WAGANAKISING ODAWAK STATUTE 1999010
PROTECTION OF GREAT LAKES

SECTION I. TITLE AND PURPOSE

A. Title. This Statute may be cited as the Little Traverse Bay Bands of Odawa Indians Great Lakes Protection Statute.

B. Purpose. The Bands that make up the Little Traverse Bay Bands of Odawa Indians (LTBB or Tribe) historically resided in the Great Lakes Region in harmony with the natural environment since well before the arrival of Europeans. The Great Lakes, especially Lakes Michigan, Huron and Superior, have provided the Tribe with food, water, and transportation for hundreds of years. The central mission of the Tribal government stated in the Tribe's Constitution is "to provide for the perpetuation of our way of life and the welfare and prosperity of our people, to preserve the right of self government, and to protect our property and resources." Preserving the environmental quality of the Great Lakes and their resources for the present and future generations is absolutely essential to the Tribe. This Statute is enacted to help protect and preserve the Great Lakes ecosystem.

SECTION II. DEFINITIONS

The following definitions apply to this Statute:

A. Great Lakes. "Great Lakes" means any of the following bodies of water: Lake Ontario (including the Saint Lawrence River from Lake Ontario to the forty-fifth parallel of latitude), Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, Lake Superior, and all connecting waters.

B. Sale. "Sale" means any selling or attempted selling of water from any of the Great Lakes

C. Divert/Diversion. "Divert or Diversion" means any increased activity removing water from any of the Great Lakes to a point outside of the Great Lakes Basin. The term does not include movement of waters through locks designed to protect the Great Lakes from pollution that are already in use as of the date of enactment of this Statute

SECTION III. DRILLING, SALE AND DIVERSION PROHIBITION

A. No person under the jurisdiction of LTBB may commence or carry out any drilling activity (including any slant or directional drilling) to extract oil, gas or other petroleum products from lands beneath waters under any of the Great Lakes .

B. No person under the jurisdiction of LTBB may commence or carry out any activities to sell or divert any waters from the Great Lakes.

C. The Tribal Prosecutor, as directed by the Tribal Council, shall bring any action necessary to enforce the prohibition contained in this section.

SECTION IV. VIOLATIONS OF FEDERAL LAW BASED ON TREATIES

A. Under Article VI of the United States Constitution, "all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." LTBB was a party to numerous treaties with the United States including the1836 Treaty of Washington, 7 Stat. 491, in which the Tribe reserved the right to utilize Great Lakes resources for subsistence and commercial purposes. Federal Courts have upheld the continued vitality of this Treaty right. Degradation and destruction of the Great Lakes ecosystem constitutes an unauthorized limitation or negation of this Treaty right. Any such degradation or destruction therefore violates the "supreme law of the land."

B. Any drilling, sale or diversion which has the potential for impacting the waters of Lakes Michigan, Superior or Huron ceded by the 1836 Treaty of Washington would violate Federal law and Tribal law, and LTBB will take any appropriate and necessary action to prevent such activity including seeking Federal prosecution therefore.

SECTION V: SAVINGS CLAUSE.

In the event that any phrase, provision, part, paragraph, subsection or section of this ordinance is found by a court of competent jurisdiction to violate the Constitution, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, paragraph, subsection or section shall be considered to stand alone and to be deleted from this ordinance, the entirety of the balance of the ordinance to remain in full and binding force and effect.

SECTION VI: EFFECTIVE DATE

This Statute shall take effect immediately upon enactment.

Certification

As Tribal Chairman and Tribal Secretary, the undersigned certify that this Statute was duly enacted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on June 27, 1999, at which a quorum was present, by a vote of 7 in favor, 0 opposed, and 0 abstentions as recorded by this roll call.

	In Favor	Opposed	Abstained	Absent
George Anthony	✓			
Frank Ettawageshik	✓			
Dorothy Gasco	✓			
Barry Laughlin	✓			
Shirley Oldman	✓			
Rita Shananaquet	✓			
Alice Yellowbank	✓			

Date: 6-27-1999

Frank Ettawageshik, Tribal Chairman

Barry Laughlin, Tribal Secretary