

DRAFT

**SCIENTIFIC INVESTIGATION PERMIT
for the
Lac Courte Oreilles Harvest Education Learning Project**

This Scientific Investigation Permit authorizes the Lac Courte Oreilles Tribe, hereinafter referred to as the Tribe, and its agents to conduct a scientific investigation known as the Harvest Education Learning Project, hereinafter referred to as HELP, pursuant to Section 3.07 of the Tribe's Treaty Off-Reservation Conservation Code.

I. PREAMBLE

The ecosystem of the Opiniwakiing (Penokee Range) is of great importance to the Tribe and before English and Scientific names were introduced, the plant and animal species of this ecosystem were known only by their Anishinaabe name. According to the Ojibwe Creation Story, the names of these species and others came from Original Man:

Theses gikinoo'amaadiwin (teachings) have been handed down to me by my grandfathers... Original Man was placed on the Earth, he was given instructions by the Creator. He was told to walk this Earth and name all of the awesiinyag (animals), the plants, the hills, and the valleys of the Creator's gitigaan (garden). Original Man had no name of his own yet. Later, people would refer to him as Anishinaabe and, still later, Wenabozho. But at this early time, he who had no name would name all creation.¹

The name of each species carries with it a part of the world view of the Anishinaabe people as each name contains a story in itself of its origin. As the Tribe studies the Opiniwakiing (Penokee Range) ecosystem, it recognizes that each species is a "being" and has its own spirit. Therefore the Tribe will conduct cultural functions, such as traditional ceremonial feasts and other such culturally appropriate ceremonies in the Opiniwakiing (Penokee Range) to ensure that these species are treated in a respectful way with ceremony, prayer, and offerings. In this manner, the "beings" of this ecosystem are honored in a dignified manner, the medicines respected, the Creator thanked, and the cycle of life ensured.

II. STATEMENT OF PURPOSE:

The purpose of this Scientific Investigation is to gidaa-wiidabimaa gidakiiminaan jinaanaagadawenjigewaad² through a study of the Opiniwakiing (Penokee Range) ecosystem to collect data in a culturally appropriate way to assist the parties to the *Lac Courte Oreilles v. State of Wisconsin*, hereinafter *LCO Case*, in the implementation of their respective management prerogatives and responsibilities to each other in the protection, conservation and responsible management of the unique forest, water, land and other natural, historic and cultural resources of the Opiniwakiing (Penokee Range).

III. TRIBAL SOVEREIGN AUTHORITY:

¹ Excerpt from Eddie Benton-Benai, *The Mishomis Book*, p. 5.

² You shall be a part of and sit with the land, to be in the presence of aki, the earth in order to seek knowledge through the careful, continuous, and pondering thought and reflection from collaboration of the heart and mind.

The Tribe, pursuant to Section 3.07 of the Tribe's Treaty Off-Reservation Conservation Code, herein issues and conditions its permit to conduct scientific investigations within the limits of the *LCO Case*. This Scientific Investigation, as set forth herewith, is consistent with the *Iron County Forestry & Parks Department – 15 Year Comprehensive Land Use Plan* and specifically: Section 130.1.7 which emphasizes Rare and Endangered Resources; Section 130.2.4 which emphasizes Education and Research; Section 130.2.5(h) which emphasizes Trends and in particular that the Forest is considered to be an outdoor classroom serving all groups as it consists of diverse communities with a large variety of plant and animal life giving ample opportunity for study and observation; Section 515 which emphasizes Special Uses and in particular County Forest Use Regulations (12-1-5) and Forestry District (9-1-206); Section 530.2 which emphasizes Rare, Threatened, or Endangered Ecosystems; Section 530.3 which emphasizes Culturally Significant Sites; Section 530.4 which emphasizes Locally Significant Sites; Section 805 which emphasizes an Integrated Resource Management Approach; Section 810 which emphasizes Sustainable Forestry; Section 830 which emphasizes Plant Communities Management; Section 850 which emphasizes Landscape Management.

IV. PURPOSE OF THE SCIENTIFIC INVESTIGATION

The purpose of this place-based Scientific Investigation is to gidaa-wiidabimaa gidakiiminaan ji- naanaagadawenjigewaad through a study of the Opiniwakiing (Penokee Range) ecosystem to collect data in a culturally appropriate way as follows:

- A. Document and describe the phenological progression of 4 groups of resources (all utilitarian or food resources); leaks, paper birch, sugar maple and various mushroom species. The documentation should include timing of different stages, including the timing of the stages which are harvested for use.
- B. Collect and record, giving proper credit when due, personal stories and traditional or sacred stories about these four species groups. Stories must be completed with the source, the date of the story and the community from which it comes.
- C. Record and document how these species or species groups appear in Anishinaabe culture cultural psychology.
- D. Record and document other phenological changes which are observed on the Opiniwakiing ecosystems.

V. LOCATION OF THE HELP RESEARCH STATION

In consideration of the premises outlined in this Scientific Investigation Study Plan (attached as Exhibit A), the Tribe hereby permits the HELP research station at the following location (see map attached as Exhibit B):

- A. Five (5) acres in the area known as Old Plummer Village (hereinafter "Plummer Location").
- B. One (1) acre area around the Old Moore Park Schoolhouse Foundation (hereinafter "Moore Location").
- C. Fifteen (15) acres, which includes the open area (hereinafter "Open Area").

The boundaries of the above locations (hereinafter collectively the “Locations”) may be marked by Iron County employees or agents, in consultation with the Tribe.

VI. PROVISIONS PERTAINING TO THIS SCIENTIFIC INVESTIGATION

In performing the purpose of this Scientific Investigation, the Tribe attests that the following provisions will be adhered to:

- A. The Tribe and its agents may conduct this scientific investigation on public lands (which means those lands, including the beds of any stream or flowages, owned by the State of Wisconsin or any of its political subdivisions or Departments including those lands which, pursuant to Chapter 77, Wis. Stats., have been designated as Forest Croplands or Open Managed Forest Lands), located within the Opiniwakiing (Penokee Range).
- B. The general public shall not be excluded from the “Locations” associated with the HELP research station, except for unlawful actions and actions violating this permit.
- C. The maximum number of persons at the HELP research station at any single time shall not exceed 250 people.
- D. The Tribe will provide a sufficient number of onsite administrators at the HELP research station to insure compliance with health and safety issues. The initial administrators shall be Paul DeMain and Melvin Gasper. The administrators will ensure compliance with this permit.
- E. Only temporary, non-permanent structures shall be permitted in the “Locations” of the HELP research station. These structures may include temporary wigwams, a makeshift kitchen, a medical facility, and portable tents.
- F. Overnight occupancy in the “Plummer Location” portion of the HELP research station shall be limited to no more than 100 persons. No overnight occupancy shall be permitted in the “Moore Location” portion of the HELP research station outside the established foundation at this location to allow for emergency shelter and a protective enclosure. Overnight occupancy in the “Open Area” portion of the HELP research station shall be limited to educational purposes for a period of 14 days or less.
- G. The harvesting of miscellaneous forest products as defined by Section 2.01(10) of the Tribe’s Treaty Off-Reservation Conservation Code, within the purpose of this Scientific Investigation, is authorized pursuant to this permit upon public land.
- H. Subject to oversight by Iron County (including through its Health Department) and the Tribe (including through the Indian Health Service), the Tribe shall provide in the “Plummer Location” portion of the HELP research station only, sufficient and

appropriate potable water, medical services, security services, fire protection, provisions, and solid waste collection and disposal.

- I. The Tribe shall maintain temporary lavatory facilities, at the “Plummer Location” portion of the HELP research station only, which meet all state and local specifications.
- J. All sanitary and solid waste shall be removed from the “Plummer Location” portion of the HELP research station, no less than weekly.
- K. The Tribe shall maintain sufficient safeguards to insure that the public rights, interests, and investments in the “Locations” of the HELP research station are protected.
- L. The Tribe shall maintain campfires associated with this Scientific Investigation, including campfires at the HELP research station, through standard forestry practices.
- M. The Tribe shall limit sound within the “Locations” of the HELP research station to one (1), fifty watt small guitar amplifier.
- N. The Tribe shall limit outdoor lighting to the kitchen/dining area of the “Plummer Location” portion of the HELP research station and this lighting shall not exceed ten (10) light bulbs (100 watt max each). The Tribe shall also limit the use of a generator, to one (1) generator 4,000 watts or less, to the “Plummer Location” portion of the HELP research station.
- O. The Tribe shall restrict parking associated with this Scientific Investigation, including the HELP research station, to public roadways (restricted to only one side through the use of proper signage and instructions to its administrators) and two small enclaves identified as logging landings adjacent to the “Plummer Location” portion of the HELP research station.
- P. Upon termination or expiration of this permit, the Tribe shall ensure that the “Locations” of the HELP research station are cleaned up and restored, as near as possible, to the natural condition existing prior to the issuance of this permit.
- Q. The Tribe will not permit excavation or earth moving in the fulfillment of this Scientific Investigation, unless approved in writing by the public land property manager in consultation with the Tribe and the *LCO Case* plaintiff Tribes’ Tribal Historic Preservation Offices.

VII. SCIENTIFIC INVESTIGATION STUDY PLAN INCORPORATION

In performing the purpose of this Scientific Investigation, the Tribe will implement the provisions of its Scientific Investigation Study Plan, as set forth in Appendix A and specifically incorporated into this permit. The Tribe will consult with Iron County and the Wisconsin

Department of Natural Resources prior to making any changes to the Scientific Investigation Study Plan to ensure that the State and/or County has had an opportunity to coordinate its efforts with the Tribe and to ensure that State and/or County research projects are not impeded or interfered with.

VIII. SHARING OF DATA AND RIGHTS IN STUDY RESULTS

The Tribe shall share the data collected pursuant to this Scientific Investigation with Iron County and the Wisconsin Department of Natural Resources to assist the parties to the *LCO Case* in the implementation of their respective management prerogatives and responsibilities to each other, however, the Tribe will retain all rights to the data and results of this Scientific Investigation.

IX. RESERVATION OF RIGHTS, CLAIMS, AND DEFENSES

- A. The termination of this Scientific Investigation shall be without resulting liability to the Tribe or without prejudice to any claim a party to the *LCO Case* may have against any other party to the *LCO Case* in the implementation of their respective management prerogatives and responsibilities to each other.
- B. Except as expressly provided herein, the fact that the Tribe authorizes this Scientific Investigation shall not be construed as a waiver of any rights, claims or defenses that, absent this Scientific Investigation, the Tribe may have under any treaty between the United States and the Tribe, or under other applicable law.
- C. The Tribe acknowledges that this Scientific Investigation contains provisions that may be the result of compromise and policy choices. As such, these provisions may not reflect the full extent of the Tribe's ceded territory rights. Therefore, in the absence of or outside the scope of this Scientific Investigation, the provisions contained herein are not intended to alter or abridge the Tribe's underlying ceded territory rights or those rights of any other treaty signatory Tribe that is not a party to this Scientific Investigation.
- D. This Scientific Investigation is not intended to alter the usufructuary rights recognized in the *LCO Case*. This Scientific Investigation does not alter the authority of any government regarding the regulation of treaty rights under those decisions.

X. NON-LIABILITY

The Tribe does not assume liability for any third party claims for damages arising out of this Scientific Investigation.

XI. SCIENTIFIC INVESTIGATION EFFECTIVE DATE/TERMINATION

In the implementation of *Section C.4* of the *Stipulation and Consent Decree in regard to Tribal Harvest of Black Bear, Migratory Birds and Wild Plants* (Docket Number 1607, subpart1)

and *Lac Courte Oreilles v. State of Wisconsin*, Case No. 74-C-313-C (WD Wis. March 30, 1989)(unpublished decision)(Docket Number 996) the execution of this Scientific Investigation acknowledges that the Tribe has provided advanced notice of this study to Iron County and the Wisconsin Department of Natural Resources and that the official representatives of each have had an opportunity to coordinate their efforts with the Tribe to ensure that State and/or County research projects are not impeded or interfered with. This Scientific Investigation is executed as of the date of signature below, and is effective for the period of one year, at which time it will expire, unless terminated earlier or extended by an executed modification.

Executed this _____ day of _____ 2013.

MIC ISHAM, JR, Chairman
Lac Courte Oreilles Band of Lake Superior Chippewa

EXHIBIT A

LAC COURTE OREILLES HARVEST EDUCATION LEARNING PROJECT

Scientific Investigation Study Plan: Phenological Characteristics of Food and Utilitarian Plants in the Opiniwakiing– An Anishinaabe Perspective

I. PRINCIPAL INVESTIGATORS

Paul DeMain
Melvin Gasper

II. INTRODUCTION

Over the years during which the Anishinaabe people have lived and harvested natural resources from the region of the Opiniwakiing (Penokee Range) they have developed a deep ecological knowledge of these resources. Many plant species were discovered to serve the people well both with their physical sustenance as well as their spiritual sustenance. The knowledge surrounding each of these species (known as Traditional Ecological Knowledge, or TEK) was accumulated over many generations and was passed on from generation to generation via the oral tradition. The Anishinaabe people learned of the myriad of uses of these plants and also learned that each species must be harvested at a particular time or stage of development in order for the use of that plant to be appropriate.

Some of this TEK, or Gekendaasowin, has been scattered and oppressed over the years and is in danger of being lost. One of the major goals of this project is to gather this gekendaasowin together into one place so that it can be documented and preserved, ultimately passed onto future generations for their use.

It is also important to note that the phenological stages at which various plant species can be harvested to yield the desired products is important and is often the subject of Anishinaabe stories or lessons. Yet, there has been much documented evidence concerning the changes in phenology as a result of climate change. It is important to know that how these changes may be affecting the timing of harvest to capture the appropriate stage for the desired use. Stories which talk about harvest time, such as Iskigamizige-giizis or sap boiling moon used to describe the month in which maple sap is boiled. This month is April by western calendar. Yet with earlier and earlier springs, it may be that April is no longer Iskigamizige-giizis. This activity may have to move to March. Many of the months in the Anishinaabe calendar refer to harvesting activities and many may have to change over time. How the changes in plant phenology are related to changes in proper harvesting times is unknown and should be investigated.

As one approaches the investigation into the uses Anishinaabe people put to various plant species it is important to respect the sanctity of such knowledge. Much of what people know

about plant uses involves medicines or plants used in special ceremonial activities. This knowledge is personal and kept guarded. However, there is a subset of plants (and their associated uses) which is more along the lines of utilitarian plants or plants used for food. This project seeks to respect the sanctity of this personal knowledge and knowledge around the medicinal uses of plants and instead will focus on the knowledge of more utilitarian or food plants.

III. PLACE-BASED RESEARCH

Traditional Ecological Knowledge and Wisdom (TEKW) will drive the methodologies used to gather and present gikendaasowin of these utilitarian plants. TEKW has been recognized as a legitimate way to gather and present ecological data. As early as 1999 Fikret Berkes (Sacred Ecology) has described TEK and documented how that knowledge can be used in land use and other natural resource decision making. Since then many authors have used this technique and have written about it. All of these authors agree that a central element to TEK is that it is place-based, determined by geography and that the knowledge which is accumulated and passed onto future generations is in large part determined by where that knowledge was gained and how the people of that particular region used and interpreted that knowledge. TEKW research is meaningless if the region or area of study was not described and the TEKW which is learned of one place may not be applicable to other places.

IV. NATURE AND EXTENT OF GIKENDAASOWIN

The word “knowledge” in TEKW has been described as personal stories or remembrances of individuals in the place in which the study takes place which informs the understanding of local ecosystems. Some authors go on to state that part of the TEK is organized means of remembering these experiences, sometimes in the form of stories or allegories. Yet, in this current study the word “Wisdom” has been added to TEK. This was intentional and was included to reflect the deeper understanding of the concept of gekendaasowin to include more than just personal experiences or experiences passed down from fathers/mothers or uncles/aunts. This knowledge as reflected in the word gekendaasowin or by the addition of wisdom to the TEK acronym must include those stories which are sacred and historical, called aadizookaan by Anishinabe people. But even deeper, this knowledge includes the cultural setting (izhitwaawin) and even the way of being or cultural psychology (inaadiziwin) (Geniusz, 2009). In order for the TEKW to be collected and properly documented all aspects of ‘knowledge’ must be gathered and documented.

V. OBJECTIVES OF PHENOLOGY TEKW PROJECT

Given the nature of TEKW and the methodologies used to gather it, it is imperative that this project be place-based. It is designed to gather such knowledge in the Opiniwakiing (Penokee Range) in Iron and Ashland Counties of Wisconsin. This area has a very long history of Anishinabe occupancy and resource use. It is adjacent to the Bad River Indian Reservation. Thus the research will be focused on this region.

The objectives of this place-based project are to gidaa-wiidabimaa gidakiiminaan jinaanaagadawenjigewaad through a study of the Opiniwakiing (Penokee Range) ecosystem to collect data in a culturally appropriate way as follows:

1. Document and describe the phenological progression of 4 groups of resources (all utilitarian or food resources); leaks, paper birch, sugar maple and various mushroom species. The documentation should include timing of different stages, including the timing of the stages which are harvested for use.

2. Collect and record, giving proper credit when due, personal stories and traditional or sacred stories about these four species groups. Stories must be completed with the source, the date of the story and the community from which it comes.

3. Record and document how these species or species groups appear in Anishinaabe culture cultural psychology.

4. Record and document other phenological changes which are observed on the Penokee Range ecosystems.

VI. METHODS

To meet objective 1, the research team will undertake a systematic sampling of the 4 species or groups to document changes over the calendar year. The sampling of these species will be biweekly during times when there is little evidence of Anishinaabe use. However as the time of harvest approaches the sampling will be increased to daily. The research team will collect specimens of each of the species and use standard data sheets to record important and relevant information. The relevant information to be collected should be the subject of the initial stories or lessons of that species. These stories, uses, lessons, will provide the characteristics of the species which should be monitored over seasonal time.

To meet objective 2 the research team will meet with harvesters and others who use the resources gathered and engage them to elucidate relevant personal stories (dibaajimowin) and traditional stories (aadizookaan). Stories will be recorded in both Anishinaabe and English. When possible and when permission is given stories should be recorded in audio so that English translations can be verified. A set of personal and sacred stories will be compiled into a complete collection for each species. Proper credit must be given in accordance with the established rules for TEKW documentation, including the name of person speaking, the community from which (s)he comes, or is speaking, the time about which the person is speaking. These are the critical elements of this documentation.

To meet objective 3 the research team will seek out and ask, in a respectful way, for deeper understanding of these species. How are they used in the Anishinaabe lifeway (izhitwaawin) or how do they inform the Anishinaabe cultural psychology (inaadiziwin). Elders or midwin leaders may be the best sources of this information. Again, the words should be recorded in audio and presented in both Anishinaabe and in English. Some of these lessons may not be appropriate for publication. In this case the moral or conclusions of the stories or lessons

can be captured, without the details of the stories. This is a sensitive objective, but it is of critical importance if the real depth of the TEKW is to be learned.

Finally, to meet objective 4 a 'Research Station diary' should be established and made available for any research associate on the project to record phenological observations on any subject they desire. Often times one does not know what one is seeking until one finds it. This station diary will permit the observations of phenological events, not specifically anticipated in this research study, but may arise over time with daily observations.

VII. ANTICIPATED RESULTS