

# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## BC Resolution # 03-28-18-U

### Reprogramming Duck Creek Litigation Self-Governance Carryover Funds to Litigation in the Oneida Nation v. Village of Hobart, Wisconsin (Big Apple Fest) Case

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Oneida Nation is a Self-Governance Tribe with the Department of Interior's Bureau of Indian Affairs (BIA) and with the Department of Health and Human Services' Indian Health Service; and
- WHEREAS,** it is the mission of the Oneida Nation to protect and improve the resources, the standards of living, and the environment in which the Oneida people live while maintaining, enforcing, and exercising its sovereign rights; and
- WHEREAS,** in 1994 and 1995 members of the Oneida Nation were fishing with dip nets in Duck Creek near the Pamperin Park Dam in Brown County, Wisconsin; and
- WHEREAS,** the Wisconsin Department of Natural Resources charged these Tribal members in the Brown County Circuit Court with unlawfully fishing within 500 feet of a dam resulting in the Tribal members moving to dismiss the charges, claiming they were fishing within the Oneida Nation Reservation ("Reservation") boundaries; and
- WHEREAS,** the Brown County Circuit Court dismissed the case against the Tribal members because the Court determined they were fishing within the boundaries of the Reservation, and were therefore not subject to State conservation laws; and
- WHEREAS,** the Court of Appeals affirmed the ruling of the Brown County Circuit Court; and
- WHEREAS,** this case, *State v. King*, was also known as the Duck Creek Litigation; and
- WHEREAS,** according to the Self Governance Database, the Oneida Nation received one-time funds from the BIA in 1994, 1995, and 1996 to support fishing rights and to conduct historical research and gather expertise regarding the protection of the Nation's rights in negotiations; and
- WHEREAS,** the Duck Creek case involved a dispute regarding the location of the Reservation boundaries and assertions of state authority over tribal members within the Reservation boundaries; and

**WHEREAS,** the Oneida Nation received Self Governance funds designated for the Duck Creek Litigation which resulted in unspent funds in the amount of \$14,935.67 in 1996, and \$30,067.00 in 1997. In total the Oneida Nation has unspent Self Governance funds designated for the Duck Creek Litigation in the amount of \$45,002.67; and

**WHEREAS,** the Oneida Nation is currently litigating the Oneida Nation v. Village of Hobart, Wisconsin (Big Apple Fest) case; and

**WHEREAS,** the litigation in the Oneida Nation v. Village of Hobart, Wisconsin (Big Apple Fest) involves challenges to the continuing existence of the Reservation and the Nation's status as a federal recognized tribe, and claims that the Reservation has been disestablished and that the Oneida Nation is subject to local municipal ordinances; and

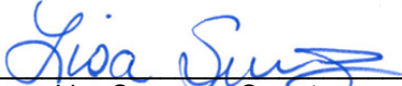
**WHEREAS,** the litigation in the Oneida Nation v. Village of Hobart, Wisconsin (Big Apple Fest) case relates to the Duck Creek Litigation in that both cases involve disputes regarding the location and existence of the Reservation boundaries and assertions of state or local authority over the Nation or tribal members.

**NOW THEREFORE BE IT RESOLVED,** that the Oneida Nation determines that the Duck Creek Litigation and litigation in the Oneida Nation v. Village of Hobart, Wisconsin (Big Apple Fest) case relate to Self-Governance.

**NOW THEREFORE BE IT FINALLY RESOLVED,** that the \$45,002.67 in unspent Self Governance funds identified for the Duck Creek Litigation shall be reprogramed to fund litigation in the Oneida Nation v. Village of Hobart, Wisconsin (Big Apple Fest) case.

**CERTIFICATION**

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 6 members were present at a meeting duly called, noticed and held on the 28<sup>th</sup> day of March, 2018; that the forgoing resolution was duly adopted at such meeting by a vote of 5 members for, 0 members against, and 0 members not voting; and that said resolution has not been rescinded or amended in any way.

  
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Lisa Summers, Secretary  
Oneida Business Committee

\*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."