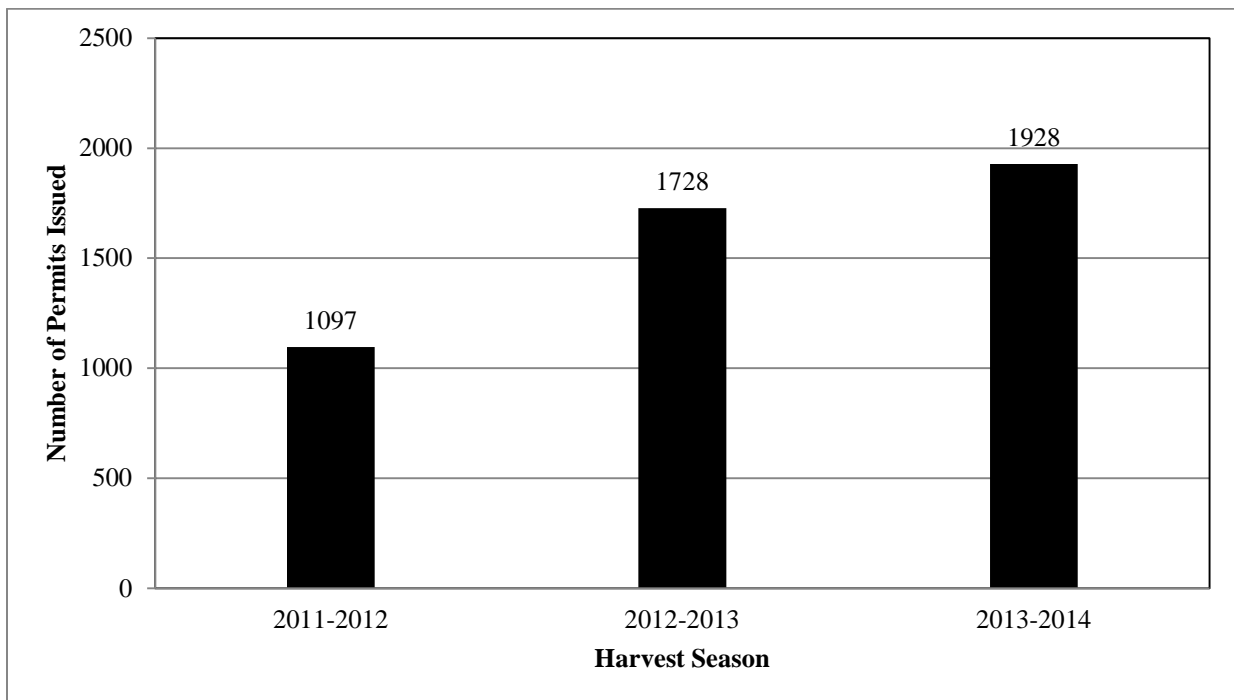


Figure 2: Total number of tribal members who obtained a MFP permit during the 2011-2012 through 2013-2014 harvest seasons.

## Number of Members by Tribe of Enrollment

For the 2013-2014 harvest season, as in previous years, Lac Courte Oreilles (LCO) members were issued the most permits, followed by Lac du Flambeau members (Table 1). Overall, for each tribe the number of tribal members receiving a permit during the three year period increased.

Of the 1,928 members issued a MFP permit, the majority (1,570 members or 81%) received permits from their home tribe's registration office (Table 2). Permits were issued at 10 of 11 tribal registration offices plus by GLIFWC. Eight of the tribal registration offices issued permits to members from 3-6 other tribes. GLIFWC issued permits to members from 7 tribes.

Table 1: Number of members who obtained a MFP permit by harvest season and by tribe of enrollment.

Tribe of Enrollment	Harvest Season		
	2011 - 2012	2012 - 2013	2013 - 2014
Bad River (BRV)	134	210	286
Bay Mills (BM)	1	170	202
Fond du Lac (FDL)	0	6	23
Keweenaw Bay (KB)	2	4	2
Lac Courte Oreilles (LCO)	489	451	529
Lac du Flambeau (LDF)	189	373	372
Lac Vieux Desert (LVD)	64	93	77
Mille Lacs (MIL)	3	6	8
Mole Lake (MLK)	51	82	63
Red Cliff (RC)	154	296	309
St. Croix (STC)	10	37	57
<b>TOTAL</b>	<b>1,097</b>	<b>1,728</b>	<b>1,928</b>

Table 2: Number of members who obtained at least one MFP permit by registration office and tribe of enrollment during the 2013-2014 harvest season.

Registration Office	Tribe of Enrollment*											
	BRV	BM	FDL	KB	LCO	LDF	LVD	MIL	MLK	RC	STC	TOTAL
<b>BRV</b>	<b>144</b>	0	1	0	6	0	0	0	0	20	0	<b>171</b>
<b>BM</b>	0	<b>201</b>	0	0	0	0	0	0	0	0	0	<b>201</b>
<b>FDL</b>	14	0	<b>16</b>	0	6	0	0	0	0	20	0	<b>56</b>
<b>GLIFWC</b>	56	1	2	0	4	2	1	0	0	12	0	<b>78</b>
<b>KB</b>	0	0	0	<b>2</b>	0	0	0	0	0	0	0	<b>2</b>
<b>LCO</b>	8	0	1	0	<b>461</b>	12	0	3	0	15	5	<b>505</b>
<b>LDF</b>	16	0	1	0	14	<b>341</b>	0	0	0	11	0	<b>383</b>
<b>LVD</b>	2	0	0	0	9	1	<b>75</b>	0	10	0	0	<b>97</b>
<b>MIL</b>	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>MLK</b>	5	0	0	0	3	8	1	0	<b>53</b>	2	0	<b>72</b>
<b>RC</b>	15	0	1	0	2	6	0	1	0	<b>225</b>	0	<b>250</b>
<b>STC</b>	26	0	1	0	24	2	0	4	0	4	<b>52</b>	<b>113</b>
<b>TOTAL</b>	<b>286</b>	<b>202</b>	<b>23</b>	<b>2</b>	<b>529</b>	<b>372</b>	<b>77</b>	<b>8</b>	<b>63</b>	<b>309</b>	<b>57</b>	<b>1,928</b>

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



### Number of Members by Permit Category

Of the 1,928 members who obtained a permit, 272 selected only the NTFP category, 282 selected only the General Gathering category while 1,374 persons selected both categories (Table 3). Thus, 1,646 members (85% of the total) were interested in gathering one or more of the 5 products in the NTFP category and 1,656 members (86% of the total) were interested in products covered by the general gathering category.

Table 3: Number of tribal members who obtained only Non-Timber Forest Product Permit(s), only a General Gathering permit or both types of permit.

Tribe of Enrollment	Number of Members Selecting a NTFP or General Gathering Category			Total Members Permitted
	NTFP Category Only	General Gathering Category Only	Both	
<b>BRV</b>	55	39	192	286
<b>BM</b>	15	86	101	202
<b>FDL</b>	4	9	10	23
<b>KB</b>	1	0	1	2
<b>LCO</b>	55	45	429	529
<b>LDF</b>	24	14	334	372
<b>LVD</b>	19	9	49	77
<b>MIL</b>	0	4	4	8
<b>MLK</b>	54	0	9	63
<b>RC</b>	39	34	236	309
<b>STC</b>	6	42	9	57
<b>TOTAL</b>	272	282	1,374	1,928

## Non-Timber Forest Product Category

For the 2013-2014 harvest season, the total number of times a product in the Non-Timber Forest Product category was listed on a permit was 5,719 (Table 4). In other words, the 1,656 tribal members who selected a product in the NTFP category, selected an average of 3 products. Of the 5 products, firewood was selected most often (1,534) followed by balsam boughs (1,312), birch bark (1,041), lodgepoles (924), and ginseng (908).

Table 4. Number of times a Non-Timber Forest Product was listed on a permit by product and by tribe of enrollment.

Tribe of Enrollment	Number of Times a Product in the NTFP Category was Listed on a Permit				
	Balsam Boughs	Birch Bark	Firewood	Ginseng	Lodgepoles
<b>BRV</b>	194	89	225	63	63
<b>BM</b>	49	54	102	3	8
<b>FDL</b>	7	6	14	6	6
<b>KB</b>	2	0	1	0	0
<b>LCO</b>	461	400	446	382	382
<b>LDF</b>	346	335	352	329	335
<b>LVD</b>	55	42	63	39	39
<b>MIL</b>	3	4	4	3	3
<b>MLK</b>	48	14	54	16	12
<b>RC</b>	137	90	261	61	68
<b>STC</b>	10	7	12	6	8
<b>TOTAL</b>	1,312	1,041	1,534	908	924

## **LITERATURE CITED**

Wrobel, A. 2012. Tribal Wild Plant Gathering on National Forest Lands; Harvest Season 2011-2012. Great Lakes Indian Fish and Wildlife Commission. Odanah, WI. Administrative Report 13-03, February 2013.

Wrobel, A. 2013. Tribal Wild Plant Gathering on State Lands; Harvest Season 2011-2012. Great Lakes Indian Fish and Wildlife Commission. Odanah, WI. Administrative Report 13-03, March 2013.

Wrobel, A. 2014. Tribal Wild Plant Gathering on National Forest; Harvest Season 2012-2013. Great Lakes Indian Fish and Wildlife Commission. Odanah. Administrative Report 14-03, January 2014.

Stark, K.J. and Q. Williams 2013. Gathering of Miscellaneous Forest Products on State Properties: 2-Year Implementation Evaluation. Final Report, September 2013

## **Appendix A – Gathering Definitions**

### **1. Bark**

The tough outer covering of the stems and roots of trees, shrubs and other woody plants. This includes all tissues outside the vascular cambium.

### **2. Bough**

Any Branch of a tree less than 2 inches in diameter.

### **3. Designated Tribal Sugarbush**

A specific site identified and established by the tribal conservation department, in consultation with the land manager according to Section 12.04(5), of this ordinance, for which a site management plan has been developed and for which a sugarbush site permit has been issued.

### **4. Designated Use Area**

A specific site designated and maintained by the land manager for any activity or use as part of the operation and management of public land, and includes, but is not limited to offices, buildings, campgrounds, mowed areas, picnic areas, public beaches, parking lots, trails, access and maintenance roads.

### **5. Firewood**

Any dead tree or part thereof, either standing or downed which is harvested for and to be used as fuel.

### **6. Gathering Products**

All products of miscellaneous forest products other than non-timber forest products such as: branchlets, roots, berries, fruits, nuts and seeds, ginseng and threatened and endangered species.

### **7. Ginseng**

The roots, seeds or other parts of wild American Ginseng (*Panax quinquefolium* or *Panax quinquefolius*).

### **8. Land Manager**

Any owner or other entity responsible for the management of any public land.

### **9. Lodgepole**

Any tree that is less than 5 inches DBH (diameter at breast height).

### **10. Miscellaneous Forest Products**

Any undomesticated species, or part thereof, of the plant and fungi kingdoms occurring in both forested and non-forested natural ecosystems including: non-timber forest product, wild plants, gathering products and includes threatened or endangered plant species.

**11. Non-Timber Forest Products**

Any of the following miscellaneous forest products: bark, boughs, firewood, lodgepoles and sap as further defined in this section.

**12. Public Lands**

Those lands managed by the Federal government, State government, County government or those enrolled in State Forest tax programs.

**13. Sap**

The watery fluid that circulated through a tree or a plant, carrying food and other substances to the various tissues.

**14. Shrub**

A woody perennial plant usually branched several times at or near the base giving it a bushy appearance, and is usually less than 5 meters tall.

**15. Timber**

Any tree that is not a lodgepole.

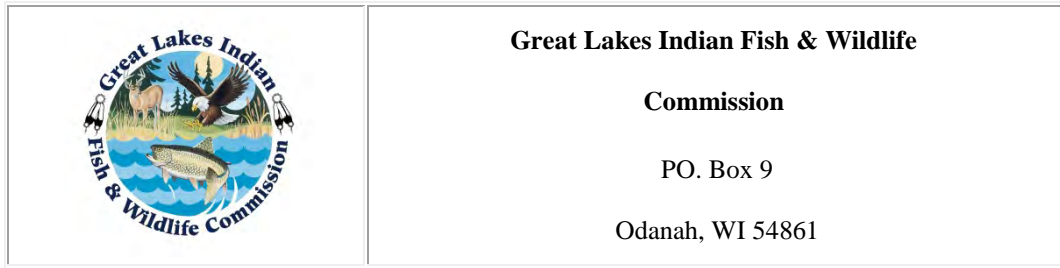
**16. Tree**

A woody, perennial with a single trunk that is typically unbranched at or near the base, and is usually greater than 5 meters tall.

**17. Wild Plant**

Miscellaneous forest products that are not trees, such as herbaceous plants and shrubs.

**Appendix B – Sample Gathering License**



2013 - 2014 Season

Game & Fish License No. 11436

**NAGFA ID #: 5294 Status: BRV**

**Name: JANE A DOE**

**Address: 24 Temp st. Odanah, WI 54806**

**Phone: 715 555 5555 Hunter Safety #:23**

**Advanced Marksmanship #:4**

**Trapper Identification #: 5294**

GATHERING/GENERAL <b>#89859</b> Gathering General 2014 - 2015 Season	GATHERING/ MISCELLANEOUS FOREST PRODUCTS <b>#89858</b> Lodgepoles 2014 - 2015 Season	GATHERING/ MISCELLANEOUS FOREST PRODUCTS <b>#89857</b> Ginseng 2014 - 2015 Season	GATHERING/ MISCELLANEOUS FOREST PRODUCTS <b>#89856</b> Firewood 2014 - 2015 Season
GATHERING/ MISCELLANEOUS FOREST PRODUCTS <b>#89855</b> Bark 2014 - 2015 Season	GATHERING/ MISCELLANEOUS FOREST PRODUCTS <b>#89854</b> Balsam Boughs 2014 - 2015 Season		

**Please submit all harvest reports in a timely manner!**

I do hereby agree to abide by all laws and regulations when exercising treaty rights within ceded territory. I accept this license with the understanding and agreement that it is non-transferable, non-refundable, confers no rights of trespass, must be carried while hunting or trapping and must display it upon demand.

**See [WWW.GLIFWC.ORG](http://WWW.GLIFWC.ORG) for more information.**

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Licensing Agent: \_\_\_\_\_ Date: \_\_\_\_\_