



Little River Band of Ottawa Indians

375 River Street
Manistee MI 49660
(231) 723-8288

Resolution # 03-1112-391

*Opposition to Amicus Brief Drafted by the State of Idaho
in United States v Lara Before the United States Supreme Court*

WHEREAS, the Tribe's status as a federally-recognized Indian tribe was reaffirmed and restored by Congress pursuant to Public Law 103-324, 108 Stat. 2156, 25 U.S.C. s. 1300k, et seq.; and

WHEREAS, the Tribe adopted a new Constitution pursuant to a vote of the membership on May 27, 1998, which became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribal Council is delegated under Article IV, Section 7(a)(1) and (e) to promote, protect and provide for public health, peace, morals, education and general welfare of the Tribe and its members, and to engage legal counsel; and

WHEREAS, the Tribal Council has a Constitutional duty to take action as may be necessary to enhance and preserve tribal sovereignty by the affirmative exercise of governmental powers within the Tribe's territory; and

WHEREAS, the Tribal Council is aware of a case that will be argued before the United States Supreme Court (United States v. Lara) which could dramatically limit the effectiveness of law enforcement efforts within the Indian Country by eliminating Tribal jurisdiction to prosecute Indians for misdemeanor crimes; and

WHEREAS, the United States Congress enacted legislation – the so-called “Duro Fix” - to reaffirm and restore the inherent sovereign power to Tribes to prosecute non-member Indians for misdemeanor crimes to fill the jurisdictional gap that existed following the United States Supreme Court's decision in *Duro v. Reina*; and

WHEREAS, the Tribal Council has been informed that the State of Idaho has prepared a brief which argues that Congress lacks the authority to adopt legislation which reaffirms and restores inherent sovereign powers to Tribal governments which have been limited by the Supreme Court's common law decisions; and

WHEREAS, the Tribal Council understands that the Michigan Attorney General's Office is reviewing the amicus brief prepared by the State of Idaho and is considering joining the State of Idaho in presenting its arguments to the Court; and

WHEREAS, a Supreme Court decision striking down the "Duro Fix" enacted by Congress would seriously undermine law enforcement efforts within Indian Country within the State of Michigan and would result in Tribes having criminal jurisdiction only over Tribal members with the result that neither the Tribe, the State, nor the federal government would have jurisdiction over non-member Indians committing misdemeanor crimes within Indian Country; and

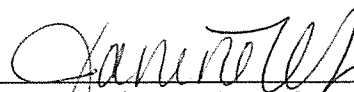
WHEREAS, the Tribal Council believes that it is in the interest of both the Tribe and the State to promote the inherent sovereign powers of Tribes to carry out critical governmental responsibilities within their Reservations.

NOW THEREFORE BE IT RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby conveys its unequivocal opposition to the position advocated by the Idaho Attorney General in its proposed amicus curiae brief to the United States Supreme Court in the *United States v Lara* case.

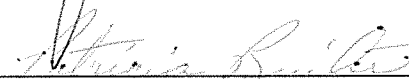
IT IS FURTHER RESOLVED THAT the Tribal Council urges the Michigan Attorney General to take a position which supports the recognition of inherent Tribal authority over law enforcement within its Reservation and not decline the State of Idaho's invitation to join its proposed amicus curiae brief.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 6 FOR, 0 AGAINST, 0 ABSTAINING, and 3 ABSENT, at a Regular Closed Session of the Little River Band of Ottawa Indians Tribal Council held on November 12, 2003, at the Little River Band's Downtown Offices in Manistee, Michigan, with a quorum being present for such vote.



Janine M. Sam, Council Recorder



Patricia Ruiter, Council Member

Attest:

Distribution: Council Records
Legal Department
Tribal Ogema
Mike Cox, MI Attorney General
cc: Todd Adams, Assistant Attorney General