



Little River Band of Ottawa Indians

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

Resolution # 03-1217-428

Authorizing the Band's Attorneys to File a Reply to the State of Michigan's Counterclaims in United States et al v. State of Michigan and Providing a Limited Waiver of Sovereign Immunity to Consent to Litigate the State's Counterclaims

WHEREAS, the status of the *Gaá Čhíng Zíibi Daáwaa Aníshinaábek* (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution 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 defending the Tribe from unwarranted intrusions upon the Tribe's right of self-government; and

WHEREAS, the Little River Band of Ottawa Indians reserved certain property rights and other attributes of sovereignty under the 1836 Treaty. These treaty based rights were confirmed, in part, by *United States v. Michigan*, 471 F.Supp 192 (W.D. Mich. 1979); *affirmed*, 653 F.2d 277 (6th Cir. 1981); *certiorari denied*, 454 U.S. 1124, 102 S.Ct. 971 (1981), and reaffirmed by P.L. 103-324 section 5, and are protected by the United States Constitution (Art. 1, '8, cl. 3 and Art. 6, cl. 2); and

WHEREAS, management and protection of the Band's treaty-reserved property interests in the fisheries of the treaty-ceded waters of the Great Lakes, is a critical priority of the Band and it is the responsibility of the United States, as Trustee for the Band and other 1836 Treaty Bands/Tribes; and

WHEREAS, the State of Michigan has filed certain Counterclaims in United States v. Michigan requesting declaratory and injunctive relief with respect the existence and scope of the Band's reserved usufructuary rights within the 1936 Ceded Territory; and

WHEREAS, the Band's attorneys, in cooperation with attorneys representing other 1836 Treaty Tribes/Bands, have prepared a Reply to Defendants' Counterclaim, which reply must be filed with the Court on or before January 5, 2004; and

WHEREAS, pursuant to Article XI, Section 1 of the Constitution provides that the Tribal Council Ashall not waive or limit the right of the Little River Band to be immune from suit, except as authorized by tribal ordinance or resolution”..

NOW THEREFORE BE IT RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby authorizes the Band's attorneys to file the Plaintiff-Intervenors' Reply to Defendants' (State of Michigan) Counterclaim with the Clerk of the United States District Court for the Western District of Michigan on behalf of the Little River Band.

IT IS FURTHER RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians agrees to a limited waiver of sovereign immunity and consents to the jurisdiction of the United States District Court for the Western District of Michigan, the Court of Appeals for the Sixth Circuit and the United States Supreme Court for the specific purpose of litigating the State of Michigan's Counterclaims as presently filed with the United States District Court for the Western District of Michigan.

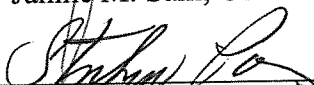
CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 8 FOR, 0 AGAINST, 0 ABSTAINING, and 1 ABSENT, at a Regular Closed Session of the Little River Band of Ottawa Indians Tribal Council held on December 17, 2003, at the Little River Band's Downtown Offices in Manistee, Michigan, with a quorum being present for such vote.

Attest:



Janine M. Sam, Council Recorder



Stephen Parsons, Council Speaker

Distribution: Council Records
Tribal Ogema
Tribal Court