

## Gov. Dayton responds to Mille Lacs walleye angling crisis

### Historic mid-season shutdown overshadows last-minute promises

Years in the making, the Mille Lacs walleye angling crisis came to a head with the DNR's shutdown of walleye fishing on the lake. The timing is could hardly be worse. Loss of a premiere walleye-angling destination—mid-season—will hammer the local economy. Survival for the long term will be questionable for many resorts and businesses.

PERM often criticized the DNR for its Mille Lacs treaty co-management and included Gov. Dayton as a responsible party. PERM recently called for his resignation when it was clear walleye angling would be grinding to a halt.

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#### Outcomes worth noting

Gov. Dayton's town hall meeting with resorters, businesses, residents, and anglers, stepped outside the familiar “business as usual” as seen over the years.

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Gov. Dayton spoke of seeing “big changes in leadership” in the local DNR office. He mentioned having a plan for short-term financial help for the local economy. He also spoke of a special legislative session if needed.

PERM was received at the town hall meeting like any other concerned citizen. PERM Chair Doug Meyenburg was able to speak on behalf of PERM's members.

PERM Chair Doug Meyenburg even bantered with Gov. Dayton, saying he'd rescind his call for resignation, should the Gov. carry out his plans. The Gov. noted he “wouldn't be leaving anytime soon.” They followed up with a handshake.

Also, it was gratifying to see PERM mentioned several times in the media without the “racist” tagline as was usual in years past.

A major outcome was the fact that PERM could hang in there long enough to be part of this meeting. That was ONLY possible because of the staunch support, over the years, from PERM's members and donors like you. PERM thanks you and hopes you will continue building a grassroots movement for the benefit of ALL Minnesotans.

#### Questions remain

Reports vary. Does the Mille Lac band's “forego” mean no harvest beyond “netting for ceremonial purposes?” Or only that harvest will be by other means, spears most likely?

Will the other seven bands (six from Wisconsin) honor a Mille Lacs band request for a similar stand down? What can the state or advocates can do to help the Mille Lacs band be more persuasive?

Will the DNR investigate the impact of no or low gillnetting on 2013 and 2014 class year survival?

#### This is just a first down

Treaty management or “co-management” needs to be seriously reexamined. The DNR needs to break away from the “regulatory capture” by the tribes and GLIFWC, and focus on representing all citizens of Minnesota.

A fully executed “Phase Two” court-determined allocation that is equitable, sustainable, and recognizes present day circumstances should be pursued. As an



Doug Meyenburg and Governor Dayton follow up with a handshake

alternative, the state should go back to the Court, as invited should public health, public safety, or conservation become an issue. Clearly, going from a million plus-pound walleye harvest at the start of co-management to a mid-season shutdown makes conservation a basis for returning to the court.

Does the possibility of a “special legislative session” imply Gov. Dayton will work with legislators, particularly those already involved, including Rep Sondra Erickson, Rep Tom Hackbarth, and Rep Lueck?

What must still be done to ensure Gov. Dayton follows through on the promises he made? He hit all the right notes when he said, “I believe all hunting and fishing in Minnesota should be done under the same rules” at a Candidate Forum at the 2010 Game Fair. No signs yet of moving in that direction.

PERM is asking for your ongoing support. That can be a simple as signing up for email Alerts at perm.org. You are invited to join PERM as a member. You can even help by entering our Heritage Fund 50/50 Raffle (page3.)

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## Proper Economic Resource Management

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*“Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, that is the only thing that ever has.”*

Margaret Mead

### Meetings

PERM meetings are held the FIRST Monday of the month. Meetings are at 7:30 p.m. in the Conference Room at Cinema Professional Building, 657 Main St, in Elk River.

Check perm.org for any changes.

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## Meyenburg's Musings

### Accounting for 'hooking mortality'

Trust the DNR, they always have the right numbers. But these days many Mille Lacs resort owners, guides, and launch captains are asking, “Where do they get their hooking mortality numbers?”

Lately, those numbers are especially impressive. Exactly how is hooking mortality calculated? At one time anglers with creels filled out a contact sheet for each interview. Is this still done? If so, how can those numbers be verified?

Is anyone actually recording how many boats are on the lake? How much guesswork is in the numbers of walleyes caught and released? How did they make up their hooking mortality formula? How many variables can get tweaked?

Remember, there are no hooking mortality assessments for tribal harvest. Or is that what's called “incidental catch?”

### Governor's hands tied over Mille Lacs?

At the July 31 town hall meeting in Isle, I let the Gov Dayton know his hands—and those of the DNR—are not tied. In fact, the US Supreme Court gave them a path to follow to bring the case back to them if public health, public safety, or conservation is negatively affected.

We've watched slot limits dwindle from 6 to 1 to none. Has conservation been impacted? Even a highly educated man should be able to figure that out.

Yes, going back to court means a chance they would rule against the citizens of Minnesota. (Maybe more than a chance. The Federal Judge in the Squarehook Operation dropped charges against the defendants based the 1837 Treaty Rights decision. He missed noticing that the crimes occurred in a different treaty area.)

But if the current situation is allowed to continue, it will cause issues forever.

### Who owns Red Lake?

We all do. We all own and should be able to use Upper and Lower Red Lake. In US vs. Holt State Bank (1926), the US Supreme Court determined the lake, bed, and shoreline belong to all citizens to use. But the DNR doesn't recognize this ruling!

So, the DNR has more authority than the US Supreme Court? From the looks of things, they have the right to obey and enforce only the laws they want to.

Red Lake is a closed reservation and we cannot trespass on their land. On the water, we should be able to use what is ours to use. But we can't. Not only that, enforcement is punitive. Many ice-fishing anglers have lost vehicles, fishing equipment, and more for accidentally crossing an imaginary boundary line. Only the confiscation is real.

Isn't it time the DNR obeyed all laws?

### Who is monitoring whom?

During the spring of 2015, netting was observed on Upper South Long Lake in Crow Wing County. However, this wasn't one of the lakes registered for off reservation gill netting.

There were reports that only about 100 fish were harvested before a citizen complaint got the nets pulled and bound for one of the registered lakes.

Apparently maps aren't handed out. Between GLIFWC, tribal DNR, and our DNR, someone should be making clear who goes where.

Too much of “treaty co-management” seems to be the honor system. I am sure this wasn't done on purpose, but had this been done to a more sensitive lake such as a DNR rearing pond, who knows what the outcome would be.

### Mille Lacs: Still a rewarding destination

Although walleye fishing has been ended by the DNR, Mille Lacs ain't dead yet. There are many things to do.

Mille Lacs has miles of shoreline with all kinds of recreation. And it comes with wonderful resort owners looking to make your visit enjoyable.

For those in the metro area, try a change-up from “dinner and a movie” downtown. Trade the traffic, parking, and long lines for a nice drive north. Enjoy a great meal and watch the sun set on the lake. Plus, you are supporting businesses put in a tough situation by mismanagement of a great lake!

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## 'Co-management' land-grab?

### Move to expand 1855 treaty rights to include 'property rights'

Joe Fellego, in the July 17 Outdoor News, writes about big challenges to state management authority and citizen rights to Minnesota resources. They come from renewed attempts to project tribal sovereignty over territory where it does not exist. If successful, the same "co-management" process that exists for Mille Lacs could spread across all of northern Minnesota.

Fellego starts with the fish-in by Leech Lake and White Earth Chippewa gillnetters at Lake Bemidji before the 2010 Minnesota fishing opener.

"Their goal: get arrested for violating state law and spawn a major court-case claiming "treaty rights" across the 1855

Treaty ceded territory, a huge swath from the north end of Lake Mille Lacs and the Brainerd lakes area to the Canadian

border at one point, and reaches the Dakota border at another. The DNR didn't bite. But efforts to gain tribal harvest and co management rights in that 1855 territory, and possibly across all of northern Minnesota, "are-very much alive today."

#### 1855 'treaty rights' claim revived

At meetings he attended last fall and early this June, Fellego heard from tribal sovereignty activists, including Winona LaDuke and Peter Erlinder. "As usual, behind cushy talk about fish, ducks, wild rice, water quality, culture, heritage and tradition, [were] tribal governments and their attorneys ... seeking more tribal harvest rights and management authority."

This "would-be dramatic power grab" is based on an expanded notion of 1855 "treaty rights" outlined in law

professor Peter Erlinder's recent treatise *Minnesota v Mile Lacs Band of Chippewa 19th Century U.S. Treaty-Guaranteed Usufructuary Property Rights, the Foundation for 21st Century Indigenous Sovereignty*.

Fellego noted that Erlinder uses U. S. District Judge John Tunheim's dismissal of fish-poaching charges as support for his expansion of "treaty rights." Fellego describes Tunheim's ruling as one in which "an individual's 1837 treaty rights trump state, tribal, and federal law."

Down-the-road, Fellego could see "Individual enrollees from outside the 12-county 1837 Minnesota ceded territory claiming new 'rights' at Mille Lacs and across hundreds of lakes, umpteen miles of streams, and millions of land-acres." In other words, "much-expanded tribal harvest rights and tribal management authority across all of northern Minnesota—about everywhere north of Interstate 94."

Fellego wonders, "given the powerful legal and political forces embracing such arguments, with potentially giant costs and negatives for Minnesota, what's state government's response plan?"

PERM will continue to monitor and report on this initiative. Stay informed! Look for more at [perm.org](http://perm.org). Sign up for email Updates using link at [perm.org](http://perm.org).

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## Rep. Sondra Erickson weighs in on Mille Lacs walleye fishery management

Rep. Erickson has been challenging management of the lake for at least a dozen years. She recently offered some guidelines to the DNR Commissioner at a recent meeting in Isle.

#### All negotiations should be held in public

They should be just like hearings at the legislature--no meetings behind closed doors (HF 1759). Transparency is a must, as stated in another of Rep Erickson's bills, (HF 382).

#### Mille Lacs management needs to be based on basic biology

It should be like fishery management in the rest of Minnesota, not fishery management based on accommodating tribal harvest rights that exceed the lake's ability to sustain the walleye population of an angling destination.

#### All walleye harvesting during spawning season must come to an end

Nowhere in the history of Mille Lacs, or any other Minnesota walleye fisheries, has any form of walleye harvest during the spawning period been allowed. No tribal harvest in any form should be allowed

while the walleyes are most vulnerable--during the spawning that ensures the future of the walleye population.

#### Harvest between anglers and Ojibwe Bands at Mille Lacs should be divided in an equitable ratio between sport anglers and tribal fishermen.

Over a million Minnesota sport anglers have access to Lake Mille Lacs and only several thousand Indian Band members to make up the two groups. Why does the non-tribal quota have to include hooking mortality for Minnesota sport anglers only? Also, the harvest quotas of Mille Lacs walleyes for each group should reflect an equitable division of the fish on a per angler basis.

Rep. Erickson noted that years ago, the DNR publicly said tribal harvests need to be changed to allow Mille Lacs walleye numbers to stabilize and return to historic levels. The DNR needs to seriously discuss that change with the Bands.

She asks, "Why has this not happened?"

Contact Rep. Erickson at [rep.sondra.erickson@house.leg.state.mn.us](mailto:rep.sondra.erickson@house.leg.state.mn.us)

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## Mark the Date

### PERM's 'Save Minnesota' Metro Area Annual Dinner and Fundraiser

Thursday, December 3  
Brook Hall  
Balinbrook Entertainment Center  
12000 Central Avenue NE  
Blaine, MN 55434

This is the only fundraising event PERM will have this year.