



Little River Band of Ottawa Indians

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

Resolution # 05-0413-150

Approval to Support Amicus Brief Being Drafted on behalf of the Tribes with Treaty Reserved Fishing Rights and to Support Submission of that Amicus Brief in Skokomish Indian Tribe et al v. United States et al

WHEREAS, the status of the *Gaá Čhíng Ziibi Daáwaa Aníshinábek* (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 Tribe adopted amendments to the Constitution on April 26, 2004, which became effective upon approval by the Assistant Secretary-Indian Affairs on May 13, 2004; 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 Band 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 Band's territory and protecting the Band's treaty-reserved property rights; 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 and other resources within the 1836 Ceded Territory and on the Band's Reservation, 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 Tribal Council is aware of a case in which a petition for rehearing will be requested before the Ninth Circuit Court of Appeals in the case, Skokomish Indian Tribe v. United States, (No. 01-35028) which affect the extent to which Indian tribes and bands can bring certain actions to protect treaty-reserved fisheries and other resources and bring actions for damages against third parties for conduct which damages or destroys treaty-reserved resources on critical importance to Tribal communities; and

WHEREAS, the decision of the Ninth Circuit Court of Appeals may affect the Little River Band of Ottawa Indians and other similarly situated Tribes actively regulating and protecting treaty-reserved natural resources such that the Tribe should participate in the submission of an amicus brief that presents the Tribe's position regarding the remedies that must be available to Indian tribes and their members to protect their property interests in treaty-reserved natural resources; and

WHEREAS, the Skokomish Indian Tribe intends to ask the Ninth Circuit Court of Appeals to rehear and reconsider its decision in this case; and

WHEREAS, the Little River Band of Ottawa Indians along with similarly situated Tribes, through a team of attorneys, have been requested to develop an amicus brief to seek reconsideration and reversal of critical legal errors in the Ninth Circuit's March 9th decision; and

WHEREAS, the Tribal Council believes it is necessary and appropriate for the Band to support that effort.

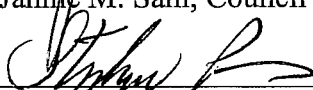
NOW THEREFORE BE IT RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby supports the drafting and submission of an amicus brief on behalf of the Little River Band and other similarly situated Tribes.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 9 FOR, 0 AGAINST, 0 ABSTAINING, and 0 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on April 13, 2005, at the Little River Band's Dome Room in Manistee, Michigan, with a quorum being present for such vote.



Janine M. Sam, Council Recorder



Stephen Parsons, Council Speaker

Attest:

Distribution: Council Records
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Tribal Court