

**LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
7500 ODAWA CIRCLE
HARBOR SPRINGS, ML 49740**

TRIBAL RESOLUTION # 040915-04

Initiation of Dispute under Section VI.C.3 of the CORA Charter in
regards to the GLRC action taken on March 19, 2015 to restrict LTBB's ability to exercise Great
Lakes Fishing Treaty Rights

WHEREAS, the Little Traverse Bay Bands of Odawa Indians (LTBB) is a Federally recognized Indian Tribe reaffirmed by the United States Congress on September 21, 1994 in Public Law 103-324, as amended, which exercises sovereign governmental authority over the people, land, and water within its jurisdiction; and

WHEREAS, the LTBB possess fishing, hunting, trapping, and gathering rights under the Treaty of Washington executed March 28, 1836; and

WHEREAS, the LTBB was an active participant in the negotiation of and signatory to the 2000 Great Lakes Consent Decree and its accompanying documents, the Chippewa Ottawa Resource Authority (CORA) Charter and the Management Plan for the 1836 Treaty Great Lakes Waters, Chippewa Ottawa Resource Authority (Tribal Management Plan); and

WHEREAS, LTBB is a member of CORA, along with the Sault Ste. Marie Tribe of Chippewa Indians (SSM) the Bay Mills Indian Community (BMIC), the Grand Traverse Band of Ottawa and Chippewa Indians (GTB) and the Little River Band of Ottawa Indians (LRB); and

WHEREAS, a significant component of the 2000 Great Lakes Decree is the rehabilitation of Lake Trout in Northern Lake Michigan; and

WHEREAS, LTBB supports the rehabilitation of Lake Trout in Northern Lake Michigan and has conducted numerous Lake Trout research projects on its own and in conjunction with the State of Michigan; and

WHEREAS, LTBB has committed numerous resources to enforcement efforts in northern Lake Michigan. LTBB Conservation enforcement logged patrol 545.6 hrs. and 9,482 miles on the Great Lakes in 2014; and

WHEREAS, the CORA Total Allowable Catch (TAC) for Lake Trout Management units MM1,2,3 was 450,000 lbs in 2013 and 2014; and

WHEREAS, the total CORA Lake Trout harvest in MM1,2,3 was 527,100 lbs in 2013, a TAC exceedance of 77,100 lbs, 17.1%; and

WHEREAS, at the time of this resolution, the total CORA Lake Trout harvest in MM1,2,3 was estimated to be 539,527lbs in 2014, a TAC exceedance of 89,527 lbs, 19.9%; and

WHEREAS, two SSM fishing operations and one GTB fishing operation accounted for over 360,000lbs of Lake Trout harvest, 80% of the Lake Trout TAC in MM1,2,3 in 2013; and

WHEREAS, SSM harvested approximately 296,550lbs in 2013 of lake trout accounting for over 66% of the TAC and 310,792lbs in 2014 of Lake Trout accounting for over 69% of the TAC, an exceedance of over 205,000lbs in 2013 and an exceedance of over 220,000 lbs in 2014, well over 3/5 of the approved CORA MM 1,2,3 Lake Trout TAC; and

WHEREAS, GTB harvested approximately 181,004lbs in 2013 and 140,502lbs in 2014 of Lake Trout accounting for over 40% and 31%, respectively, of the TAC, an exceedance of over 91,000 lbs in 2013 and an exceedance of over 50,000 lbs in 2014 over 1/5 of the approved CORA MM 1,2,3 Lake Trout TAC; and

WHEREAS, the SSM and GTB combined harvest exceeded the total 450,000 lbs of Lake Trout TAC available to all 5 CORA Tribes in 2013 and 2014. 477,554 lbs in combined harvest in 2013 and 451,294 lbs combined harvest in 2014; and

WHEREAS, LTBB harvested approximately 47,101lbs in 2013 and 72,852 in 2014, accounting for less than 15% of the actual total CORA Lake Trout harvest in MM 1,2,3; 42,899 less than 1/5 of the approved CORA MM 1,2,3 Lake Trout TAC in 2013, and 17,148 lbs less than 1/5 in 2014; and

WHEREAS, Section V.E.7 of the Tribal Management Plan states that “The Sault Tribe shall cap the number of its operations fishing in WFM-04 in any year at the number of such operations who fished in WFM-04 in 1999 minus the number of gill net converters who fished in WFM-04 in that year but moved their operations to either of the Tribal trap net zones”; and

WHEREAS, SSM exceeded the cap of 10 operations as determined above in 2011 (11) and again in 2014 (12); and

WHEREAS, Section X.C.4.b of the 2000 Great Lakes Decree limits the number of captain’s licenses SSM can issue, stating: “(1) The number of large boat and small boat captain’s licenses shall each be capped at the number outstanding on January 1, 2000. (2) Special permits authorizing the use of large mesh gill nets shall be prohibited. (3) The number of large boat and small boat captain’s licenses issued at any time shall be the number in each category outstanding on January 1, 2000, less the number replaced with trap net conversion licenses.”; and

WHEREAS, SSM enacted regulations in 2007 that authorized the issuance of “Co-Captains” licenses which vastly increased the number of SSM fishing operations beyond the number permissible under Section X.C.4.b of the 2000 Great Lakes Consent Decree; and

WHEREAS, SSM gill net effort has doubled and Lake Trout harvest has tripled since 2008 in MM 1,2,3; and

WHEREAS, Section V.A of the Tribal Management Plan states that “Restrictions shall be designed to protect those fishers who most depend upon fishing in the waters involved...”; and

WHEREAS, Section V.C of the Tribal Management Plan details six criteria to be evaluated in determining dependence of the fishery, which are:

1. Dependence upon the fishery during the time prior to the five (5) year period.
2. Proximity of the fisher’s home port or residence to the area in question.
3. Whether the fisher’s Tribe has historically used the fishing grounds in question.
4. Family tradition of fishing in the area in question.
5. The seasonal pattern of the fisher’s fishing activity.
6. The practical prospect for relocation of fishing effort by the fisher into another area in which the available fishery may sustain additional effort that will not result in undue inconvenience or economic hardship.

WHEREAS, LTBB had 7 licensed commercial captains and 4 helpers who participated in the Lake Trout fishery in MM 1,2,3 in 2014; and

WHEREAS, of the LTTB Tribal Citizens who participated in the Lake Trout fishery in MM 1,2,3 in 2014, five had 100% of their harvest reported from MM 1,2,3 and 4 had over 94% of their harvest reported from WFM-04; and

WHEREAS, 6 of the LTTB Tribal Citizens who participated in Lake Trout fishery in MM 1,2,3 (specifically WFM-04 and MM3) live within LTBB’s Reservation and 9 live within 25 miles of the Cross Village or Wilderness State Park access site that they fished from; and

WHEREAS, LTBB has historically fished the waters within MM 1,2,3 being directly adjacent to the LTBB Reservation, and its historic and modern communities; and

WHEREAS, LTBB Tribal Citizens who participated in the Lake Trout fishery in MM 1,2,3 fish in the area, specifically WFM-04, throughout the year including gill net sets through the ice; and

WHEREAS, LTTB Tribal Citizens who participated in the Lake Trout fishery in MM 1,2,3 are small boat fishermen with limited operations and modest means and thus do not have the ability move to other areas or lakes to fish; and

WHEREAS, while Section V.F of the Tribal Management Plan specifies that the “last out” provisions shall not apply, it in no way negates Sections V.A, B, or C with respect to Lake Trout harvest in MM 1,2,3; and

WHEREAS, based on the provisions of the Management Plan and 2000 Great Lakes Consent Decree cited above, corrective action to rectify 2013 and 2014 TAC of Lake Trout harvested from MM 1,2,3 must not negatively impact the LTBB fishery due its very small percentages of the TAC, cultural significance of fishing in MMM 1,2,3 to LTBB, and recognition in the Tribal Management plan that LTBB was prevented from legally exercising their Great Lakes fishing Treaty Rights prior to the entry of the 2000 Great Lakes Consent Decree and that accommodations would be made to allow for the growth of LTBB’s fishery, as opposed to its restriction. Under the criteria listed in section V.C of the Tribal Management Plan LTBB’s reliance on the area and disproportionate economic impact prohibit restriction of LTBB’s exercising of Treaty Rights by imposing a 600lbs bag limit on LTBB fishers; and

WHEREAS, laundering of Lake Trout from trap net operations to gill net fishermen is illegal and has been identified as a problem contributing to 2013 and 2014 Lake Trout overages in MM1,2,3; and ;

WHEREAS, the current catch reporting system is outdated and has contributed to delays in accurate determinations of Lake Trout harvested; and

WHEREAS, Great Lakes Resource Committee of CORA (GLRC) passed the following motions on March 19th, 2015;

1. Motioned by Mr. Grondin, supported by Clarence Hudak, there will be no exemption from a target fishing regulation in MM-123.
2. Motioned by Mr. Grondin, supported by Desmond Berry, target fishing is prohibited of lake trout in all grids of MM-123. There will be a 600 lbs. daily catch limit per vessel per day for all and as specified in the Consent Decree for WFM-04, a 400 lbs. daily catch limit per vessel per day for Bay Mills, Sault Tribe and Little River Band for the duration of 2015, subject for review in August 2015.

NOW THEREFORE BE IT RESOLVED, that for the reasons stated above the Little Traverse Bay Bands of Odawa Indians Tribal Council authorizes the LTBB Natural Resources Commission to commence dispute resolution under the CORA Charter seeking the following relief:

1. GLRC rescind the motions made March 19th, 2015.
2. in accordance with the Tribal Management Plan, acknowledging LTBB's inability to legally exercise Great Lakes fishing Treaty Rights prior to the 2000 Great Lakes Decree and the need to allow for growth of, and at a bare minimum not further restrict, LTBB's ability to exercise Great Lakes fishing Treaty Rights be maintained, and that in light of LTBB's recognized relation to the waters of WFM-04 and the continued dependence of its fishermen to access and fish in those waters (as documented above) that no bag limit shall be imposed upon LTBB in WFM-04.
3. SSM be required to immediately cease the issuance of co-captain licenses, and the amount of Lake Trout harvested from MM 1,2,3 by or through the use of co-captain licenses and that amount of Lake Trout harvested be deducted from the total amount SSM shall be allowed to harvest in the two subsequent fishing years after the total amount is determined.
4. GLRC require GTB and SSM to present new regulations and/or enforcement actions to GLRC to prevent the illegal laundering of Lake Trout from trap net operations to gill net fishermen.
5. GLRC limit the number of SSM fishing operations in WFM-04 to 8 operations in 2015 and 9 operations in 2016.
6. GLRC require SSM to present to GLRC for their review and approval regulations designed to ensure sufficient measures are in place to prevent any future fishing operations cap violations in WFM-04.
7. GLRC implement a "real time" computerized catch reporting system by 2017.
8. SSM and GTB shall be required to increase their respective number of hours and miles patrolled in MM1,2,3 by 20% above their documented 2014 amounts.
9. GLRC adopt the following management action to address the 2013 and 2014 overages: BMIC, LRB, SSM and GTB apply a 400lbs (round weight) bag limit per vessel per day to gill net harvest of Lake Trout in WFM-04 , BMIC, LRB, SSM and GTB that apply a 500lbs (round weight) bag limit per vessel per day to gill net harvest of Lake Trout in the inter-tribal waters of MM 1,2,3 outside of WFM-04 and that there be no retention of Lake Trout by any trap net operations (all tribes) in MM1,2,3 . Effective April 1st, 2015- December 31st, 2015.

10. LTBB will closely monitor its Lake Trout harvest within MM 1,2,3 and will act quickly to enact regulations to ensure that its total Lake Trout harvest in 2015 does not exceed 90,000 lbs.

FURTHER RESOLVED that the LTBB Natural Resources Commission supports this Tribal Resolution, and this Resolution initiates the dispute resolution procedure under Section VI.C.3.a of the CORA Charter.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Tribal Resolution was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians by Phone Poll of the Tribal Council held on April 9, 2015 at which a quorum was present, by a vote of 8 in favor, 0 opposed, 0 abstentions, and 0 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Bill A. Denemy	X			
John W. Keshick III	X			
Beatrice A. Law	X			
Michael J. Naganashe	X			
Aaron Otto	X			
Winnay Wemigwase	X			
Marcella R. Reyes	X			
Julia A. Shananaquet	X			

Date: 4.9.2015 Marcella R. Reyes
Treasurer Marcella R. Reyes

Date: 4-9-15 Julia Shananaquet
Secretary Julia A. Shananaquet

Received by the Executive Office on 4.10.15 by [Signature]

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: 4-10-15 Regina Gasco Bentley
Regina Gasco Bentley, Tribal Chairperson