

Waganakising Odawa Statute 1994001

Little Traverse Bay Bands of Odawa Indians Treaty Fishing Rules and Regulations Effective Dates: October 23, 1994 thru March 31, 1995

Section 1. Purpose and Scope

1.1 These rules govern fishing activity by the members of the Little Traverse Bay Bands of Odawa Indians (LTBB) in the waters ceded in the Treaty of March 28, 1836. They supplement the rules and regulations of the Chippewa-Ottawa Treaty Fishery Management Authority and the regulations contained in 25 CFR Part 256, subpart D.

1.2 All prior Treaty Fishing Regulations of the Little Traverse Bay Bands of Odawa Indians are hereby repealed.

1.3 The rules and regulations governing the fishing activity of members of the Little Traverse Bay Bands of Odawa Indians shall be the rules and regulations of the Chippewa-Ottawa Treaty Fishery Management Authority except that fisherman shall come under the jurisdiction of the Little Traverse Bay Bands of Odawa Indians and violations shall be brought before the Little Traverse Bay Bands of Odawa Indians Tribal Fishing Court.

Section 2. Licensing of Commercial Treaty Fishing Activity

2.1 No member of the tribe shall engage in commercial fishing activity without first having obtained a license from the Tribe to do so, in accordance with this section. A Tribal license shall be evidenced by Treaty Fishing Identification Card signed by the Tribal Chairman.

2.2 Two types of licenses shall be issued: A commercial license which entitles the holder to operate a fishing boat, to fish on his own behalf and to employ helpers, and a helpers license which entitles the holder to work as an employee or for shares on a boat operated by a licensed commercial fisherman.

2.3 Licenses shall be issued under the supervision of the Tribal Chairman in accordance with these rules and any subsequent enactments of the Tribal Council. They shall expire on March 31, 1995.

2.4 The fees for issuance of Tribal commercial fishing licenses shall be as follows:

- (a) for a helpers permit the fee shall be \$10.00.
- (b) for a license to operate a fishing boat up to 30 feet in length or to fish through the ice the fee shall be \$10.00.
- (c) for a license to operate a boat 31 feet and over the fee shall be \$300.00.

2.5 (a) Members eighteen (18) years of older, shall be eligible for Tribal fishing licenses.

2.5 (continued)

- (b) Members who have not yet reached their eighteenth (18) birthday shall be eligible only with the written consent of a parent or guardian and approval by the Tribal Council.

2.6 A license issued pursuant to Subsection 2.4 (c) hereof also authorizes the holder to operate a fishing boat of thirty (30) feet or less.

2.7 The number of Tribal commercial licenses issued by the Little Traverse Bay Bands of Odawa Indians shall be limited to the tribal members who have applied for such a license prior to November 15, 1994.

- (a) Limited entry shall remain in force until March 31, 1995.
- (b) Limited entry shall not affect the issuance of Tribal Helper licenses.

Section 3. Reserved for Future Use

Section 4. Limitations on the Use of Tribal Licenses

4.1 No licensee of the Tribe shall fish as an employee of or for shares with a person not licensed to exercise Treaty fishing rights. This section shall be liberally interpreted to prohibit licensees from exercising Treaty rights for the benefit of non-Indian entrepreneurs.

4.2 A helper may fish only in the presence of his employer save in exceptional circumstances of a temporary nature which prevents the employer from being present in the boat.

Section 5. Reserved For Future Use

Section 6. Reserved For Future Use

Section 7. Subsistence Fishing Rules

7.1 This section governs subsistence fishing activity by members of the Little Traverse Bay Bands of Odawa Indians pursuant to 25 CFR Part 256.42.

7.2 (a) Subsistence fishing activity means fishing with a hook and line, spear, or a single gill net not exceeding 200 feet in length, for personal and family use and not for sale or exchange.

(b) Fishing activity means fishing for, catching, taking or attempting to fish for, catch, or take any species of fish from Treaty waters, and includes all related activities which occur in or on the water, and the process of loading or unloading fish, nets, or related gear, in or from a boat.

7.3 Identification of Subsistence Fishermen:

- (a) Any Tribal member shall have in his/her possession a valid Tribal membership card at all times while engaged in subsistence fishing activity.
- (b) Tribal members shall have in their possession a valid Tribal Subsistence Netting Permit while engaged in subsistence fishing using a gill net.
- (c) Tribal members engaged in subsistence fishing activity may be assisted by members of the fisherman's family.

7.4 Subsistence Netting permits shall be issued to a Tribal member without charge upon application. Issuance of permits and netting activity are subject to the following conditions:

- (a) each applicant for a Subsistence Netting permit shall identify the location of the fishing activity sufficiently in his application to permit a Conservation Officer to locate and identify the net.
- (b) no Subsistence Netting Permit shall be issued to any member of a household if a member of that household possesses a Tribal Commercial Fishing license.
- (c) each net used in subsistence netting shall be marked with a buoy bearing the Subsistence Netting Permit number of the user.

Section 8. Reserved for Future Use

Section 9. Reserved for Future Use

Section 10. Violations

Fishing activity conducted contrary to these rules, or contrary to the terms of any license or permit issued by the Tribe, shall constitute a violation of these rules. Violations shall be subject to the penalties provided in 25 CFR Part 249.6 B. Punishment for first and minor offenses shall be at the discretion of the Tribal Fishing Court.

Section 11. Jurisdiction

The Little Traverse Bay Bands of Odawa Indians Tribal Fishing Court shall have the exclusive jurisdiction of any violations of these rules.

Section 12. Enforcement

Until such time as the Little Traverse Bay Bands of Odawa Indian establishes its own Law Enforcement Department, these rules will be

enforced by those officers listed in the Chippewa-Ottawa Treaty Fishery Management Authority rules and regulations Section 2 part D.

Certification

These rules and regulations governing treaty fishing were adopted by the Little Traverse Bay Bands of Odawa Indians Tribal Board at a regular meeting on Sunday October 23, 1994. The intent of these rules and regulations is to protect the health and welfare of our fishermen, to protect the fishery resource, and in the interest of being good neighbors with the other fishing tribes and the non-Indian community.

Motion to adopt the above rules and regulations made by Laughlin, supported by Keshick.

"The Little Traverse Bay Bands of Odawa Indians Tribal Board moves to adopt the fishing rules and regulations presented by George Anthony as modified by the tribal board authorizing Chairman Frank Ettawageshik to issue fishing cards pursuant to those rules, send the names of tribally licensed fisherman to The Chippewa-Ottawa Treaty Fishery Management Authority, appoint a tribal fishing court panel consisting of a tribal fisherman, a tribal elder, and an attorney, and to appoint Patrick Shannon as fishing court prosecutor. The Council acts on this motion to provide an immediate regulatory and enforcement mechanism to govern its fishery and licensed fisherman. This is a temporary measure that does not imply that the tribe is binding itself to the consent decree entered in US vs Michigan, 471 F.Supp. 192 (1979) and subsequent decisions in that case. This action expires March 31st, 1995."

Vote : 4 Yes 0 No 0 abstain

Barry Laughlin
Secretary of the Board