

Response to
Request at
Tab 2

IN THE MATTER OF an intended action as follows:

**ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)**

B E T W E E N:

SIX NATIONS OF THE GRAND RIVER BAND OF INDIANS

Plaintiff

-and-

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA
and
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO**

Defendants

**RESPONSE TO REQUEST FOR PARTICULARS
PURSUANT TO THE *PROCEEDINGS AGAINST THE CROWN ACT* (ONTARIO)**

The Six Nations of the Grand River Band of Indians (the Six Nations") served on Her Majesty The Queen in Right of Ontario (the "Ontario Crown") on December 23, 1994 a notice of claim pursuant to section 7(1) of the *Proceedings Against the Crown Act*, R.S.O. 1990, chapter P. 27. The notice of claim included a draft statement of claim.

THE ATTORNEY GENERAL OF ONTARIO, on behalf of the Ontario Crown, delivered on February 22, 1995, a document titled "Requirement of Particulars Pursuant to the *Proceedings Against the Crown Act*" (hereinafter called "Ontario Request for Particulars").

The following reply is made on behalf of the Six Nations to each of the paragraphs of the Ontario Request for Particulars.

1. The Ontario Crown took possession of, or received, or managed such money, real property and other assets belonging to the Six Nations as a proper general accounting by Her Majesty the Queen in right of Canada (the "Federal Crown") and the Ontario Crown reveals that the Ontario Crown possessed, received or managed including in particular the following:

(A) All of the following lands (together with all natural resources contained therein) including all roads, road allowances and waterways within the Haldimand Proclamation Lands (the "Lands") referred to in the draft statement of claim which the Ontario Crown, since July 1, 1867, took possession of, received or managed:

- (a) all lands assumed or claimed by the Ontario Crown to have been assumed from the Province of Canada on July 1, 1867;
- (b) all lands obtained at any time by the Ontario Crown from the Federal Crown;
- (c) all unpatented lands;
- (d) all lands or interests in lands which the Ontario Crown ever had or currently has;

where, in the case of any of the Lands referred to in subparagraphs (a) through (d) above, the Six Nations' interest has not been validly extinguished and those lands for which the Six Nations have not been properly compensated by the Imperial Crown, the Federal Crown and its predecessors, or the Ontario Crown or its predecessors, or by third parties whom the Federal and Ontario Crown permitted to take possession of or use any of the Lands.

(B) All monies or revenues belonging to the Six Nations derived, received directly or indirectly or managed by the Ontario Crown.

2. The Ontario Crown made such grants, sales, leases, permits or other dispositions described in paragraph 24 of the notice as will be revealed by a proper accounting including in particular dispositions in respect of the Lands described in paragraph 1 above including any leases, dispositions or permissions to use Lands which have been provided by the Ontario Crown to municipalities or other third parties of roads, road allowances, waterways, provincially or municipally managed parks or public squares.

3. Any and all dispositions described in paragraph 25(a) of the notice for the Lands referred to in paragraph 1 of this reply, as will be revealed by a proper account to the Six Nations.

4. Any and all transactions described in paragraph 25(c) of the notice for Lands referred to in paragraph 1 of this reply as will be revealed by a proper account to the Six Nations.

5. Any and all failures described in paragraph 25(d) of the notice for Lands referred to in paragraph 1 of this reply as will be revealed by a proper account to the Six Nations.

6. Any and all takings described in paragraph 25(e) of the notice for Lands referred to in paragraph 1 of this reply as will be revealed by a proper account to the Six Nations.

7. Any and all management, described in paragraph 25(f) of the notice, of monies referred to in paragraph 1(B) above which should have been credited to the Six Nations trust funds and retained or managed by the Federal Crown, as will be revealed by a proper account to the Six Nations.

8. See paragraph 84(b) of the draft statement of claim attached to the notice. The plaintiff currently has no information that the Ontario Crown has ever provided an accounting to the Six Nations directly or to the Federal Crown for the benefit of the Six Nations, for the Land, monies, or other property referred to in paragraph 1 of this reply.

9. See paragraph 84(b) of the draft statement attached to the notice. The Ontario Crown should be able to obtain such particulars from its records. In addition, the Ontario Crown will be aware of any statements which may have been made to representatives of the Ontario Crown in the course of settlement negotiations including negotiations arising out of the *Ontario Lands Agreement (1986) Act*, S.C. 1988, c. 39 and the *Indian Lands Agreement Confirmation Act 1989*, S.O. 1989, c.26.

March 6, 1995

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Attention: J.T.S. McCabe, Q.C.
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Solicitors for the defendant
Her Majesty the Queen in right of Ontario

SIX NATIONS OF THE GRAND RIVER

- AND -

HER MAJESTY THE QUEEN IN RIGHT OF CANADA ET AL

ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)

Proceeding Commenced at Brantford

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PURSUANT TO THE *PROCEEDINGS AGAINST
THE CROWN ACT (ONTARIO)***

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