

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

B E T W E E N:

SIX NATIONS OF THE GRAND RIVER BAND OF INDIANS

Plaintiff

- and -

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

Defendants

REPLY TO DEMAND FOR PARTICULARS

In response to a demand for particulars dated December 5, 1995 made by the Defendant, The Attorney General of Canada, the Plaintiff states that the particulars demanded therein (a) are not necessary for the purposes of pleading, and (b) should be within the knowledge or records of, or available to, this Defendant.

Without prejudice to this position, the following are the particulars requested in the demand for particulars insofar as the Plaintiff presently has information. Further particulars should become available once the Defendants

have made full documentary production in this action and once the Defendants have given an account.

1. See paragraph 13(a) of the Plaintiff's Reply to Demand for Particulars dated October 31, 1995.

2. The minutes of the Six Nations Council meeting of March 22, 1830 and April 19, 1830 records consent to Surrender No. 30.

The minutes of the Six Nations Council meeting of March 26 to April 2, 1835 records consent to Surrender No. 40.

Copies of the above-noted minutes are enclosed.

3. Enclosed is a copy of the minutes of the Six Nations Council meeting of March 22, 1830 recording consent.

4. See the following documents:

- (a) The minutes of the Six Nations Council meeting of April 20, 1831 records that, with respect to "the road", the Six Nations confirmed their former vote by signing the Surrender accompanied by a

request that members of the Six Nations living on the banks of the Grand River not be disturbed.

(b) The minutes of the Six Nations Council meeting of March 22, 1830 records that the Six Nations accepted the recommendations of the Governor in regard to, in *inter alia*, the "lots of land on each side of the road to be laid out across our tract from the long point side (Rainham) to Canby Town."

(c) The Lieutenant Governor's recommendations or proposals to Six Nations concerning *inter alia* the Talbot Road lands are contained in correspondence of March 9, 1830 where it was proposed as follows:

"That as a road is to be made through the Indian Territory, from Canby town towards Rainham, it is requested that 33 chains by 30. on each side of the road shall be also ceded to the King, the whole of which Lots will be Sold for the benefit of the six Nations."

Copies of the above-noted documents are enclosed.

5. The document requested is enclosed as part of the reply to paragraph 4 above.

6. The document dated September 28, 1831 and a list of the Six Nations Chiefs in attendance at the Six Nations Council on September 28, 1831 are enclosed.

7.
 - (a) Enclosed is a copy of the public notice dated December 1, 1831.
 - (b) The Crown had a fiduciary obligation to collect and keep this information and, if it did not obtain and retain this information, breached this fiduciary duty. The Crown conducted the sales of the land, and the records and information should therefore be within the possession of the Crown.
 - (c) A letter dated December 30, 1831 prepared by the selling agent is enclosed.

8. Enclosed.

9. At a Six Nations Council meeting held between January 28, 1833 and February 2, 1833, the Six Nations in Council consented to the sale of part of the reserve tract of the Talbot Road lands in

order to accommodate the establishment of a town plot for the Town of Cayuga. A copy of the minutes of the Six Nations Council meeting is enclosed.

10. The Plaintiff believes that all of the particulars requested are within the possession of the defendant, The Attorney General of Canada, and, if there are any omissions, would be within the possession of the defendant, Her Majesty the Queen in Right of Ontario. The Crown had a fiduciary obligation to maintain all necessary records to account for the Dispositions and, if it did not obtain and retain these particulars, breached this fiduciary duty.

The Plaintiff encloses copies of those patents that the Plaintiff has collected, which patents are in the possession of Her Majesty the Queen in right of Canada, for example, the Offices of the Deputy Registrar General of Canada, or of the Lands, Revenues and Trusts Branch, Department of Indian Affairs and Northern Development. The information requested respecting the date of each Disposition under the patents and the name of the Third

Parties, who the Crown permitted to take possession of the lands based on the patents, is evident from the documents.

Date: December 15, 1995

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SIX NATIONS OF THE GRAND RIVER

- AND -

THE ATTORNEY GENERAL OF CANADA ET AL

ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)

Proceeding Commenced at Brantford

REPLY TO DEMAND FOR PARTICULARS

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