

**WAGANAKISING ODAWAK STATUTE 2018- 004**  
**ENVIRONMENTAL APPEALS BOARD**

**SECTION I. PURPOSE**

This purpose of this Statute is to create a Board of Appeals on environmental permits administered by the Natural Resources Department's Environmental Services Program.

**SECTION II. DEFINITIONS**

- A.** "Applicant" or "Permittee" means any person or entity applying for a permit to conduct activity on or alter natural resources regulated by the Environmental Services Program, including but not limited to individuals, sole proprietorships, partnerships, corporations, associations, governments, and governmental agencies.
- B.** "Board" or "EAB" means the Environmental Appeals Board.
- C.** "Program" means the LTBB Environmental Services Program, within the Natural Resources Department.
- D.** "Traditional Ecological Knowledge" or "TEK" means evolving knowledge acquired by indigenous people through direct contact with the environment.

**SECTION III. CREATION OF THE BOARD**

- A.** The Tribal Council hereby creates the Environmental Appeals Board, composed of three (3) Tribal Citizens at least eighteen (18) years of age, nominated by the Executive Branch and appointed by Tribal Council.
- B.** Initial appointments terms of the Board shall be staggered; one (1) two-year term, one (1) three-year term, and one (1) four-year term. The terms thereafter shall be for four (4) years with no limit on reappointment.

C. Appointees should have either demonstrable scientific experience in the environmental field or Traditional Ecological Knowledge, or both.

#### **SECTION IV. DUTIES AND AUTHORITY OF THE BOARD**

A. The Board shall have the following duties and authority:

1. Develop policy and procedures for holding appeal hearings.
2. Hold appeal hearings and provide an opportunity for the parties to appear before the Board.
3. Post the appeal process, forms and deadlines on the LTBB website.
4. Allow for the applicant, permittee or any interested person to appeal the Program's permit decision within thirty (30) days of issuance of the Program's decision.
5. Hear all appeals as set out in statutes and regulations administered by the Program.
6. Allow for the entire decision or any portion of a Program's decision to be appealed.
7. Affirm, modify, or reverse the decision of the Program based on evidence presented to the board at a hearing.
8. All decisions shall be in writing and posted on the tribal website within 30 days of the hearing.
9. All decisions will be effective sixty (60) calendar days after the issuance of the decision.

#### **SECTION V. MEETINGS**

Regularly scheduled meetings shall be held to conduct business and hearings of the Board as

deemed necessary.

## **SECTION VI. TRIBAL COURT REVIEW**

A. Following a final decision of the Environmental Appeals Board, after a hearing under this Section, any party who disagrees with the final decision, has a right to file an appeal with the Tribal Court. The burden of proof in the appeals process is on the appellant.

B. Appeals shall be in accordance with Tribal Court Rules.

C. The Tribal Court shall give deference to the EAB interpretations of the regulations and statutes unless such interpretations are unreasonable. Unreasonable means that the decision is arbitrary, capricious, or manifestly contrary to the statute or regulation. The Court shall only overrule the decision of the Environmental Appeals Board if the evidence cannot reasonably be construed to support the action of the Environmental Appeals Board. The Tribal Court will not consider additional or supplemental documentation or evidence not presented to the Environmental Appeals Board.

## **SECTION VII. SEVERABILITY**

If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

## **SECTION VIII. EFFECTIVE DATE**

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

## **SECTION IX. OTHER RELATED STATUTES**

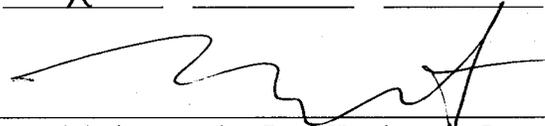
See WOS 2016-008 Nibiish Naagdowen "Care of the Water": Clean Water Act, WOS 2008-012 Natural Resources Protection, and WOS 2003-001 Solid Waste Disposal.

**CERTIFICATION**

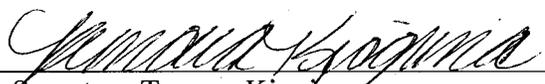
As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly passed by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on March 22, 2018 at which a quorum was present, by a vote of 8 in favor, 0 opposed, 0 abstentions, and 1 absent as recorded by this roll call:

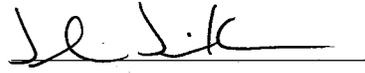
	<u>In Favor</u>	<u>Opposed</u>	<u>Abstained</u>	<u>Absent</u>
Frank Bernard	<u>X</u>			
David Harrington	<u>X</u>			
Dexter McNamara				<u>X</u>
Emily Proctor	<u>X</u>			
Julie Shananaquet	<u>X</u>			
Shanna Wemigwase	<u>X</u>			
Marcella R. Reyes	<u>X</u>			
Tamara Kiogima	<u>X</u>			
Fred Harrington, Jr.	<u>X</u>			

Date: 03.22.18

  
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 Legislative Leader Fred Harrington, Jr.

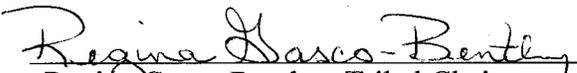
Date: 03-22-18

  
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 Secretary Tamara Kiogima

Received by the Executive Office on 3-23-18 by 

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: 3-23-18

  
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 Regina Gasco Bentley, Tribal Chairperson