

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS

7500 ODAWA CIRCLE

HARBOR SPRINGS, MI 49740

DECLARATION 040311-01

Tribal Council's Request to the Tribal Chairman for a Response to Reports of Violations

A Declaration is a formal written public statement in support or opposition of an issue or matter. One or more Tribal Councilors may sign onto a Declaration as individual Councilors. A Declaration shall not obligate or commit the Tribal Council in any manner. Declarations do not require formal action by the Tribal Council.

The Waganakising Odawak is a nation of citizens with inherent sovereignty and right to self-governance; and

The Little Traverse Bay Bands of Odawa Indians is a federally recognized Indian Tribe under Public Law 103-324, and is a party to numerous Treaties with the United States the most recent of which being the Treaty of Washington of March 28, 1836 (7 Stat. 491) and the Treaty of Detroit of 1855 (11 Stat. 621); and

Over the last month, Tribal Council received six *Reports of Violation* from Tribal Citizen Cheryl Kishigo-Lesky. Tribal Council requested a response from the Tribal Chairman Ken Harrington on March 20, 2011. Tribal Council requested that the Tribal Chairman respond by their next Regularly Scheduled meeting set for April 3, 2011. As of today's date, Tribal Council has not received a response from the Tribal Chairman regarding the following Reports of Violation:

Document One: Report on Violation of WOS 2002-04 & WOS 2008-011

- This violation alleges that the Tribal Chair was aware of the hiring of a non-tribal temporary worker even though there were qualified tribal temporary workers who were qualified to fill this position. If the facts alleged in the violation report are true, then Tribal Council is in agreement with the report and is requesting a response to what policies or procedures have been put in place to rectify the

problem so that it would not occur again; and was any disciplinary actions were taken against the employees involved in the violation? If the allegation is not true, could you please provide us an explanation.

Document Two: Report on Violation of LTBB Constitution, Art. VII, Section D(8) (12)

- This violation alleges that the Tribal Chair was aware of the leasing of equipment at Bell's Fishery. According to the Tribal Constitution, Section 8, Tribal Council shall have the power to enact laws governing the encumbrance of Tribal lands or other *intangible* assets. The equipment at Bell's is an intangible asset which has been allegedly encumbered by a lease. The Tribal Chair does not have the power or authority to encumber property of the Tribe, either real or intangible and has acted *ultra vires*. Therefore, Tribal Council shall from this date forward treat any leases that encumber Tribal property as null and void unless approved by Tribal Council.

Document Three: Report on Violation of WOS 2009-007; WOS 2008-001; LTBB Constitution, Art. VII Section (D)(11)

- This violation alleges that the Tribal Chair inappropriately used tribal monies from the sponsorship/donation/grant program line-item to pay for a sponsorship to the Petoskey Snowmobile Club for a snowmobile trail. Tribal Council is requesting any and all copies of the sponsorship, donation or grant program policies. Tribal Council is also requesting an explanation as to how the monies that were paid to the Petoskey Snowmobile Club fall within the policy guidelines.

Document Four: Report on Violation of LTBB Constitution, Art. VII (D)(22)

- This violation alleges that the Tribal Chair's action of moving the Environmental Services under the Natural Resources Department was a violation of the Tribal Constitution. Tribal Council disagrees with this allegation and agrees that it is within the power of the Chair to move a program that is not officially established by law under an existing Department provided that the nature of the program is encompassed with the purpose clause of the law.

Document Five: Report on Violation of Tribal Resolution #072504-04, LTBB Constitution, Art. VII (C)(2)

- This violation alleges that the Tribal Chair designated a MACPRA representative by Executive Directive instead of following a prior enacted Tribal Resolution and this action was a violation of the Tribal Constitution. Tribal Council agrees that the Tribal Chair cannot simply ignore a Tribal Resolution by signing an Executive Directive. But in this particular matter, the Tribal Resolution was pre-Tribal Constitution and with the new Tribal Constitution, the power to represent the Tribe in an ambassadorial capacity is a power of the Tribal Chair. Until the Tribal Resolution is rescinded it is treated as law. The only entity that can determine if a law is unconstitutional is the Tribal Court. Since this matter has not been challenged in the Tribal Court the law would stand unless repealed.

Document Six: Report on Violation of WOS 2008-001

- This violation alleges that the Tribal Chair failed to submit to Tribal council the Public Documents Regulations within the 120 days as required by the Administrative Procedures Act. As of today's date, Tribal Council has not received a copy of the regulations. The Public Documents Statute was enacted on August 26, 2010. The 120 days expired on December 24, 2010. Based on the alleged facts, Tribal Council agrees that the Tribal Chair has failed to follow the law and has been neglectful in this matter.

The undersigned Tribal Councilors declare that the Tribal Chairman has failed to respond to Tribal Council's request for a response to six Reports of Violations as outlined in this Declaration.

Regina Vasco Bentley
Tribal Councilor Secretary

Date: 4-3-11

Rita M. Shananaquet
Tribal Councilor ✓

Date: 04-03-11

Julie Shananaquet
Tribal Councilor Legislative Leader

Date: 4-3-11


Tribal Councilor _____

Date: 4/3/11


Tribal Councilor _____

Date: 4/3/11


Tribal Councilor GERALD V. CHINGWA

Date: 4/13/11


Tribal Councilor _____

Date: 4/18/11


Tribal Councilor Belinda Bardwell

Date: 5-1-11

Tribal Councilor _____

Date: _____

A copy of this Declaration is on file at the Tribal Council Legislative Office.