

Little River Band of Ottawa Indians

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

Resolution # 05-0511-196

*Authorizing Execution of Document Granting an Easement to the
United States Department of Agriculture (USDA) Forest Service for
The "Tunk Hole" Road*

WHEREAS, the status of the *Gaá Čhíng Ziibi Dadwaa 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 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 authorized under Article IV, Section 7(a) to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, the Tribal Council under Article IV, Section 7(d) of the Constitution has the exclusive authority to approve any disposition or encumbrance of Tribal lands or interests in land; and

WHEREAS, the USDA Forest Service administers certain lands within the Manistee National Forest that can only be accessed via an undeveloped road across certain Tribally-owned lands within the 1836 Manistee Reservation; and

WHEREAS, representatives of the Tribe's Natural Resource Commission, in consultation with the Legal Department, have discussed the terms for an agreement under which the USDA Forest Service would be granted an easement on the existing "Tunk Hole" Road to permit the Forest Service to make improvements to, and maintain that road as part of the Forest Service road system; and

WHEREAS, the Tribal Council has determined that granting an easement to the USDA Forest Service and the road improvements proposed by the Forest Service will promote resource protection and the interests of both the Tribe and the Forest Service to promote better coordination of resource management activities of both governments; and

WHEREAS, the Tribal Council finds that this is an appropriate governmental activity;

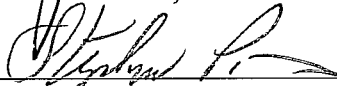
NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby authorizes execution of an easement granting the USDA Forest Service an easement for a term of 20 years for a road to permit users of Forest Service lands to access those lands and to permit the USDA Forest Service to make certain improvements to the "Tunk Hole" road for that purpose.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 7 FOR, 0 AGAINST, 0 ABSTAINING, and 2 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on May 11, 2004, 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
Tribal Ogema
Tribal Court
Natural Resource Commission
USDA Forest Service

EASEMENT

BETWEEN THE LITTLE RIVER BAND OF OTTAWA INDIANS

AND THE

USDA FOREST SERVICE

THIS EASEMENT, dated this April ____, 2005, is granted from Little River Band of Ottawa Indians ("Tribe") to the USDA Forest Service, an agency of the United States of America ("Service"), and its assigns, for a period of 20 years, for and in consideration of one dollar and no cents (\$1.00). The easement is for a road along and across a strip of land over the following described lands in the County of Manistee, State of Michigan:

TOWNSHIP TWENTY-TWO NORTH, RANGE FOURTEEN WEST, MANISTEE COUNTY,
DICKSON TOWNSHIP, MICHIGAN MERIDIAN

SECTION THIRTY-SIX: **Tunk Hole, described as follows:**

Commencing at the South Quarter (South 3) corner of Section 36, T22N, R14W, thence North 35° West, along the existing woods road a distance of 1660 feet, more or less, to the point of beginning where the existing centerline intersects the South One-Sixteenth (South 1/16) line of section 36; thence North 391 West, a distance of 480 feet; thence North 87° East, a distance of 1190 feet, more or less, to the North-South Quarter (North-South 3) line of Section 36.

A. Definitions.

1. As used this Easement, the word "premises" means the above-described strip of land, whether or not there is an existing road located thereon.
2. Except where it is defined more specifically, the word "road" means the roads, or any segment of roads, now existing or hereafter constructed on the premises.

B. General Terms. The premises granted by this Easement shall be no greater than 33 feet in width, 16½ feet on each side of the centerline, with such additional width as may be reasonably required for accommodation and protection of cuts and fills. In no case shall the permissible additional width exceed 3 feet beyond 16½ feet on each side of the centerline, for a maximum total of 19½ feet on each side of the centerline. If the road is located substantially as described herein, the centerline of the road, as constructed, shall be deemed accepted by the Tribe and the Service as the true centerline of the premises granted by this easement.

1. If any subsequent survey of the road shows that any portion of the road, although located substantially as described, crosses lands of the Tribe not described herein, the easement shall be amended, by negotiation between Tribe and the Service, to include the additional lands traversed.
2. If the road as constructed does not traverse any lands described herein, the easement traversing the same shall be terminated in the manner provided in Part E of this Agreement.

- C. Grantee Conditions. The Tribe awards this easement to the Service subject to the following terms, provisions, and conditions applicable to the Service, its permittees, contractors, and assigns:
1. The Service shall have the right to construct, reconstruct, and maintain the road within the premises.
 2. The Service shall have the right to cut timber upon the premises to the extent necessary for constructing, reconstructing, and maintaining the road. Timber so cut, unless otherwise agreed to in writing between the Tribe and Service, shall be cut into 100-inch lengths and decked along the road for disposal by the Tribe.
 3. Except as hereinafter limited, the Service shall have the right to use the road on the premises without cost for all purposes deemed necessary or desirable by Service in connection with the protection, administration, management, and utilization of the Service's lands or resources, now or hereafter owned or controlled, subject to such traffic-control or other regulation as the Tribe reasonably may impose upon or require of users of the road.
 4. The Service shall recommend to the Tribe any traffic-control laws that the Service deems necessary to preserve the Tribe's interest in the road, or for maintenance of the road and the protection of users of the road. The Tribe agrees to adopt such laws as may be reasonably necessary to protect the interest conveyed to the Service under this grant of easement.
 5. The Service and the Tribe shall share joint responsibility for policing users of the road; *provided that*, this Agreement shall not be construed to commit the Service to any particular level of law enforcement services or personnel.
 6. During the term of this easement, and subject to laws adopted by the Tribe, the Service alone, after consultation with the Tribe, may extend rights and privileges for use of the premises to other Government departments and agencies, States, and local subdivisions thereof, and to other users, including members of the general public.
- D. Grantor Reservations. The Tribe awards this easement to the Service subject to the following reservations in the Tribe, for itself, its permittees, contractors, assigns, and successors in interest:
1. The Tribe expressly reserves the authority to patrol the easement and to enforce violations of Tribal laws thereon.
 2. Except as may be expressly limited by the terms of this easement, the Tribe reserves all regulatory authority over the premises and users of the premises that are subject to the easement granted.
 3. The right to use the road described herein, for all purposes deemed necessary or desirable by the Tribe in connection with the protection, administration, management, and utilization of the Tribe's lands or resources, now or hereafter owned or controlled; subject, however, to the bearing of

road maintenance costs proportionate to use, in each case as authorized and provided by the regulations of the Secretary of Agriculture, and as such regulations may be amended and published in the Code of Federal Regulations.

4. The right to cross and recross the premises and road at any place by any reasonable means, and for any purpose, in such manner as will not interfere unreasonably with use of the road by the Service and other persons authorized by the Service, after consultation with the Tribe, to use the road.
 5. The right to all timber now or hereafter growing on the premises, subject to the Service's right to cut such timber as provided in this easement.
- E. Termination of Easement. If, before the expiration of the term of this easement, the Regional Forester determines that the road, or any segment thereof, is no longer needed, the easement traversed thereby shall terminate. The termination shall be evidenced by a statement, in recordable form, furnished by the Service's Regional Forester to the Tribe, or its successors or assigns in interest.

The Tribe, by Resolution attached, has authorized this instrument to be executed by the Tribal Ogema.

LITTLE RIVER BAND OF OTTAWA INDIANS

By: _____

Tribal Ogema

Seal

Attest:

By: _____

(name)

(title)

ACKNOWLEDGMENT

State of Michigan)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by _____ (name and title of officer) of the Little River Band of Ottawa Indians, on their behalf.

My Commission Expires: _____