

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

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

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**MOTION RECORD OF THE HAUDENOSAUNEE DEVELOPMENT INSTITUTE**  
*(Motion for Joinder/Intervention)*

**VOLUME I OF II**

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June 10, 2022

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# TAB 1

Court File No. CV-18-594281

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**SECOND AMENDED NOTICE OF MOTION**

The Haudenosaunee Development Institute will make a motion to a Judge of the Superior Court of Justice on May 8, 2023 ~~date and time to be determined by the Case Management Judge, Justice Sanfilippo, or soon after that time as the motion can be heard,~~ at the Courthouse, 330 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THIS MOTION IS FOR:**

1. An Order:
  - a. joining the Haudenosaunee Development Institute (the “**HDI**”) as a party in this proceeding pursuant to rule 5.03 of the *Rules of Civil Procedure* or, alternatively, granting leave to HDI to intervene as an added party in this proceeding pursuant to rule 13.01 of the *Rules of Civil Procedure*; and
  - b. appointing HDI to represent (i) the Haudenosaunee Confederacy Chiefs Council and (ii) all citizens of the Haudenosaunee Confederacy, pursuant to rule 10.01(1) of the



~~*Rules of Civil Procedure* or, alternatively, an Order authorizing HDI to join the proceeding on behalf of all citizens of the Haudenosaunee Confederacy pursuant to rule 12.08 of the *Rules of Civil Procedure*;~~

2. An order requiring the parties to, within 30 days, provide counsel for HDI all documents exchanged in the proceeding to date, inclusive of productions, discovery transcripts, expert reports, and orders and endorsements of the Court;
3. An order requiring the parties to, within 45 days of satisfaction of paragraph 2, above, attend a case conference to address and seek directions on outstanding procedural issues associated with HDI's joinder or intervention as a party, including pleadings and any required amendments, the production of additional documents (if any), the discovery of additional witnesses (if any), and the timetable for delivery of outstanding expert reports (if any), and preparation for trial;
4. Costs of this motion pursuant to rule 57.03 of the *Rules of Civil Procedure*, if opposed; and
5. Such further and other relief as counsel may advise and as this Honourable Court deems just.

**THE GROUNDS FOR THE MOTION ARE:**

**A. Overview**

6. The adjudication of traditional Aboriginal and treaty rights demands the involvement of the collective holders of those rights. Where multiple groups lay claim to such a distinction, those groups must be involved. The present motion seeks just that—involvement of the Haudenosaunee Confederacy, the true collective rights-holders of the treaties at issue in the action.

7. In accordance with traditional Haudenosaunee Law, the governing body of the Haudenosaunee selected the Haudenosaunee Development Institute as representative to advance the interests of the Haudenosaunee Confederacy and its citizens in this litigation. To deny the Haudenosaunee the right to advance their interests, and to deny the Haudenosaunee the right to choose a representative to advance their interests, is to perpetuate colonial rule over Indigenous peoples and ignore the *United Nations Declaration of the Rights of Indigenous Peoples*.

8. Joining HDI as a party to this action, as representative of the citizens of the Haudenosaunee Confederacy appointed by the Haudenosaunee Confederacy Chiefs Council, reflects Canada's commitment to Indigenous interests and the advancement of reconciliation.

## **B. Procedural Background**

9. ***The Action and Claim:*** This action (the "**Action**") was commenced by "The Six Nations of the Grand River Band of Indians" (the "**SNGR**") on March 7, 1995. The SNGR pleads that it is a "band" within the meaning of section 2(1) of the *Indian Act*, RSC 1985 c. I-5 (the "**Indian Act**").

10. The Action seeks, *inter alia*, declarations that the Attorney General of Canada ("**Canada**") and Her Majesty the Queen in Right of Ontario ("**Ontario**" and, with Canada, the "**Defendants**") breached fiduciary and treaty obligations owing to the SNGR, pleaded to be the "predecessors, and the current body, of the Indians known as the Six Nations of the Grand River".

11. The Action also seeks, *inter alia*, declaratory relief and equitable and compensatory damages flowing from such breach(es).

12. ***Initial Pleadings and Discoveries:*** Canada filed a Statement of Defence on January 15, 1996. Ontario filed a Statement of Defence and Crossclaim against Canada on January 22, 1996.

SNGR filed a Reply to the Statements of Defence on July 26, 1996. Canada filed a Statement of Defence and Counterclaim to the Crossclaim of Ontario on October 8, 1997.

13. The parties conducted discoveries in or about 2000.

14. ***Abeyance:*** Beginning in the early 2000s, the Action became inactive with no apparent substantive steps taking place until approximately March 2016. During this period, the Action was formally in abeyance for more than six years.

15. ***Transfer to Toronto and Case Management:*** On November 24, 2017, the Action was transferred from Brantford to Toronto pursuant to the Order of Regional Senior Justice Morawetz.

16. On January 5, 2018, the Action was made subject to case management. Justice Sanfilippo was appointed Case Management Judge. On February 23, 2018, Justice Sanfilippo ordered, *inter alia*, that no motion may be brought in the Action before being considered at a case conference.

17. HDI does not have access to all of the endorsements from the case management process.

18. ***Amended Pleadings:*** SNGR issued a Further Amended Statement of Claim in or about May 2020. The Further Amended Statement of Claim added, *inter alia*, the allegation that its reference to “Six Nations” in the Statement of Claim (and the Reply, referenced below) refers to “the predecessors... of the Indians known as the Six Nations of the Grand River”.

19. Canada and Ontario filed amended Statements of Defence on August 31, 2020. SNGR filed a Reply to the Amended Statements of Defence on September 30, 2020. Canada filed an amended Statement of Defence and Crossclaim to the Crossclaim of Ontario on September 30, 2020.

20. ***Trial:*** The hearing of the Action is bifurcated between liability and damages. HDI understands that the liability phase of the trial is scheduled to be heard in or about April 2023.

### C. Background: The Haudenosaunee

#### i. *The Haudenosaunee Confederacy*

21. The “**Haudenosaunee Confederacy**” is a political and cultural union of Indigenous peoples that formed a representative government in time immemorial, prior to European contact in North America.

22. The Haudenosaunee Confederacy has been known by many names throughout its long history, including the “Five Nations”, the “Six Nations”, the “Iroquois League”, the “Iroquois Confederacy”, *Hodínöhšö:ni:h* (in English, “Haudenosaunee”, meaning “People of the Longhouse”), and *Wisk Nihohnohwhentsiake* (meaning the “League of the Five Nations”).

23. Initially including the Mohawk, Oneida, Cayuga, Seneca and Onondaga peoples (the “Five Nations”), the Haudenosaunee Confederacy now includes the Tuscarora peoples (*i.e.* the sixth nation, hence “Six Nations”) and numerous others, including, for example, the Delaware, Wyandot, Tutela, Neutral, and Erie peoples.

24. The citizens of the Haudenosaunee Confederacy are the “**Haudenosaunee**” or Six Nations People (this notice of motion uses “Haudenosaunee” to avoid confusion with the definition of “Six Nations” in the Further Amended Statement of Claim, where “Six Nations” is defined as a “band” pursuant to the *Indian Act*).

25. The traditional territory of the Haudenosaunee Confederacy is in present-day New York and southern Ontario. Today, Haudenosaunee people live in, among other places,

present day Ontario (*e.g.* the Grand River Valley and Bay of Quinte), Quebec, New York State, Wisconsin, and Oklahoma.

*ii. The Haudenosaunee Confederacy's Governance*

26. The Haudenosaunee Confederacy has had a representative government comprised of Chiefs and Clan Mothers that has been governing since the Confederacy's formation in time immemorial. Each "Clan" (an extended family unit) within the Haudenosaunee Confederacy has a Chief, selected by the Clan Mother of that Clan. Upon being selected, a Chief sits at gatherings of the Chiefs, known as "Grand Councils", for life, unless removed by their Clan Mother.

27. The Chiefs and Clan Mothers are considered among the Haudenosaunee to comprise their legitimate governing representatives.

28. Pursuant to Haudenosaunee Law, the Chiefs of the Haudenosaunee Confederacy have the authority of the Haudenosaunee (and its constituent peoples) to enter into treaties and, *inter alia*, and protect the treaty rights and interests of the Haudenosaunee. They have and have had the authority to delegate that authority.

29. The "**Haudenosaunee Confederacy Chiefs Council**" (or the "**HCCC**") is the council of Chiefs of the Haudenosaunee Confederacy that have been continuously holding Council at Ohsweken, Ontario for over 230 years. The Chiefs of the HCCC are empowered by Haudenosaunee Law to make decisions and resolutions concerning the interests of the citizens of the Haudenosaunee Confederacy (*i.e.* the Haudenosaunee), including as related to land within the borders of present-day Canada, which decisions are on behalf of the Haudenosaunee. The HCCC has the authority to represent the interests of the Haudenosaunee Confederacy and its citizens.

**iii. *The Haudenosaunee Development Institute***

30. The HDI was established in 2007 pursuant to authorization by the HCCC and was delegated the role of facilitating meaningful engagement on development and infrastructure projects involving Haudenosaunee lands, including but not limited to lands prescribed by the *Haldimand Proclamation* and the *Simcoe Patent*.

31. HDI's engagement process is routinely used by municipalities and developers in southern Ontario as a means of engaging with the HCCC, and therefore with the Haudenosaunee Confederacy and its citizens.

32. The HCCC has delegated authority to HDI to advance the interests of the Haudenosaunee Confederacy in this proceeding in accordance with the traditions, customs, and practices of the Haudenosaunee Confederacy.

**iv. *Counterparty to and/or Beneficiary of the Instruments at Issue in the Action***

33. In the early 17<sup>th</sup> century, the Haudenosaunee Confederacy (through its Chiefs) entered into a series of treaties and diplomatic and economic agreements with European settlers, including the British Crown with whom it formed a relationship called the "Silver Covenant Chain". The "Silver Covenant Chain" symbolizes the nature of the relationship between the Haudenosaunee and the British Crown, which is one based on principles of mutual respect, trust, and friendship.

34. Specifically, the citizens of the Haudenosaunee Confederacy are the only possible counterparty to and/or beneficiary of *inter alia*, the *Haldimand Proclamation* of 1784 (the

“*Haldimand Proclamation*”) and (if lawful) the *Simcoe Patent* of January 1793 (the “*Simcoe Patent*”), the instruments at issue in this Action.

35. During the American Revolutionary War, much of the Haudenosaunee Confederacy allied with the British Crown. When the American Revolutionary War ended, much of the territory of the Haudenosaunee Confederacy fell within the borders of the newly formed United States of America pursuant to the *Treaty of Paris* of 1783.

36. In consideration of the losses sustained by the Haudenosaunee Confederacy and its support of the British forces through the American Revolutionary War, the British Crown agreed to and did provide a tract of land along the Grand River (North of Lake Erie) for the Haudenosaunee Confederacy and its citizens, described in the *Haldimand Proclamation* as follows:

“I have at the earnest desire of many of these His Majesty’s faithful allies purchased a track of land from the Indians situated between the Lakes Ontario, Erie, and Huron, and I do hereby in His Majesty’s name authorize and permit the said **Mohawk Nation and such others of the Six Nations Indians** as wish to settle in that quarter to take possession of and settle upon the banks of the river commonly called Ouse or Grand River...which them and their posterity are to enjoy for ever...” (*emphasis added*)

37. The Action also alleges certain conduct by “Six Nations in council” as early as 1831. These references must be to the Chiefs of the Haudenosaunee, the only “council” at the time. As described below, the SNGR (pleaded as a “band” within the meaning of the *Indian Act*) could not have existed in 1831.

#### **D. The “Six Nations of the Grand River Band of Indians”**

##### ***i.—The Plaintiff Lacks Standing***

38. — ~~The identity of the plaintiff, SNGR, is unclear. The statement of claim describes SNGR as “a band within the meaning of the *Indian Act*” and that “the predecessors, and the current body, of the Indians known as the Six Nations of the Grand River together are referred to as” SNGR. This description does not delineate the members nor the characteristics of members who comprise “the Indians known as the Six Nations of the Grand River”.~~

39. — ~~If members of SNGR (or their characteristics) are capable of delineation, which HDI alleges is not possible, such members of SNGR require a representation order, as every member of the purported SNGR cannot be readily ascertained, found, or served. The statement of claim does not identify a representative party, nor are there facts pleaded that would support the appointment of a representative party.~~

40. — ~~If the plaintiff’s position is that SNGR is in fact a “band” within the meaning of the *Indian Act*, and that registration as a member of that band sufficiently delineates membership in SNGR, then, according to the Government of Canada’s band registry as of April 2022, “Six Nations of the Grand River” has exactly one member.~~

41. — ~~If the plaintiff’s position is that the action is being prosecuted by the SNGR “Elected Council” as a representative party, then that entity is not identified in the statement of claim, has not obtained a representation order to represent the SNGR (which, as described above, is not capable of delineation in any event), and it is not representative of the Haudenosaunee, as described below.~~

***ii. The SNGR and SNGR “Elected Council” Cannot Represent the Collective Interests at Issue***



42. Neither the SNGR nor the SNGR “Elected Council” (if it is involved in the Action) existed at the time of the *Haldimand Proclamation* or the *Simcoe Patent*, both of which significantly predate Canada’s confederation and the *Indian Act*. They also did not exist at the time of the various surrenders alleged in the Action.

43. Neither the SNGR nor the SNGR “Elected Council” (if it is involved in the Action) are representative of the counterparties and/or beneficiaries of the *Haldimand Proclamation* and *Simcoe Patent* (i.e. the Haudenosaunee Confederacy and its citizens).

44. Among other things, the “Six Nations of the Grand River Band of Indians” does not include and cannot include Haudenosaunee who are not members of the pleaded “band”, or who have not agreed to be a member of the pleaded “band”, including any Haudenosaunee who are not registered under the *Indian Act*, for example, by virtue of disenfranchisement.

*iii. The SNGR “Elected Council” was Imposed to Displace the HCCC*

45. In the face of face of repeated attempts by the HCCC to address land, jurisdiction, and trust fund issues with the Federal Government in the early 1900s, the Federal Government imposed the SNGR “Elected Council” in 1924 pursuant to the Committee of the Privy Council’s Order No. 1629 (“**PC 1629**”).

46. PC 1629 was based upon a report from “Lt. Col. Andrew T. Thompson” which included comments such as:

- a. “It follows that a comparatively small number of old women have the selection of those who are entrusted with the transaction of the business of the Six Nations Indians, while

- the vast majority of the people have nothing what-ever to say in the choice of their public servants.”
- b. “The Six Nations Indians have progressed notably in civilization. They are amongst the most advanced, if not the most advanced, of the Indian tribes, and the Indian Act might very well be amended with respect to them, in consequence.”
  - c. “I would suggest, however, that after the new Council has reached a stage of settled efficiency the Indian Act be changed to enlarge its functions, so that it may more and more approximate to the Council of a white municipality.”
  - d. “there are some eight hundred non-Christian Indians on the Six Nations Reserve. These are commonly called “Pagans”, an appellation which they strongly resent. They call themselves “Deists”, and point to the fact that they worship “The Great Spirit”, whose blessings they invoke, and to whom they return thanks. But the views of this minority, on some subjects at least, could not be considered “moral”, from the Christian standpoint, and especially is this the case with regard to marital relations. The influence of so considerable a minority in a comparatively small population is necessarily large, and no doubt contributes not a little to loose living between the sexes ... There is abundant proof that the Council of Chiefs is quite indifferent to this unfortunate state of affairs, and as their influence is great, it makes the work of the missionaries in this regard all the harder, and largely tends to destroy it altogether.”
47. Pursuant to PC 1629, the first council election was to be held on October 21, 1924 in Ohsweken. On this date, at the direction of the Superintendent of Indian Affairs, the RCMP occupied and appropriated symbols of the Haudenosaunee Chiefs’ authority from the Council

House, including written records and wampum belts, thereby forcibly removing HCCC from the Council House in Ohsweken.

*iv. The SNGR and SNGR “Elected Council” are Distinct from the Haudenosaunee Confederacy and HCCC*

48. The plaintiff in this action, the SNGR (if it exists), is distinct from and does not represent the Haudenosaunee Confederacy. The SNGR “Elected Council” (if involved in the Action) is distinct from and does not represent the HCCC nor the Haudenosaunee Confederacy.

49. The Haudenosaunee Confederacy has been clear that it is not synonymous with *Indian Act* councils like the SNGR “Elected Council” (if it is involved in the Action). As stated by Chief Sidney Hill, *Tododaho* (a Chief of the Haudenosaunee Confederacy appointed by all of the other Chiefs):

The Circle Wampum makes the line between traditional councils and elected councils clear and distinct; the traditional councils are the original governments of the Haudenosaunee communities/nations handling national affairs, while the elected councils are imposed systems of the Indian Act in Canada and Federal Indian Law in the United States for the administration of colonial policies in each community. Within recent years however, **these elected councils have begun commandeering the distinct symbols, philosophies, and national character of the Haudenosaunee Confederacy — thus misrepresenting themselves to external agencies and the [sic] limiting the significance of the Haudenosaunee as an original Indigenous system of governance.** (*emphasis added*)

50. The distinction between the HCCC and the “Six Nations Elected Council” has been expressly recognized by the Federal Government, including in correspondence from the Honourable Marc Miller directly to the HCCC. Mr. Miller’s formal mandate letter further

acknowledges the historic suppression of Indigenous Governments like the governance of the Haudenosaunee Confederacy:

Work with existing and traditional Indigenous governments and leaders, **whose nations and forms of governance were suppressed and ignored historically by the federal government**, to restore respectful nation-to-nation relations, in the spirit of self-determination, by renewing and updating treaty relationships where they exist, including pre-confederation treaties, and by seeking viable, trusting and respectful relationships where no treaty exists. *(emphasis added)*

#### **E. The Haudenosaunee Confederacy Must be Joined as a Party to the Action**

51. Representation of the Haudenosaunee Confederacy's interests in the Action is necessary to enable the Court to adjudicate effectively and completely on the issues.

52. This Action raises important issues regarding the protection of the aboriginal and treaty rights of the Haudenosaunee under section 35 of the *Constitution Act*, including how breaches of those rights and fiduciary obligations by the Crown should be remedied. As the counterparty and/or beneficiary of the *Haldimand Proclamation* and *Simcoe Patent*, and as the collective to whom the Federal and Provincial Crowns owe fiduciary duties, the Haudenosaunee Confederacy has clear and immediate interests in the proceeding. The citizens of the Haudenosaunee Confederacy are entitled to equitable or compensatory damages, should the Court rule accordingly.

53. Haudenosaunee interests are not currently represented in the Action. Neither the SNGR nor the SNGR "Elected Council" (if involved in the Action) represent the interests (nor can they represent the interests) of the Haudenosaunee Confederacy or the Haudenosaunee. The protection of Haudenosaunee interests is, rather, at the heart of the HCCC's mandate, pursuant to Haudenosaunee Law.

54. The identity of the collective rightsholder and beneficiary in this Action is not an issue to be determined on this motion. It must be considered as part of the overall Aboriginal rights treaty claim. The interests of the Haudenosaunee Confederacy must be represented before the Court in making that ultimate determination.

55. Adding HDI as a party to the Action to represent the interests of the Haudenosaunee Confederacy (as a delegate of the HCCC, the Haudenosaunee Confederacy's governing body) will not unduly delay or prejudice the determination of the rights of the parties. At a minimum, adding HDI prevents a multiplicity of proceedings, as any resolution with the SNGR will not be a resolution with the Haudenosaunee Confederacy.

56. This risks significant inefficiency and poses the potential for inconsistent outcomes. If HDI is not added as a party, a separate action to adjudicate the interests of the Haudenosaunee Confederacy will be required, at least as against the Defendants and potentially as against the plaintiff.

57. Adding HDI as a party to the action, as representative of the Haudenosaunee Confederacy and its citizens, as delegated by the HCCC, is consistent with the principles enshrined in the *United Nations Declaration on the Rights of Indigenous Peoples*, including that, *inter alia*:

- a. "Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties ... Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights."

- b. “Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.”
- c. “Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.”
- d. “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.”

**F. HDI is an Appropriate Party to Represent All Citizens of the Haudenosaunee Confederacy in the Action**

58. The present circumstances necessitate and make desirable an order that HDI be appointed representative (as delegated by the HCCC) of the HCCC and of ~~for~~ the Haudenosaunee Confederacy and its citizens in the Action.

59. The citizens of the Haudenosaunee Confederacy are the beneficiaries of and/or counterparties to the instruments in the Action, including *Haldimand Proclamation* and *Simcoe Patent*. As discussed in greater detail above, each individual member of the Confederacy will be affected by any judicial determination of Haudenosaunee rights, including those set out in the

*Haldimand Proclamation* and *Simcoe Patent*. As such, they have a present, future, and contingent interest in the Action.

60. The Haudenosaunee Confederacy is a widespread and populous group numbering over one hundred thousand citizens. It is not feasible to locate, serve, and involve each and every member of the Haudenosaunee Confederacy in this proceeding. It is therefore an appropriate and sufficiently defined group for a representation order.

61. HDI has been chosen and delegated authority by the HCCC to advance the interests of the Haudenosaunee Confederacy in this proceeding, at the HCCC's direction and discretion. As described above, the Chiefs of the HCCC are empowered by Haudenosaunee Law to make decisions and resolutions concerning the interests of the citizens of the Haudenosaunee Confederacy. The HCCC has the authority to represent the interests of the Haudenosaunee. The HCCC also has the authority to delegate the HDI to carry out that authority, at the HCCC's direction. HDI, as a delegate of the HCCC, shares the same interest of the Haudenosaunee Confederacy at large in the outcome of this proceeding.

62. HCCC's selection of HDI to represent and advance Haudenosaunee interests in the Action is also consistent with Haudenosaunee Law and the *United Nations Declaration on the Rights of Indigenous Peoples*.

63. The balance of convenience favours the granting of a representation order instead of individual identification and service upon each member of the Haudenosaunee Confederacy. There is a significant body of evidence that originates from a review of historical documents, the testimony of expert witnesses, and the testimony of elders from the Confederacy. As such, the

individual participation of each member of the Haudenosaunee Confederacy will add little to the record before the trial court.

### **G. Other Grounds**

64. HDI relies on:

- a. The *Rules of Civil Procedure*, RRO 1990, Reg. 194, including rules 1.04, 1.05, 5.03, 10.01, 12.08, 13.01, 50.01, 50.13, 57.03;
- b. Section 138 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
- c. Section 35 of the *Constitution Act, 1982*, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11, reprinted R.S.C. 1985, App. II, No. 44;
- d. *The United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14; and
- e. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**THE FOLLOWING EVIDENCE** will be used at the hearing of the motion:

65. The affidavit of Richard Wayne Hill Sr., affirmed June 10, 2022 and reply affidavit affirmed February 6, 2023;

66. The affidavits of Brian Doolittle, affirmed June 10 and July 6, 2022;

66.1 The affidavit of Colin Martin, affirmed August 31, 2022;



66.2 The affidavits of Aaron Detlor, affirmed August 31, 2022 and February 8, 2023;

66.3 The reply affidavit of Richard Saul, affirmed February 6, 2023;

~~67. The affidavit of *Hohahes* Leroy Hill, to be affirmed;~~

68. The affidavits of a clerk or legal assistant or staff of Gilbert's LLP, including the affidavits of Karizma Defeitas-Barnes sworn November 2, 2022, the affidavit of Thomas Dumigan sworn September 26, 2022, the affidavit of Dylan Gibbs sworn September 27, 2022, the affidavit of Jonathan Martin sworn September 30, 2022, and the affidavit of Carol Fung sworn April 10, 2023;

and

69. Such further and other material as counsel may advise and as this Honourable Court deems just.

**DATED** this 24<sup>th</sup> day of April, 2023  
~~10<sup>th</sup> day of April, 2023~~  
~~10<sup>th</sup> day of June, 2022~~

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Lawyers for the Defendant, Her Majesty the Queen in Right of Ontario

SIX NATIONS OF THE GRAND RIVER BAND OF INDIANS  
Plaintiff

-and- THE ATTORNEY GENERAL OF CANADA *et al.*  
Defendants

Court File No. CV-18-594281

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
TORONTO

---

**AMENDED NOTICE OF MOTION**

---

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Lawyers for the Moving Party,  
the Haudenosaunee Development Institute

# TAB 2

Court File No. CV-18-594281

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

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

**AFFIDAVIT OF BRIAN DOOLITTLE**  
*(Affirmed June 10, 2022)*

I, BRIAN DOOLITTLE, of the Village of Ohsweken, in the Province of Ontario,  
MAKE OATH AND SAY:

1. I am a Kanowakeron, a member of the Turtle Clan of the Mohawk Nation of the Haudenosaunee Confederacy. My English name is Brian Doolittle.
2. I was born January 31, 1950 within the territory of the Haudenosaunee Confederacy. I was taught the formation story and history of the Haudenosaunee Confederacy when I was a young person.
3. My mother is Clara Doolittle (Montour), and my father is Wilbur Doolittle. In 1970, I graduated from high school, and was the first within my immediate and extended family to do so. I married on January 29, 1971 and became the father of three children, two sons and one daughter, and am now a grandfather of six.

4. I worked in construction for about thirty years, many years operating my own business with roughly twenty employees. I became increasingly involved within the Haudenosaunee community at Grand River in or about 1985 by accepting responsibilities and establishing institutions in education, employment and training, organizational development and governance.

5. Between 1990-1997, I acted as a public school trustee for the Haldimand School Board in Cayuga, Ontario. In this role, I was responsible for Six Nations high school students who attended three locations within the Board's jurisdiction.

6. Since I was a young child, I have held Haudenosaunee ceremonies and customs closely. Later, in or around 1990, I became more actively involved in the day-to-day governance of the Haudenosaunee Confederacy, including with the Haudenosaunee Confederacy Chiefs Council (the "HCCC").

7. I began work with the Haudenosaunee Development Institute (the "HDI") in 2007. My role with the HDI is as a "Delegate" appointed by the HCCC.

8. I have personal knowledge of the facts in this affidavit. Where I rely on information from third parties, I state the source of the information and verily believe it to be true.

**I. The Haudenosaunee Confederacy and Haudenosaunee Confederacy Chiefs Council**

9. The Haudenosaunee Confederacy refers to a political and cultural union of Indigenous Nations formed prior to European contact in North America, comprised of, among others, the Mohawk, Oneida, Onondaga, Cayuga, Seneca, and Tuscarora Peoples. The

Haudenosaunee Confederacy has had many different names, including the Six Nations, Iroquois League, Iroquois Confederacy, and *Wisk Nihohnohwhentsiake* (“League of the Five Nations”).

10. Reference in this affidavit to the “Haudenosaunee” refers to the members of the Haudenosaunee Confederacy, and reference to the “Haudenosaunee Confederacy” is to the Haudenosaunee Confederacy under its current and previous names.

11. The Haudenosaunee Confederacy Chiefs Council (“**HCCC**”) refers to the representative government of the Haudenosaunee, comprised of Chiefs selected by Clan Mothers. The HCCC is empowered by the Haudenosaunee to advance the collective treaty rights and interests of the Haudenosaunee.

12. In certain cases, as here, the HCCC delegates its authority to sanctioned entities to carry out specific mandates. For example, a copy of the Haudenosaunee Confederacy’s webpage for its “Departments” (sometimes referred to as “Committees”) is attached at **Exhibit “A”** (available at <https://www.haudenosauneeconfederacy.com/departments/>).

## **II. The Haudenosaunee Development Institute**

13. In 2007, the HDI was created pursuant to authorization by the HCCC to carry out the Terms of Reference attached as **Exhibit “B”**. The HCCC established HDI to administer and facilitate engagement with the HCCC (and the Haudenosaunee Confederacy) in respect of Haudenosaunee lands. I have been a “Delegate” with the HDI since 2007, when I was appointed by the HCCC.



14. The HDI is an interface through which developers and external governments engage with the HCCC on development and land matters affecting Haudenosaunee rights and interests. The HDI acts in conjunction and cooperation with the HCCC and other HCCC-sanctioned entities.

15. A copy of the homepage for HDI on the Haudenosaunee Confederacy's website is attached as **Exhibit "C"** (available at <https://www.haudenosauneeconfederacy.com/departments/haudenosaunee-development-institute/>).

*a. Foundations of the HDI*

16. HDI was created to provide proponents of development a central portal to engage with the HCCC in respect of pending and proposed development and to access resources for proper engagement to take place. HDI was formed on the heels of a 2006 dispute in Caledonia that involved the occupation of a proposed housing development where archaeological artifacts were being mishandled.

17. The goal of establishing HDI was to facilitate a peaceful, productive, and fully informed engagement process in respect of land and development, after factually grounding any issues that may arise between the parties. HDI's process was established, in part, to address the commentary from the Court of Appeal for Ontario in *Henco Industries Ltd. v Haudenosaunee Six Nations Confederacy Council et al.* (2006), 82 O.R. (3d) 721 (ONCA), where the Court admonished the parties to resolve issues by way of negotiation and not litigation.

18. HDI's processes are also responsive to the concerns and recommendations set out in the Ontario Auditor General's report titled "Value for Money Audit: Indigenous Affairs in Ontario",

published in December 2020 (although HDI's processes predate this publication). A copy of the 2020 Auditor General's report is attached at **Exhibit "D"**. In particular, HDI's processes address the concerns and recommendations set out in sections 4.10 to 4.15 of the report, including by providing a central resource for assessment of Indigenous rights assertions, a resource recommended by the Auditor General in section 4.11 "to avoid inconsistencies when ministries comply with the province's duty to consult".

*b. The HDI Engagement Processes*

19. On behalf of the HCCC (and the Haudenosaunee Confederacy), the HDI receives and reviews dozens of applications for proposed development in Haudenosaunee Lands every month. Applications to HDI commence a process of engagement with the HCCC (through HDI) that ensures sufficient time and resources are available for that engagement to be meaningful.

20. HDI's process ensures the availability of resources for meaningful engagement, such as environmental and other engineers, archaeological staff, land use planners, architects, legal counsel, and other various experts including Haudenosaunee elders knowledgeable about Haudenosaunee history, medicines, plants, animals, and general harvesting.

21. An example Application for Consideration and Engagement for Development to HDI (from Haldimand County, in respect of an arterial road in Caledonia, ON) is attached as **Exhibit "E"**.

22. A copy of HDI's Policies is attached as **Exhibit "F"**.

*c. HCCC and HDI are Recognized by Provincial and Federal Ministries*

23. HCCC has been recognized as having constitutionally protected Aboriginal and Treaty Rights, and HDI has been recognized as a delegate of the HCCC, by both Ontario and Federal ministries. For example:

- a. Ontario’s Ministry of Energy, Northern Development and Mines has, in respect of a pipeline replacement in Milton, ON, required engagement with Six Nations of the Grand River and required that engagement to be with **both** Six Nations of the Grand River Elected Council and the Haudenosaunee Confederacy Chiefs Council, with copy to HDI. A copy of a July 28, 2020 letter from the Ministry of Energy, Northern Development and Mines which reads excerpted below and attached as **Exhibit “G”**:

Based on the Crown's assessment of First Nation and Métis community rights and potential project impacts, the following Indigenous communities should be consulted on the basis that they have or may have constitutionally protected Aboriginal or Treaty rights that may be adversely affected by the Project.

Community	Mailing Address
Mississaugas of the New Credit First Nation	2789 Mississauga Road R.R. #6 Hagersville, ON N0A 1H0
Six Nations of the Grand River *	Six Nations of the Grand River Elected Council PO Box 5000 Ohsweken, Ontario N0A 1M0  Haudenosaunee Confederacy Chiefs Council P.O Box 714 Ohsweken, ON N0A 1M0
Huron Wendat**	255, place Chef Michel Laveau Wendake, QC G0A 4V0

*\*Please note, proponents are required to consult with both, Six Nations Elected Council and Haudenosaunee Confederacy Chiefs Council (HCCC). Please copy Haudenosaunee Development Institute (HDI) on all correspondence to Haudenosaunee Confederacy Chiefs Council (HCCC).*

*\*\*interests are specific to archeological resources*

- b. Canada's Ministry of Transport has, in respect of a project to create High Frequency Rail ("**HFR**") infrastructure in the Toronto-Quebec corridor, acknowledged that "HCCC has delegated engagement on the HFR project to HDI." The Ministry committed to "engage and consult with the HCCC through the HDI as its agent", including by sending "key engagement and consultation communications to HCCC and HDI". A copy of a June 3, 2022 letter from the Honourable Omar Alghabra, Minister of Transport, which reads excerpted below and attached as **Exhibit "H"**:

Allow me to reiterate my commitment to advancing reconciliation and nation-to-nation relationships with Indigenous peoples and to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples. As part of this commitment, I emphasized having an open and constructive relationship with Indigenous Peoples throughout the HFR project. I also underscored the importance of grounding this relationship in the principles of early and meaningful engagement, advancing priorities on reconciliation, and fulfilling the Crown's duty to consult and, where appropriate, accommodate.

I understand that the HFR Technical Office has reached out to the Haudenosaunee Confederacy Chiefs Council (HCCC) and the Haudenosaunee Development Institute (HDI) to schedule a briefing on the HFR project. I have also received your communication confirming that the HCCC has delegated engagement on the HFR project to the HDI.

As requested by the HCCC, the Crown will engage and consult with the HCCC through the HDI as its agent on the HFR project. In the event of any agreements or accommodations reached through the consultation process, we would seek the HCCC's ratification. There may also be times during consultations where the HCCC's direct input might be warranted and requested.

To date, the government has identified Indigenous Peoples that require engagement and consultation on the HFR project with varying interests and potential impacts on their existing Aboriginal and treaty rights. Currently, we are engaging each of the identified Indigenous Peoples to better understand their interest in and the possible impacts of the project. We will continue to send key engagement and consultation communications to HCCC and HDI.

### III. HCCC Appoints HDI to Represent Haudenosaunee Interests in this Litigation

24. The HCCC met on April 2, 2022. I was invited to this meeting by Cleve Thomas, Chief of the Beaver Clan of the Onondaga Nation, and observed the meeting via Zoom web conference. At this meeting, the HCCC resolved to authorize HDI to intervene in this litigation to represent the interests of the Haudenosaunee Confederacy.

25. I have reviewed the affidavit of Richard Wayne Hill Sr., affirmed June 10, 2022, including paragraphs 35 through 39, and confirm that the meeting on April 2, 2022 was conducted in accordance with the decision-making process described in Mr. Hill's affidavit. In particular, Chief attendees included representatives from all three benches of the HCCC (*i.e.*, the Elder Brothers (Mohawk/Seneca), Younger Brothers (Oneida/Cayuga), and Fire Keepers (Onondaga)). I recall at least the following were present:

- a. Elder Brothers: Allen MacNaughton;
- b. Younger Brothers: Al Day, Arnold Hill, Steve Jacobs, Tom Jonathan, Steve Maracle, Roger Silversmith; and
- c. Fire Keepers: Cleve Thomas, Kervin Williams, and Toby Williams.

26. On April 6, 2022, Hohahes Leroy Hill, Secretary of the HCCC, wrote to The Honourable Marc Miller, Federal Minister of Crown-Indigenous Relations, to inform him that the HCCC had “asked the Haudenosaunee Development Institute (“HDI”) to take such steps as it deems necessary to protect our interests [the Haudenosaunee Confederacy and its citizens] in the litigation that has been commenced by the Six Nations Elected Band Administration as against Her Majesty the Queen in Right of Ontario and Canada (Six



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This is Exhibit "A" to the Affidavit of  
Brian Doolittle, sworn this 10<sup>th</sup> day of  
June, 2022

A handwritten signature in blue ink, consisting of a large, stylized initial 'B' followed by a cursive name, positioned above a horizontal line.

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Commissioner for Taking Affidavits



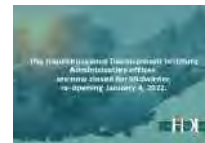
# Departments



## HAUDENOSAUNEE DEVELOPMENT INSTITUTE

The HDI represents the HCCC’s interests in the development of lands within areas of Haudenosaunee jurisdiction. The department of HDI has established and administered a regulatory framework which identifies, registers and regulates development in compliance with a number of regulatory obligations. In addition, the department ensures that the perpetual care and maintenance of the Haudenosaunee is maintained with respect to Haudenosaunee interests.

### TOP POSTS



**HDI  
MIDWINTER  
CLOSURE**

DECEMBER 17,

2021



**STATEMENT:  
CEASE AND  
DESIST BLUE  
TRITON**

NOVEMBER 25, 2021



**HDI MEDIA  
ADVISORY:  
NEW  
CONTACT**

**INFORMATION**



## HAUDENOSAUNEE DOCUMENTATION COMMITTEE

As the official voice of the HCCC on border crossing documentation issues, the HDC is mandated to work with the United States and Canadian Governments regarding the Western Hemisphere Travel Initiative (WHTI). The department is obligated to interface with the US and Canadian Governments regarding the political and technical development of the new Haudenosaunee ID cards and passports.

VISIT DEPARTMENT

## HAUDENOSAUNEE WILDLIFE & HABITAT COMMITTEE

Tasked with the management of wildlife resources, the Haudenosaunee Wildlife and Habitat Authority has negotiated a series of agreements to provide safe hunting areas for Haudenosaunee deer hunters. This agreement means a commitment that out hunters will maintain high standards of safety, discipline and conservation. In addition, the department is working to build solid, respectful partnerships and working relationships with agencies and officials of other governments.

VISIT DEPARTMENT



**IN THE NEWS: TOBACCO TRIAL**

### RESTARTS

OCTOBER 22, 2021



**NORFOLK COUNTY BUYER BEWARE**

OCTOBER 12, 2021

### DEPARTMENTS LINKS

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**DEVELOPMENT INSTITUTE**

DOCUMENTATION COMMITTEE

**WILDLIFE & HABITAT COMMITTEE**

REPATRIATION COMMITTEE

**JOINT STEWARDSHIP BOARD**

OGWA WIHSTA DEWA SYNE



## HAUDENOSAUNEE REPATRIATION COMMITTEE

Established by the Grand Council of the Haudenosaunee and operating in cooperation with Haudenosaunee governments and the Council of Chiefs and Clan Mothers, the Haudenosaunee Repatriation Committee is entrusted with the task of retrieving sacred objects for the nations of the confederacy and redistributing them to the individual nations.

VISIT DEPARTMENT

## JOINT STEWARDSHIP BOARD

Comprised of equal representation from the City of Hamilton and the Haudenosaunee, it is the Joint Stewardship Board’s responsibility to ensure cooperation and successful continuation of the environmental management plans for the Red Hill Valley. The intent of this board is to foster long-term relationships and to create a plan for the Valley that reflects the best thinking of both peoples.

VISIT DEPARTMENT

## OGWA WIHSTA DEWA SYNE – PROJECT FUNDING, PAYROLL SERVICES AND FINANCE MONITORING

The Language & Cultural Development Fund has been established to help organizations promote and develop

### COUNCIL

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+ [CURRENT CLAN MOTHERS & CHIEFS](#)

+ [COUNCIL MINUTES & AGENDAS](#)

### NEWSLETTERS

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[Check out our Quarterly Newsletters](#)

Click on the newsletter below to view or download.

[Winter 2018 Quarterly Newsletter](#)

JANUARY 2018

[Fall 2015 Quarterly Newsletter](#)

DECEMBER 2015

[Summer 2015 Quarterly Newsletter](#)

JULY 2015



# Haudenosaunee language programs and cultural initiatives in the community.

VISIT DEPARTMENT



Haudenosaunee  
Confederacy

Welcome to the official website of the Haudenosaunee Confederacy. Through generations of attempted assimilation the nations of the Haudenosaunee Confederacy have held fast to their cultures and traditions.

16 Sunrise Court  
Suite 600  
Ohsweken, ON  
P.O. Box 714

Phone: 519-445-4222




## CONTACT US

SUBMIT



# EXHIBIT B

This is Exhibit "B" to the Affidavit of  
Brian Doolittle, sworn this 10<sup>th</sup> day of  
June, 2022

A handwritten signature in blue ink, consisting of a large, stylized initial 'B' followed by a series of loops and a long horizontal stroke extending to the right.

---

Commissioner for Taking Affidavits

## **HAUDENOSAUNEE DEVELOPMENT INSTITUTE TERMS OF REFERENCE** (As adopted in council April 7, 2007)

The Haudenosaunee Confederacy Council has created a process that would allow developers who want to develop within their territory to be dealt with expeditiously and effectively. The process for exercising Haudenosaunee jurisdiction over their lands in the Haldimand Tract will be known as the Haudenosaunee Development Institute. The HDI will identify, register and regulated development, ensure compliance with the Tseh Niyohy Dwayadowhsra Ogwahweja Wihwageh (Haudenosaunee Green Plan), and provide benefits to the Haudenosaunee.

### **Mandate**

A committee will be established to lay out all the steps necessary to ensure the successful implementation of the institute.

### **Membership**

The Haudenosaunee Chiefs Council appointed the following people to the Committee and provided for them the mandate to bring people onto the committee as required:

Ron Thomas, Onondaga Brian Doolittle, Mohawk Aaron Detlor, Mohawk

### **Authority and Accountability**

The committee is accountable to the Confederacy Chiefs Council and must make reports back on a regular Basis.

The committee has the authority to make decisions that pertains directly to the subject matters; the committee will not obligate the Confederacy Council to anything as a result of their work. The council will make final decisions based on the best options developed by the committee.

### **Scope of Work**

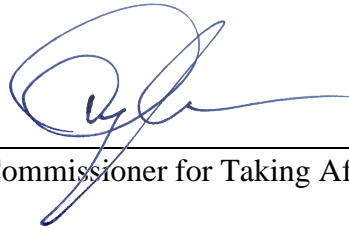
Identify a model of governance that will set out expectations and monitor the performance of the institute.

Create a model for the efficient administration of all development enquiries/proposals received. Identify the necessary human, plan and financial resources required to carry out the work. Create all the workplace policies and procedures that will govern daily activities within the plan and other necessary places of work.

# EXHIBIT C



This is Exhibit "C" to the Affidavit of  
Brian Doolittle, sworn this 10<sup>th</sup> day of  
June, 2022

A handwritten signature in blue ink, consisting of a large, stylized initial 'B' followed by a cursive name, positioned above a horizontal line.

---

Commissioner for Taking Affidavits



# HAUDENOSAUNEE CONFEDERACY



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[LAND RIGHTS & TREATIES](#) [NEWS & EVENTS](#) [CONTACT US](#)

[DEVELOPMENT CONSULTATION ON HAUDENOSAUNEE LANDS \(VISIT HERE\)](#)

## Haudenosaunee Development Institute



### TOP POSTS



**HDI  
MIDWINTER  
CLOSURE**

DECEMBER 17,

2021



**STATEMENT:  
CEASE AND  
DESIST BLUE  
TRITON**

NOVEMBER 25, 2021



**HDI MEDIA  
ADVISORY:  
NEW  
CONTACT**

**INFORMATION**



**Haudenosaunee Development Institute**  
Our Land, Our Law, Our People, Our Future

The Haudenosaunee Confederacy Chiefs Council ('HCCC') has legislated the Haudenosaunee Development Institute ('HDI') to represent HCCC interests in the development of lands within areas of Haudenosaunee jurisdiction, including but not limited to the land prescribed by the Haldimand Proclamation and the 1701 Treaty Area.

NOVEMBER 19, 2021



**IN THE  
NEWS:  
TOBACCO  
TRIAL**

### RESTARTS

OCTOBER 22, 2021



**NORFOLK  
COUNTY  
BUYER  
BEWARE**

OCTOBER 12, 2021

### DEPARTMENTS LINKS

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**DEVELOPMENT  
INSTITUTE**

DOCUMENTATION  
COMMITTEE

**WILDLIFE & HABITAT  
COMMITTEE**

REPATRIATION  
COMMITTEE

**JOINT STEWARDSHIP  
BOARD**

OGWA WIHSTA DEWA  
SYNE

HDI has established and administers a regulatory framework which identifies, registers and regulates development in compliance with a number of regulatory obligations including the **Haudenosaunee Green Plan** ('HGP') and the **Haudenosaunee Development Protocol** ('HDP').

HDI is also charged with ensuring that the perpetual care and maintenance of the Haudenosaunee is maintained with respect to Haudenosaunee interests.

### Our Goals

- The HDI seeks to protect Haudenosaunee heritage sites. – The HDI’s ability to access sacred sites, culturally-significant sites, traditional places for hunting, fishing, trapping and gathering must not be infringed upon by any development. The HDI seeks to work with developers and regional associations to identify such places well in advance of proposals.
- The HDI will seek to protect threatened species and ecological communities with their status in the landscape affected to the extent their population viability is at risk. Specifically, the HDI is concerned about nationally endangered or vulnerable species and ecological communities.
- The HDI will seek to protect migratory species and wetlands. – Migratory species are recognized within international conventions to which Canada is a signatory. Wetlands, which help to clean the waters, are also important and the HDI seeks to protect the entire watershed that feeds into those wetlands. HDI is less inclined to consider one to

one substitutions to wetlands and prefer to avoid any disturbance.

Proposals that provide a realistic and measurable “green” agenda associated with the nature of the project will be viewed most favorably. The HDI is willing to work with developers on defining those green standards, strategies and approaches. While these may require additional expenditures on the part of the developer, it will be considered one of the “benefits” of the project to overall well-being.

## THE HCCC’S EIGHT POINTS OF JURISDICTION

Under the Eight Points of Jurisdiction, the HCCC have sole jurisdiction over matters pertaining to land. Any dealings involving land must also be governed by the following principles therefore according to the HCCC rules,

- All Onkwehon:we (Native) Nations have equal rights to share Mother Earth’s bounty. They also share equal responsibility to protect and preserve the earth and what She holds.
- Land is not meant to be individual property. It is for us all to take care of and must be respected by all.
- Land has always been for our collective use and benefit. Our land is not limited to ‘Indian Reservations’.

Further, to its inherent jurisdiction to address matters dealing with the land, the HCCC have set out a specific Land Rights Statement to further articulate, in English,

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JULY 2015

principles that are required when considering land. The HCCC lands rights statement states the following:

1. The land is sacred to us. It defines our identities, belief system, languages and way of life.
2. We hold the Aboriginal and treaty title to our lands collectively.
3. Our treaty relationship with the Crown is still alive and in force and directs our conduct in our relationship to Canada. Within this relationship, the terms of the treaties continue to bind both our government and the Crown.
4. We require a careful accounting for the Crown's dealing with our lands, and the return of any lands that were improperly or illegally taken from our ancestors.
5. We require an accounting for the funds administered or held by the Crown for the Six Nations people, and restitution of any unaccounted funds.
6. It is not only within the context of our treaty relationship with the Crown that we see justification for such accounting and restitution. Canadian and international law is clear on the right of the Haudenosaunee to seek justice on these matters.
7. In any agreements with the Crown concerning land, our goal is to promote and protect a viable economy for our people on our land – an economy that will be culturally appropriate, environmentally sustainable, and not injurious to our people and our neighbours.
8. Our fundamental approach is that Six Nations lands will come under the jurisdiction, management and control of Six Nations people.

The federal and provincial governments must not impose jurisdictional, policing, taxation, and/or economic activities as part of any land rights settlement.

## Haudenosaunee Development Institute

16 Sunrise Court, Suite 600

P.O. Box 714

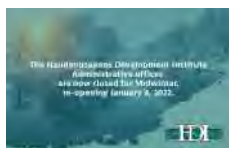
Ohswegen, Ontario

N0A 1M0

Phone: 519-445-4222

Fax: 519-445-2389

E-mail: [info@hdi.land](mailto:info@hdi.land)



### HDI Midwinter Closure

December 17th,  
2021 | [0 Comments](#)

### HDI MEDIA ADVISORY: New Contact Information

November 19th,  
2021 | [0 Comments](#)

MEDIA  
ADVISORY  
November 15,  
2021 New  
Contact  
Information for  
Haudenosaunee  
Development  
Institute (Six  
Nations of the  
Grand River) –

### In the News: Tobacco Trial Restarts

October 22nd,  
2021 | [0 Comments](#)

The second  
phase of the  
trial challenges  
the applicability  
of the federal  
provisions,  
which form the  
basis of the  
criminal  
charges against  
the community  
members.

Effective .....White  
immediately, was acquitted  
the contact of provincial  
information for fraud charges  
the amounting to  
Haudenosaunee \$44 [...]  
Development  
Institute is as  
follows: Email:  
info@hdi.land  
Telephone: [...]



### Norfolk County Buyer Beware

October 12th,  
2021 | 0 Comments

The  
Haudenosaunee  
Confederacy  
Chiefs Council  
is doubling  
down on its  
pledge to stay  
on 40 acres of  
Norfolk County  
farmland the  
county is trying  
to sell to collect  
unpaid  
property taxes.  
In full-page



### Survivors Flag Features Haudenosaunee Tree of Peace

September 24th,  
2021 | 0 Comments

The National  
Centre for  
Truth and  
Reconciliation  
recently  
unveiled the  
Survivors Flag.  
Haudenosaunee  
representation  
includes our  
Tree of Peace.  
Purchase of  
merchandise  
items that



### Finance Officer Assistant

September 23rd,  
2021 | 0 Comments

Job Overview:  
Working with  
the Finance  
Department,  
the primary  
role of the  
Finance Officer  
Assistant is to  
perform a  
variety of tasks  
relating to the  
Accounts  
Receivable,  
Accounts  
Payable, and

advertisements  
and a [...]

feature the  
Survivor's Flag  
design will be  
available soon.  
The Survivors'  
[...]

Payroll  
functions  
Preference will  
be [...]



Haudenosaunee  
Confederacy

Welcome to the official  
website of the  
Haudenosaunee  
Confederacy. Through  
generations of attempted  
assimilation the nations of  
the Haudenosaunee  
Confederacy have held fast  
to their cultures and  
traditions.

16 Sunrise Court  
Suite 600  
Ohsweken, ON  
P.O. Box 714

Phone: 519-445-  
4222



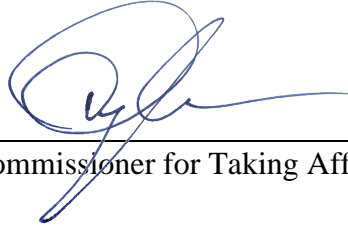
## CONTACT US

SUBMIT



# EXHIBIT D

This is Exhibit "D" to the Affidavit of  
Brian Doolittle, sworn this 10<sup>th</sup> day of  
June, 2022

A handwritten signature in blue ink, consisting of a large, stylized initial 'B' followed by a cursive name, positioned above a horizontal line.

Commissioner for Taking Affidavits



Office of the Auditor General of Ontario

Value-for-Money Audit  
Indigenous Affairs  
in Ontario



*December 2020*



Ministry of Indigenous Affairs

# Indigenous Affairs in Ontario

## 1.0 Summary

Indigenous Peoples were the first to have inhabited the lands now known as Canada. In Canada, Indigenous Peoples are First Nations, Métis and Inuit. According to the last census in 2016, 22% of Canada's Indigenous population lived in Ontario. The nearly 375,000 Indigenous Peoples in Ontario accounted for 3% of Ontario's population. About 15% of Indigenous Peoples live on reserves (lands set aside by the Crown for the exclusive use of Indigenous communities).

According to the Truth and Reconciliation Commission, reconciliation between Indigenous and non-Indigenous people “requires constructive action on addressing the ongoing legacies of colonialism that have had destructive impacts on [Indigenous] peoples’ education, cultures and languages, health, child welfare, the administration of justice, and economic opportunities and prosperity” and “ must create a more equitable and inclusive society by closing the gaps in social, health, and economic outcomes that exist between [Indigenous] and non-[Indigenous] Canadians.”

Indigenous Peoples have, in general, poorer health, education, social and economic outcomes than non-Indigenous people. Many societal and historical issues have led to inequity between Indigenous and non-Indigenous people, as well as

Indigenous people living on reserve and off reserve. Although First Nations, Métis and Inuit social and economic indicators have shown improvement from 2001 to 2016, there is still a significant gap when compared to other Ontarians. For example, Indigenous Peoples in Ontario do fare better than those in other Canadian provinces in attaining university degrees. However, in 2016 (latest available information), approximately 13% of Indigenous Peoples aged 25 to 64 had university degrees compared to 32% for non-Indigenous people. For Indigenous Peoples living off reserve in 2019, 42% had at least one chronic health condition, compared to 33% for non-Indigenous people.

Indigenous Peoples continue to advocate for their right to self-determination, the elimination of systemic racism, and having a primary role in the development and implementation of programs and services.

The Ministry of Indigenous Affairs (Ministry) is responsible for setting priorities and tracking the province's progress in delivering policies and programs effectively to improve the lives of Indigenous Peoples. The Ministry is also responsible for ensuring the province meets its legal obligation to consult Indigenous communities on government decisions that may infringe on their rights or impact them adversely. The Ministry is also the province's lead in land claims negotiations, and is responsible for settling land claims when a

First Nation asserts that the province has violated its Indigenous or treaty rights.

Overall, our audit found that the Ministry has neither taken the lead, nor been given the authority required to coordinate the province's policies, programs and services for Indigenous Peoples. Each provincial ministry independently designs and implements its own Indigenous policy initiatives according to its own priorities. Problems with this decentralized approach are compounded by the absence of oversight. The Ministry does not track or monitor provincially funded Indigenous programs and services. Effective coordination of programs and services cannot be performed without centralized knowledge of all the government's Indigenous programs and services. Further, other Ontario ministries that provide programs and services do not have effective engagement, accountability and oversight mechanisms in place. Therefore, these ministries cannot ensure that these programs and services are operating as intended to effectively and efficiently meet the needs of Indigenous communities. In contrast, during the COVID-19 pandemic, the Ministry was able to lead the province's efforts by meeting with Indigenous communities and service providers to get a more comprehensive understanding of their needs, relay those needs to the responsible ministries, and coordinate the government's response.

The following are some of our specific concerns:

- **The province is not regularly assessing and reporting on its effectiveness in improving the lives of Indigenous Peoples.** Despite committing to publicly report on the progress of Indigenous initiatives in the areas of health, employment, education and justice in response to the 2015 Truth and Reconciliation Commission report, the province has not done so. The Ministry did create reports on social and economic indicators using information from Statistics Canada and other sources in 2016 and 2018, but these reports were never publicly released. Canada, British Columbia and Alberta publicly report on their Indigenous affairs performance measures.
- **Neither the Ministry of Indigenous Affairs, nor any other provincial ministry or agency, is aware of all provincial programs and services for Indigenous Peoples in Ontario, and this information is not publicly available.** Without comprehensive information on Indigenous programs and services, the province cannot effectively coordinate its efforts to improve social and economic outcomes for Indigenous Peoples. The Ministry only posts 11 of the 140 provincial programs designed to benefit Indigenous Peoples on its webpage, and could only provide us with a listing of 30 programs when requested. To compile a complete inventory of all Indigenous programs and services in the province for a five-year period, we had to contact the Treasury Board Secretariat and each ministry separately for the information. As this information had never been compiled before, ministries took up to six months to identify all relevant programs and associated funding for our Office.
- **When developing programs and services for Indigenous Peoples, the province does not always engage them to ensure the programs and services effectively meet their needs.** Engaging with Indigenous Peoples helps ensure that ministries develop programs and services that more effectively meet the needs of the communities in a culturally appropriate manner. Unlike consultation, there is no legal obligation for engagement when developing Indigenous programs and services. However, engagement is considered a best practice. For example, lack of engagement by the Ministry of Health has resulted in Indigenous people not having access to culturally appropriate health care incorporating traditional healing and translators. The Ministry also did not engage Indigenous Peoples when developing either its 2016 Indigenous affairs strategy or its guide to help other ministries engage Indigenous Peoples.

- **The lack of broadband access for Indigenous communities is limiting health, social and economic progress.** Only 17% of households on First Nations reserves have access to the Canadian Radio-television and Telecommunications Commission (CRTC) standard for basic Internet services. This compares to 98.8% of households in medium and large urban populations, and 29.5% in rural populations. Without adequate Internet access, Indigenous communities cannot access health care services through eHealth or take part in remote learning education delivered online, and Indigenous businesses cannot access eCommerce opportunities.
- **Ministries do not have accountability measures in place to confirm funding for Indigenous programs and services is being used as intended.** Of the 18 programs and services we sampled, only two filed any supporting documents, such as invoices or receipts, to show that funds were being used as intended. These programs and services accounted for 33%, or \$400 million of \$1.2 billion in budgeted expenditures for Indigenous programs in 2019/20. When we requested documents from six ministries for 10 specific expenses, such as costs for meetings, only two ministries were able to provide any form of supporting documentation, such as invoices or receipts.
- **Ministries do not have adequate performance measures in place to ensure Indigenous programs and services are effective in meeting the needs of Indigenous people.** We found that 12 of the 18 programs we sampled did not have performance measures. Of the six programs that did have performance measures in place, three were not able to effectively measure whether the program was achieving its intended outcome. For example, the Weeneebayko Health Authority measured the level of services provided but not the health outcomes of the recipients. We found that services to remote communities delivered through this program had decreased by 45% from 2016/17 to 2019/20, and the Ministry had not investigated the cause or impacts of this. However, in 2017, a review of the program identified that reduced access to health care had resulted in worse health outcomes in the community, and an inability to manage chronic disease (such as diabetes).
- **Effectiveness of Indigenous programs and services is limited by uncertainty in funding.** Some government programs only guarantee funding for one to three years. Further, approving applications and providing funding can be significantly delayed. Four of the 14 programs we sampled that provided funding to Indigenous organizations or communities had agreements for three years or less. Indigenous communities and service providers we met with said that they are limited in their ability to retain staff, plan long-term, and use the funds received effectively. For example, one community mentioned that they were not able to bring mental health professionals to their northern community because they could not guarantee funding for the positions beyond a year.
- **The Ministry does not collect adequate information to ensure the province is meeting its legal obligation to consult Indigenous communities.** The province is required to consult Indigenous communities when it contemplates activity that may adversely impact Indigenous or treaty rights (for example, approving a mining permit on traditional Indigenous lands). Most consultations are performed by other government ministries, however the Ministry of Indigenous Affairs is not always aware of these consultations. Further, the Ministry does not have enough information to understand if consultations they are aware of comply with legal requirements, even though the Ministry has spent \$2.5 million since 2012 to maintain

a system to store this information. From January 2010 to October 2020, there were 35 legal actions brought against the Crown involving allegations of failing to adequately consult Indigenous communities. In three instances, the courts found that Ontario did not adequately consult. The province covered financial costs or provided funding to settle out of court in another three cases. The remaining legal actions were either settled out of court without cost to the province, dismissed, abandoned or still ongoing.

- **The province does not have a centralized resource for the assessment of Indigenous rights assertions which creates duplicate work among ministries and a risk that consultations might not be adequately conducted.** The obligation to consult Indigenous communities is based on established and asserted Indigenous and treaty rights. When an Indigenous community asserts that they have Indigenous or treaty rights to land, the province needs to determine the extent of consultation required based on these assertions. However, ministries do not have consistent processes to assess the credibility and strength of assertions of Indigenous or treaty rights. For example, the Ministry of Natural Resources and Forestry assessed four assertions, despite the fact that the province’s Aboriginal Consultation Issues Working Group (created in 2012) had already completed this work.
- **The Ministry does not effectively manage its land claims settlement process in an accountable manner.** The Ministry does not establish expected timelines, milestones, or costs for the settlement of land claims. Further, it does not track delays or identify barriers which could allow it to improve efficiency. The Ipperwash Inquiry identified delays in the land claims process as “the single biggest source of frustration, distrust, and ill-feeling among [Indigenous Peoples]

in Ontario.” The 19 land claims we reviewed that the province had concluded took, on average, 22 years to settle. The Ministry told us that there were a number of factors outside of its control that caused the delays in providing compensation to communities for violations of their Indigenous or treaty rights (for example, lack of cooperation from the federal government or other provincial ministries). However, the Ministry did not collect any documents to support these causes of delays or provide details about the impact they had on negotiation timelines.

- **The Ministry plays conflicting roles in settling land claims against the government.** The government acts as a defendant in land claims, but also assesses the legitimacy of claims, and determines the financial support Indigenous communities receive to negotiate claims. In comparison, other provinces, such as British Columbia, Saskatchewan and Manitoba, have independent treaty commissions involved in the land claims settlement process between the federal and provincial governments, and Indigenous communities. First Nations have consistently raised concerns about the lack of an independent land claims process, the lack of control over negotiation funding and access to negotiation evidence. In 1996, the Royal Commission on Aboriginal Peoples recommended that an independent tribunal be appointed to facilitate negotiations on land issues and historical claims. In 2007, the Ipperwash Inquiry made a similar recommendation. Previous attempts to establish an independent commission in Ontario were unsuccessful because the federal government did not communicate its interest in a treaty commission.
- **Minimal information about land claims is made publicly available, reducing transparency and accountability.** The Ministry does not report on the number, cost or timeliness of land claims settled or under negotiation.



In contrast, in British Columbia, an independent treaty commission publishes a report annually outlining the number of land claims, the status of negotiations and costs to settle.

- **There is no reporting on the status of Ipperwash Inquiry recommendations.** The implementation of outstanding recommendations previously made by the Ipperwash Inquiry in 2007 could have addressed many of the issues identified in our report.

This report contains 14 recommendations, with 28 action items, to address our findings.

## Overall Conclusion

Our audit concluded that the Ministry of Indigenous Affairs is not leading the province's development of programs and services that improve social and economic outcomes for Indigenous Peoples. Specifically, the Ministry has not been mandated to lead a coordinated approach to Indigenous Affairs, and is not aware of all of the province's programs and services for Indigenous people. Further, the province is not ensuring its programs and services are operating as intended to effectively meet the needs of Indigenous people and their communities.

The Ministry is not effectively leading negotiations for the timely settlement of land claims. It does not manage settlements in a manner that enables it to identify barriers and improve timeliness, or hold itself accountable. Land claims in Ontario do not have an independent commission, and the Ministry's role, since Ontario started accepting and negotiating land claims in 1983, can place it in a conflict of interest situation.

The Ministry lacks transparency and accountability by not assessing or publicly reporting on the government's progress in meeting the needs of Indigenous Peoples, the effectiveness of Indigenous programs and services, or key information regarding land claims negotiations. It has also not reported on the status of recommendations made by the Ipperwash Inquiry, though it committed to

implement all recommendations included in the Inquiry's report.

## MINISTRY OVERALL RESPONSE

The Ministry of Indigenous Affairs is committed to improving social and economic outcomes for Indigenous Peoples in Ontario. While progress is being made, there is much more to be done and improvements will require continued work from all ministries and levels of government.

We recognize the importance of engaging with Indigenous partners on policies, programs and services across government and will provide advice and guidance to other ministries.

We thank the Auditor General of Ontario and her team for their report and insights on how we can improve our activities. Regarding information on Ontario's programs for Indigenous people, the Ministry will leverage its relationships with other ministries to update and maintain a comprehensive listing on its external website.

The Ministry appreciates the areas that the Auditor General has highlighted and is committed to using all tools available to support continuous improvement and effectively meet the needs of Indigenous people and their communities. For example, the Ministry will leverage the "one-window" approach that has been successful in responding to Indigenous partners' needs throughout the COVID-19 pandemic.

The Ministry welcomes the Auditor General's recommendation on how it can further improve its tracking and reporting on programs, outcomes and the progress of land claim negotiations, and appreciates that measurable goals and targets are necessary for assessing progress. For example, the Ministry will modernize the information management system to improve key milestone identification and reporting.

In addition, the Ministry will encourage all ministries to leverage enterprise-wide processes and activities, such as program reviews and collecting and reporting on performance

indicators, to identify opportunities to streamline, transform, become more efficient and improve outcomes.

## 2.0 Background

### 2.1 Indigenous Peoples in Ontario

“Indigenous” is the term that refers to the earliest known inhabitants of an area. They are distinct from people who settled on the lands since.

The United Nations defines Indigenous Peoples as “inheritors and practitioners of unique cultures and ways of relating to people and the environment. They have retained social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live. Indigenous Peoples have sought recognition of their identities, way of life and their right to traditional lands, territories and natural resources for years.”

The term “Indigenous Peoples” is currently used in Canada and in international forums and will be used in this report. The term “Indian” to refer to Indigenous Peoples is no longer used broadly, as many find the term offensive because of its racist and colonial history. Despite this, it continues to be used in certain legal contexts because of its use in the *Indian Act* and other legislation. Similarly, the term “Aboriginal” is used in certain legal contexts. These terms will be used only when required for clarity in this report.

The Indigenous population of Canada is composed of three culturally and legally distinct groups: First Nations, Métis and Inuit:

- **First Nations:** First Nations People are descendants of the original inhabitants of North America who resided south of the Arctic. There are 133 First Nations communities in Ontario (see **Appendix 1**). The Political Confederacy is a provincial level forum for collective decision-making and advocacy (see **Appendix 2**). It is comprised of the Ontario

Regional Chief and the Grand Chiefs from the four Political Territorial Organizations (PTOs) and Independent First Nations. PTOs are the primary support for political advocacy and secretariat services. Tribal Councils are comprised of elected Chiefs and other representatives which oversee the delivery of programs and services for their communities. Not every community belongs to a PTO or a Tribal Council. Three First Nations communities are not currently affiliated with any collective body. The legal status of a First Nations person can have an impact on access to rights and benefits such as on-reserve housing, education and exemptions from taxes in specific situations. The legal status of a member of a First Nation includes the following:

- **Status Indian:** an individual whose name is included on the Indian Register, an official list maintained by the federal government. Certain criteria determine who is registered as a Status Indian. Only Status Indians are recognized as Indians under the federal *Indian Act*.
- **Non-status Indian:** an individual who considers themselves as First Nations or is a member of a First Nations group, but whom the federal government does not recognize as Indian under the *Indian Act*, either because they are unable to prove their status or have lost their status rights.
- **Treaty Indian:** a Status Indian who belongs to a First Nation that signed a treaty with the Crown.
- **Métis:** individuals whose ancestry is a mix of European and First Nations backgrounds. The Métis have developed a distinct culture and distinct communities. They have no historic treaties or distinct land bases in Ontario.
- **Inuit:** individuals who traditionally resided in the far north areas of what are now the four regions of Inuit Nunangat: the Inuvialuit Settlement Region (northern Northwest Territories), Nunavut, Nunavik (northern Quebec)

and Nunatsiavut (northern Labrador). Today, Inuit in Ontario primarily reside in urban centres.

According to the most recent data from Statistics Canada, there were 1,673,780 Indigenous people in Canada in 2016, representing 5% of the total population. Of that number, 374,395 lived in Ontario, the largest number of Indigenous people living in a Canadian province or territory. They accounted for almost 3% of Ontario’s population and over 22% of all Indigenous people in Canada.

According to Statistics Canada, the Indigenous population in Ontario increased by 54% from 2006 to 2016 due to increased births and more individuals self-identifying as Indigenous. Overall, this population is younger than Ontario’s non-Indigenous population—41% are under the age of 25, compared to 29% of the non-Indigenous population.

### 2.1.1 Social and Economic Indicators for Indigenous Peoples in Ontario

In contrast with other Canadian provinces, Indigenous people residing in Ontario perform higher on several social and economic indicators. As **Figure 1** demonstrates, Indigenous people in Ontario are more likely to have both a high school degree and a university degree.

The Community Well-being Index is a measure of the social and economic well-being of both non-Indigenous communities and First Nations communities across Canada compiled by Indigenous Services Canada. It considers education, labour force activity, income and housing. As shown in **Figure 2**, the Community Well-being scores for First Nations communities in Canadian provinces have been improving, however a large gap between these communities and non-Indigenous communities still exists.

According to Statistics Canada, in 2016, about 20% of Indigenous people in Canada and 15% of Indigenous people in Ontario lived on reserves. The remaining majority of about 80% and 85% respectively, lived off reserves. A reserve is land set aside by the federal government for the use and benefit of a First Nations community and its citizens. The *Indian Act* applies to most reserves in Canada.

Generally, in Ontario, social and economic indicators for First Nations people living on reserve have poorer outcomes than those off reserve. Respondents to the 2019 Chiefs of Ontario Regional Health Survey stated the top five challenges for First Nations communities were alcohol and drug use, employment, housing, lack of funding, and crime. **Figure 3** outlines some selected social and economic indicators comparing Indigenous people

**Figure 1: Social and Economic Indicators for Indigenous Peoples in Ontario and Other Canadian Provinces, 2016**

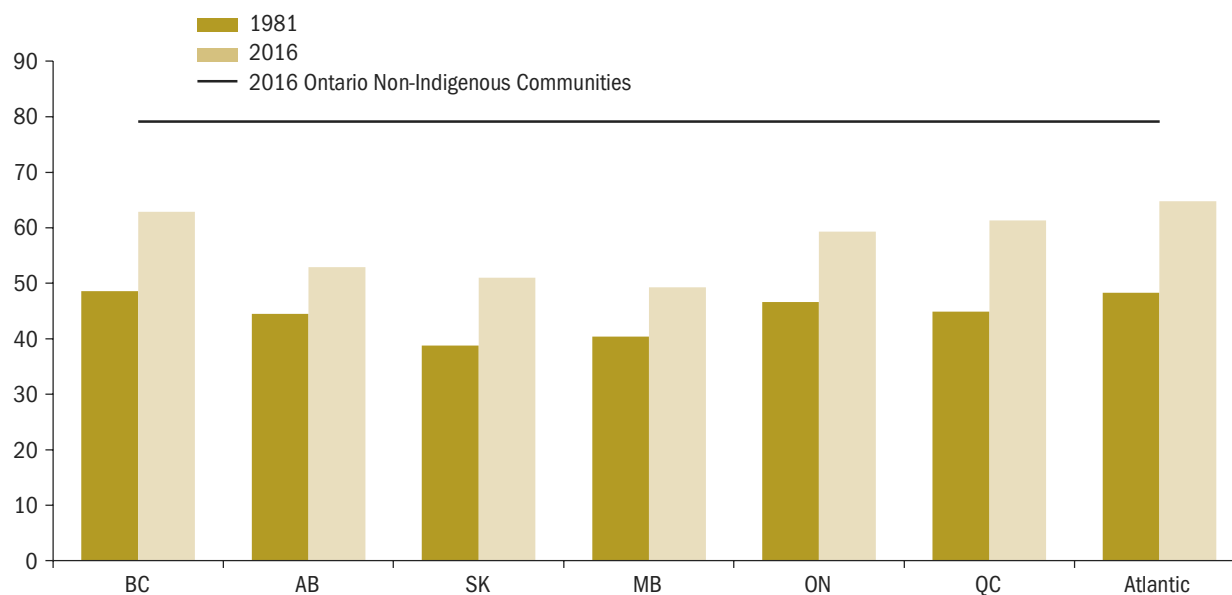
Source of data: Statistics Canada 2016

Indicator	BC	AB	SK	MB	ON	QC
% of Canada’s total Indigenous population	16.2	15.5	10.5	13.3	<b>22.4</b>	10.9
% of population over the age of 15 with a high school degree	70.1	65.0	61.1	58.8	<b>70.9</b>	65.7
% of population aged 25–64 with a university degree	10.2	9.8	10.2	9.9	<b>12.5</b>	10.9
Employment rate of the population aged 25–64 (%)	64.0	63.7	55.8	58.8	<b>63.8</b>	63.3
Median annual employment income (before tax) for people over the age of 15 (\$)	24,183	32,598	26,222	26,013	<b>26,714</b>	24,889
% of dwellings in need of major repairs	16.8	18.2	24.4	24.9	<b>16.9</b>	18.1
% of Indigenous children under the age of 15 in foster care	4.0	3.8	2.6	6.3	<b>2.0</b>	2.4
# of adults admitted to federal and provincial custody per 100,000 population	3,263	7,679	5,638	9,531	<b>2,430</b>	1,249

Note: 2016 is the most recent year available for data.

**Figure 2: Average Community Well-being\* Scores for First Nation Communities, Ontario and Other Canadian Provinces, 1981 and 2016**

Source of data: Indigenous Services Canada, 1981 and 2016



\* The Community Well-Being scores combine indicators of educational attainment, income, housing conditions, and labour force activity from the Census of Canada to produce well-being “scores” for individual communities. The years 1981 and 2016 represent the widest range of data available.

**Figure 3: Social and Economic Indicators for Indigenous Peoples in Ontario Who Live On Reserve and Off Reserve, 2016**

Source of data: Statistics Canada 2016

Indicator	On Reserve	Off Reserve
% of population over the age of 15 with a high school degree	52.2	73.9
% of population aged 25–64 with a university degree	5.3	13.7
Employment rate of the population aged 25–64 (%)	52.6	65.5
Median annual employment income (before tax) for people over the age of 15 (\$)	18,188	28,086
% of dwellings in need of major repairs	41.5	12.7

Note: 2016 is the most recent year available for data.

living on and off reserve in Ontario. According to the most recent data from the Institute for Clinical and Evaluative Services, the prevalence of diabetes in 2014/15 was 21% higher for First Nations people who lived on reserve (18.7%) than those who lived off reserve (15.5%).

Many societal and historical issues have led to inequity between Indigenous and non-Indigenous people, as well as Indigenous people living on reserve and off reserve. While social and economic indicators for First Nations, Métis and Inuit are improving, in Ontario there is a significant gap com-

pared to other Ontarians. Indigenous people have poorer health, education, social and economic outcomes than non-Indigenous people. See **Section 4.1** for more details on social and economic gaps.

### 2.1.2 Drinking Water Advisories in Many Indigenous Communities

Drinking water advisories warn people that the water is unsafe to drink. A “boil water” advisory warns that water is unsafe for consumption because it has viruses, bacteria or parasites unless boiled. A

“do not consume” advisory is issued when contaminants, such as lead, are in the water and cannot be removed by boiling the water.

At the time of our audit, there were 46 active long-term drinking water advisories affecting 20% of Indigenous communities in Ontario. Five of these were “do not consume” advisories and the remaining 41 were “boil water” advisories. The 46 water advisories represent 75% of all active long-term water advisories in Canada, and have been in place, on average, for 12 years.

Most of these drinking water quality problems are the result of inadequate or malfunctioning infrastructure to treat the water. The federal government is responsible for resolving these issues, and provides funding to develop, operate and maintain water treatment facilities on reserves under the *Safe Drinking Water for First Nations Act*. Ontario is responsible for regulating and creating standards of drinking water in off-reserve locations, such as municipalities.

In 2015, the federal government made a commitment to end long-term boil water advisories in Canada by March 2021. At that time, Ontario partnered with the federal government to provide \$13 million in funding for 235 on-reserve water projects in 116 First Nations. The federal government would cover half of the cost of each project, the provincial government 25%, and the recipient First Nation the remaining costs. These projects include water and wastewater control system upgrades, generator replacements for water treatment plants and stormwater system improvements. At the time of our audit, the Indigenous Drinking Water Projects Office at the Ministry of Environment, Conservation and Parks had conducted on-site drinking water assessments in 53 communities. Of the 53 communities, only one community met safe drinking water standards. Common findings included treatment facility deficiencies, inadequate operator training, maintenance issues and a lack of water-quality monitoring. The findings from these assessments have supported First Nations in determining what resources are required to provide safe,

sustainable drinking water over the long term. In addition, some First Nations have indicated to the Ministry of Environment, Conservation and Parks that the findings from the assessments have also resulted in the approval of funding requests made to the federal government.

Indigenous communities are also affected by contamination that can pollute critical water sources. For example, mercury pollution in the English and Wabigoon Rivers, caused by a paper mill in Dryden that released around 10 metric tonnes of mercury into the Wabigoon River from 1963 to 1970, contaminated the fish population that the Wabaseemoong Independent Nations and Grassy Narrows First Nation communities relied on as a food source.

The Ministry of Environment, Conservation and Parks created an \$85 million trust fund in 2018 that is co-operatively managed by a panel of impacted First Nations and the Ministry. The funding is currently being used to assess the impacts of this contamination. A portion of this funding also provides for the operating costs of the panel, and costs for the panel’s engagement with Indigenous communities. As of March 31, 2020, approximately \$10.2 million from the trust fund had been spent.

The Ministry of Indigenous Affairs had also established a Mercury Disability Fund in 1986 to provide compensation to members of the Grassy Narrows First Nation and Wabaseemoong Independent Nations who demonstrate symptoms that are reasonably consistent with mercury poisoning. More than 200 people in the communities of Grassy Narrows and Wabaseemoong receive mercury disability payments. Since 2015/16, \$60 million has been spent through this program.

## 2.2 Land and Treaty Claims and Disputes

Treaties are agreements or contracts made between the Crown (originally with the British government, and then Canada) and Indigenous Peoples, defining the ongoing rights, benefits and obligations of

all parties. Between 1764 and 1930, Indigenous Peoples signed 46 treaties with the Crown, covering most of the lands in Ontario, that outlined exchanges of Indigenous land for payments or promises. In general, treaties included preserving hunting, fishing and harvesting rights, the establishment of reserve land (land set aside for First Nations use only), and the payment of annuities (money to be paid to a First Nation every year), among other provisions. Treaties enabled the Crown to gain access to the land and natural resources for the purposes of settlement and economic development. However, not all Indigenous groups signed treaties to surrender land which has resulted in a lack of defined treaty rights for these First Nations.

In 1973, the Canadian government began recognizing land claims of Status Indians. A land claim is a formal statement made by a First Nations or other Indigenous community against the Crown (the governments of Canada and Ontario) asserting it is legally entitled to land and/or financial compensation, it did not surrender its original rights to land and resources, or that the Crown has not lived up to its obligations under a treaty. Claims are based on alleged violations of Indigenous and treaty rights. See **Section 2.5.3** for the role of the Ministry of Indigenous Affairs in negotiating and settling land claims and negotiating other settlements.

### 2.2.1 The Royal Commission on Aboriginal Peoples

In March 1990, in an attempt to prevent the expansion of a golf course in the town of Oka, Quebec on to First Nation burial grounds, First Nations protestors set up barricades blocking access to the area. On July 11, 1990, Marcel Lemay, a Corporal in Quebec's provincial police force, died as the result of a gun fight between First Nations protestors and the Quebec provincial police at this site. A 78-day armed standoff referred to as the Oka Crisis followed, which escalated from conflicts surrounding land claims dating back to the 18th century.

In May 1991, the federal government announced the Royal Commission on Aboriginal Peoples. The mandate of the commission was to investigate and

propose solutions to the challenges affecting the relationship between Indigenous Peoples, the federal government and Canadian society as a whole. In October 1996, the commission released a report setting out 440 recommendations and a 20-year agenda to restructure the relationship between Indigenous Peoples and non-Indigenous people in Canada. Recommendations included developing Indigenous self-governments, culturally sensitive health strategies and education initiatives, and reviewing First Nations land claims through an independent tribunal. The recommendations made to the federal, provincial and territorial governments were intended to address virtually every aspect of Indigenous people's lives.

### 2.2.2 The Ipperwash Inquiry

On September 6, 1995, Anthony "Dudley" George, a Chippewa of the Kettle and Stony Point First Nation, was shot and fatally wounded by an Ontario Provincial Police (OPP) officer. He was participating in an occupation of Ipperwash Provincial Park on Lake Huron. The protest had its roots in a number of events dating back more than 60 years. These events included the federal government's expropriation of land from the Stony Point Reserve for Camp Ipperwash, a military training camp, during the Second World War, as well as the provincial government's failure to protect burial grounds at the camp and in nearby Ipperwash Provincial Park. The Indigenous groups affected had been requesting the return of the land and protection of the burial grounds for decades.

On November 12, 2003, the Ipperwash Inquiry was established under the *Public Inquiries Act* with a mandate to inquire about and report on events surrounding the death of Dudley George. The report on the Inquiry's findings, including conclusions and recommendations on how to avoid violence in similar circumstances in the future, was made public on May 31, 2007.

The report consisted of 100 recommendations to improve:

- policing of Indigenous protests and occupations;

- relationships among federal, provincial and First Nations governments;
- the land claims process;
- sharing the benefits of resource development;
- consultation concerning Indigenous and treaty rights; and
- public awareness and education about Indigenous Peoples.

A federal Ministerial Order, signed on August 25, 2020, set aside 46 hectares (114 acres) of land as an addition to the reserve of the Chipewas of Kettle and Stony Point First Nation.

## 2.3 Residential Schools

The federal government began to establish residential schools in the 1800s. Residential schools took Indigenous children away from their families with the intent of breaking their ties to their Indigenous cultures and assimilating them into the dominant non-Indigenous culture. There were 17 residential schools in Ontario. The last one closed in 1991.

In 2006, the largest class-action settlement in Canadian history was reached, involving about 86,000 former students and the federal government. It resulted in the Indian Residential Schools Settlement Agreement. The implementation of the Settlement Agreement began on September 19, 2007. The Settlement Agreement has five components, including a \$1.9-billion compensation package, and the Truth and Reconciliation Commission.

In June 2008, then Prime Minister Stephen Harper issued the following apology on behalf of Canadians for Indian Residential Schools: “The Government of Canada built an education system in which very young children were often forcibly removed from their homes, often taken far from their communities. Many were inadequately fed, clothed and housed. All were deprived of the care and nurturing of their parents, grandparents and communities. First Nations, Métis and Inuit languages and cultural practices were prohibited in these schools. Tragically, some of these children died while attending residential schools and others never returned home.”

### 2.3.1 Truth and Reconciliation Commission

The Truth and Reconciliation Commission of Canada (Commission) was established in 2008 as part of the Indian Residential Schools Settlement Agreement. The purpose of the Commission was to bear witness to the impacts of residential schools and facilitate reconciliation among former students and their families, their communities, governments and all Canadians.

In June 2015, the Commission made 94 “calls to action” (or recommendations) to further reconciliation between Canadians and Indigenous Peoples. In December 2015, the Prime Minister of Canada accepted the Commission’s final report, which called on all levels of government, educational and religious institutions, other private institutions, civil society groups and all Canadians to act on the 94 recommendations. They encompass child welfare, education, health, justice, language and culture.

## 2.4 Federal and Provincial Responsibilities for Indigenous Programs and Services

Historically, the federal government has been viewed as having primary responsibility for matters involving Indigenous Peoples. Provincial and federal legislation and agreements have resulted in responsibilities being shared between the federal and provincial governments in the areas of health, child welfare, child care, justice, education, training, income security and housing.

The federal and provincial governments each have responsibilities to deliver programs and services for the approximately 375,000 Indigenous people residing in Ontario (see **Figure 4**). Legal, historical, policy and financial factors influence how the different levels of government work together. Generally speaking:

- The federal *Constitution Act* was historically viewed as giving the federal government primary responsibility with respect to Indigenous Peoples.
- Under various provincial Acts, the province is responsible for providing a wide range of

**Figure 4: Government and Other Organizations Involved in Providing Indigenous Programs and Services in Ontario**

Prepared by the Office of the Auditor General of Ontario



services to Ontario residents in areas such as health care and child welfare. Given the federal government's responsibility for Indigenous Peoples, income assistance, child welfare, child care, nursing and homemaker services provided by the province to Indigenous people is cost-shared with the federal government under the Indian Welfare Agreement.

The federal and provincial governments also have legal obligations from the 46 treaties that cover most of the lands in Ontario. **Appendix 3** presents in detail each level of government's responsibilities.

## 2.5 Overview of the Ministry of Indigenous Affairs

The Ministry of Indigenous Affairs (Ministry) is responsible for leading collaboration and co-ordination across provincial ministries on Indigenous

policies and programs. This includes the responsibility for setting priorities and tracking the province's progress in effectively implementing Indigenous policies and programs. Other roles include:

- ensuring the province meets its constitutional obligations to consult Indigenous communities before any government action is taken that might adversely impact Indigenous or treaty rights;
- working to resolve Indigenous land claims issues;
- helping Indigenous people access government programs, services and information; and
- engaging with the federal government on priorities affecting Indigenous people.

The Ministry was formed by an Order-in-Council on June 21, 2007 in response to the recommendations of the Ipperwash Inquiry in May 2007.



Before the Ministry was created, Ontario had a Native Affairs Secretariat. The Secretariat was mandated to work with First Nations, and Indigenous organizations and businesses to build strong, prosperous and self-reliant Indigenous communities. The Secretariat also represented Ontario in self-government negotiations between Canada and First Nations as required. Its core businesses were negotiations, Indigenous economic development, coordination of Indigenous affairs and internal business support. Under these core businesses, the Secretariat’s key activities included:

- conducting land claims negotiations on behalf of the province and implementing land claims settlements;
- funding capital projects that were delivered by other ministries;
- providing core funding for eligible Indigenous organizations; and
- promoting Indigenous economic development.

### 2.5.1 Indigenous Policy Leadership

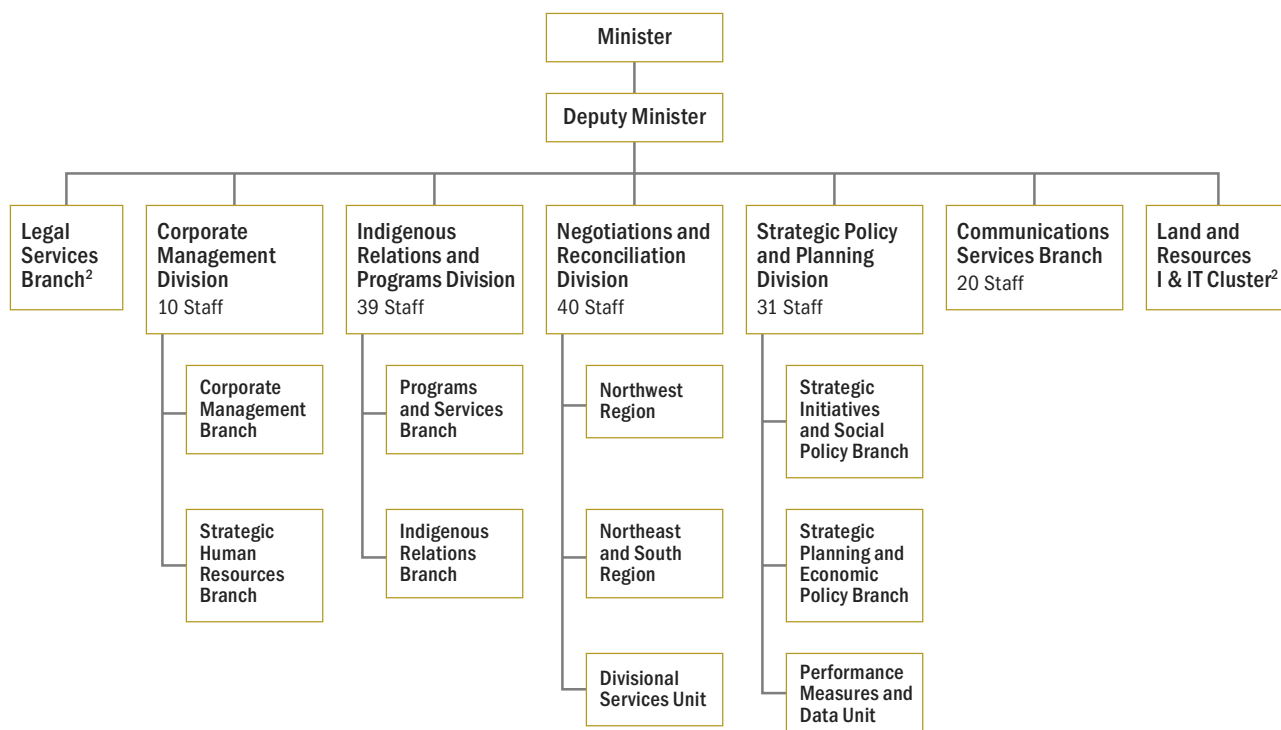
The Ministry is to work with other ministries and Indigenous partners to lead the development, co-ordination and implementation of government strategies and policies related to Indigenous affairs. The strategies and policies seek to follow best practices in areas such as governance and rights, improving social and economic outcomes and engaging the federal government on Indigenous issues. The Ministry’s mandate is to focus on policies related to economic development, health, and community and social services.

### 2.5.2 Staffing and Expenditures

As of June, 2020, the Ministry had a total of 140 staff, up from 124 in 2015, representing a 11% increase in the last five years. **Figure 5** shows the staff by branch or division.

**Figure 5: Organizational Chart of the Ministry of Indigenous Affairs (140 Total Staff)**

Source of data: Ministry of Indigenous Affairs<sup>1</sup>



1. Data as of June 2020.

2. Legal Services Branch and I & IT Cluster staff are in other ministries.

**Figure 6: Ministry of Indigenous Affairs Expenditures, 2015/16–2019/20 (\$ million)**

Source of data: Public Accounts of Ontario

	2015/16	2016/17	2017/18	2018/19	2019/20	5-Year Total
Administration <sup>1</sup>	11.40	12.55	12.35	13.56	12.20	<b>62.06</b>
Indigenous Affairs <sup>2</sup>	60.16	76.98	84.09	89.34	55.23	<b>365.80</b>
<b>Land Claims and Self-Government Initiatives</b>						
Land claim settlements <sup>3</sup>	4.50	29.38	1,007.91 <sup>4</sup>	187.00	14.10	<b>1,242.89</b>
Negotiated settlements <sup>5</sup>	0.01	—	102.50 <sup>6</sup>	—	—	<b>102.51</b>
<b>Other</b>						
Minister's salary as per the <i>Executive Council Act</i> <sup>7</sup>	0.05	0.05	0.05	0.10 <sup>8</sup>	—	<b>0.25</b>
Parliamentary Assistant's salary ( <i>Executive Council Act</i> ) <sup>7</sup>	0.02	—	—	0.10 <sup>8</sup>	0.04	<b>0.16</b>
Bad debt expense ( <i>Financial Administration Act</i> ) <sup>9</sup>	—	1.60	0.11	—	—	<b>1.71</b>
Mercury Disability Fund <sup>10</sup>	—	—	—	—	5.17	<b>5.17</b>
<b>Total</b>	<b>76.14</b>	<b>120.56</b>	<b>1,207.01</b>	<b>290.10</b>	<b>86.74</b>	<b>1,780.55</b>

- Administration includes salaries and wages, employee benefits, transportation and communication, services, supplies and equipment for the Corporate Management Branch, Communication Services Branch, Deputy Minister's Office, Minister's Office and most of the Legal Services Branch.
- Indigenous Affairs includes salaries and wages, employee benefits, transportation and communication, services, supplies and equipment for the Negotiations and Reconciliation Division, Indigenous Relations and Programs Division, Strategic Policy and Planning Division, and some legal services costs. This program also includes most of the Ministry's transfer payments.
- Land claim settlements include contingent liabilities and incurred expenses as reported in the Public Accounts.
- This amount includes the expenses related to the settlement of the Williams Treaties Land Claim.
- Negotiated settlements include any settlements made outside of a land claim settlement.
- This amount relates to the Casino Brantford.
- This Act states that the annual salary of every minister with a portfolio is 42.3% of the annual salary of a member of the Assembly, and the annual salary of every Parliamentary Assistant is 14.3% of the annual salary of a member of the Assembly.
- As of 2018/19, there is no longer a dedicated Minister of Indigenous Affairs. The current Minister and Parliamentary Assistant allocate their time between the Ministry of Energy, Northern Development and Mines and the Ministry of Indigenous Affairs.
- Under the *Financial Administration Act*: A debt owing to the Crown has become uncollectible and is considered a bad debt.
- As the Trustee under the *English and Wabigoon River Systems Mercury Contamination Settlement Agreement Act, 1989* the Ministry has made payments in accordance with terms of the agreement.

Operating expenses (including land claims settlements) for the Ministry totalled \$1.8 billion for the last five years, and fluctuated widely from year to year due to land claims settlements. Land claims settlements accounted for about 70% of the Ministry's spending, largely due to significant settlements in the last few years. See **Figure 6** for Ministry expenditures from 2015/16 to 2019/20.

Indigenous people. These expenses were largely incurred by other ministries on programs and services for health and mental health (\$377.7 million); education and child care (\$228.6 million); child and family well-being (\$167.5 million) and justice (\$124.9 million). See **Figure 7** for a breakdown of the \$4.5 billion in spending on Indigenous programs and services for the last five fiscal years.

### 2.5.3 Provincial Programs and Services Expenditures

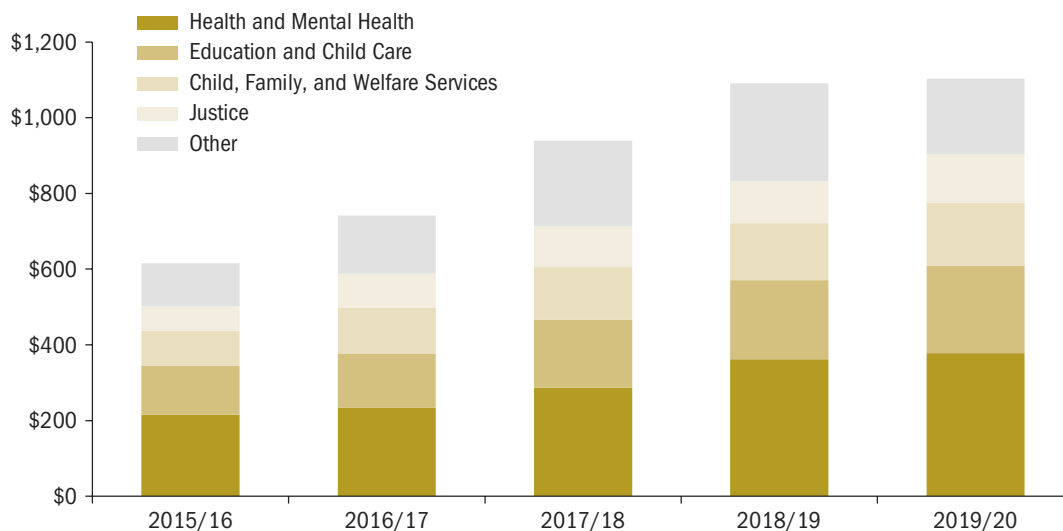
In 2019/20, the province budgeted approximately \$1.2 billion and spent approximately \$1.1 billion on programs and services specifically created for

### 2.5.4 Negotiating and Settling Land Claims

Between 1764 and 1930, the Crown (originally the British government, and then Canada) and First Nations signed 46 treaties covering most of the lands in Ontario. See **Figure 8** for a map of all treaties in Ontario.

**Figure 7: Expenditures on Programs and Services for Indigenous Peoples in Ontario: 2015/16–2019/20 (\$ million)**

Source of data: Ontario Ministries



Note: “Other” category primarily includes housing, economic development, engagement, infrastructure, and programs to support natural resource development. Expenditure amount included are for programs specifically targeted to Indigenous Peoples.

Although most of these treaties were signed more than a century ago, treaty commitments remain valid. The Ministry is responsible for acting as the lead negotiator for the province.

Types of land claims include:

- **Aboriginal Title:** An Indigenous community claims it continues to have Aboriginal rights and title to its traditional lands.
- **Boundary:** An Indigenous community claims that reserve land received through a treaty does not reflect its understanding of the reserve it was to receive.
- **Flooding:** Reserve land has been flooded by the construction of water control structures, such as dams, and the Indigenous community claims it has not been adequately compensated.
- **Highway:** An Indigenous community claims that reserve land used for a public highway was inappropriately transferred, or the Indigenous community was inadequately compensated.
- **Treaty Land Entitlement:** An Indigenous community claims it did not receive the amount or quality of land it should have under a treaty.

- **Unsold Surrendered Lands:** An Indigenous community claims it surrendered land for sale, but the land remains unsold by the Crown.

The Ministry settles land claims by negotiating agreements to compensate the Indigenous community for the infringement. Land claims are legal issues and can be litigated in court, instead of being settled through negotiations. See **Figure 9** for the land claim settlement process. Settlements can include the Crown providing financial compensation and/or transferring lands to the community. Depending on the type of land claim, other government bodies may be involved in the negotiations or implementation of agreements reached. See **Figure 10** for the potential involvement of provincial ministries and the federal government.

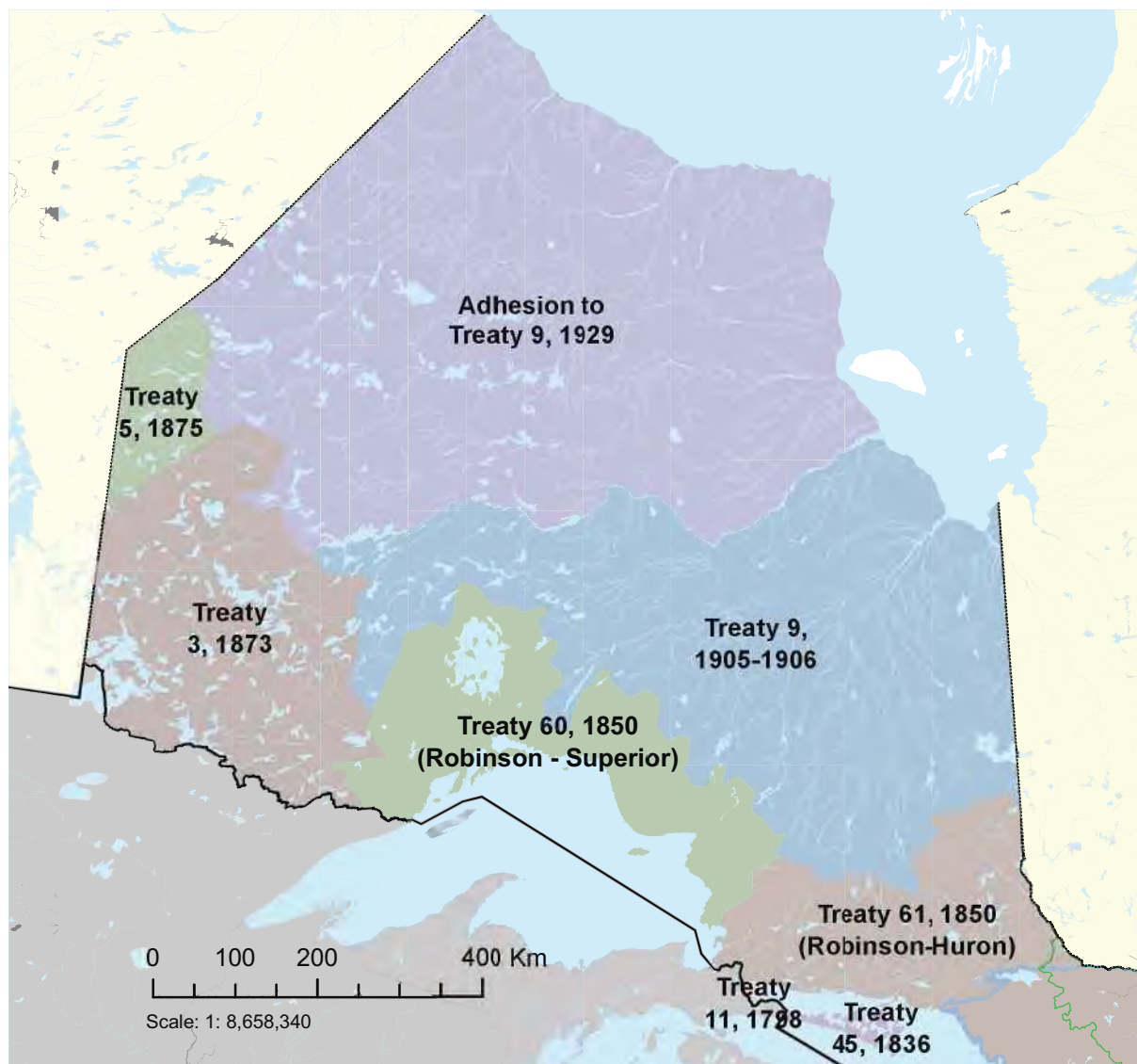
According to First Nations communities, settling a land claim provides an opportunity to build a more independent, healthy community. For example, a community could apply financial compensation toward long-term economic development.

Since 1983, 51 land claims have been settled in Ontario, which transferred 382,304 acres of land and \$1.8 billion in financial compensation,

**Figure 8: Maps of Ontario Treaty Areas**

Source: Ministry of Indigenous Affairs

**Northern**



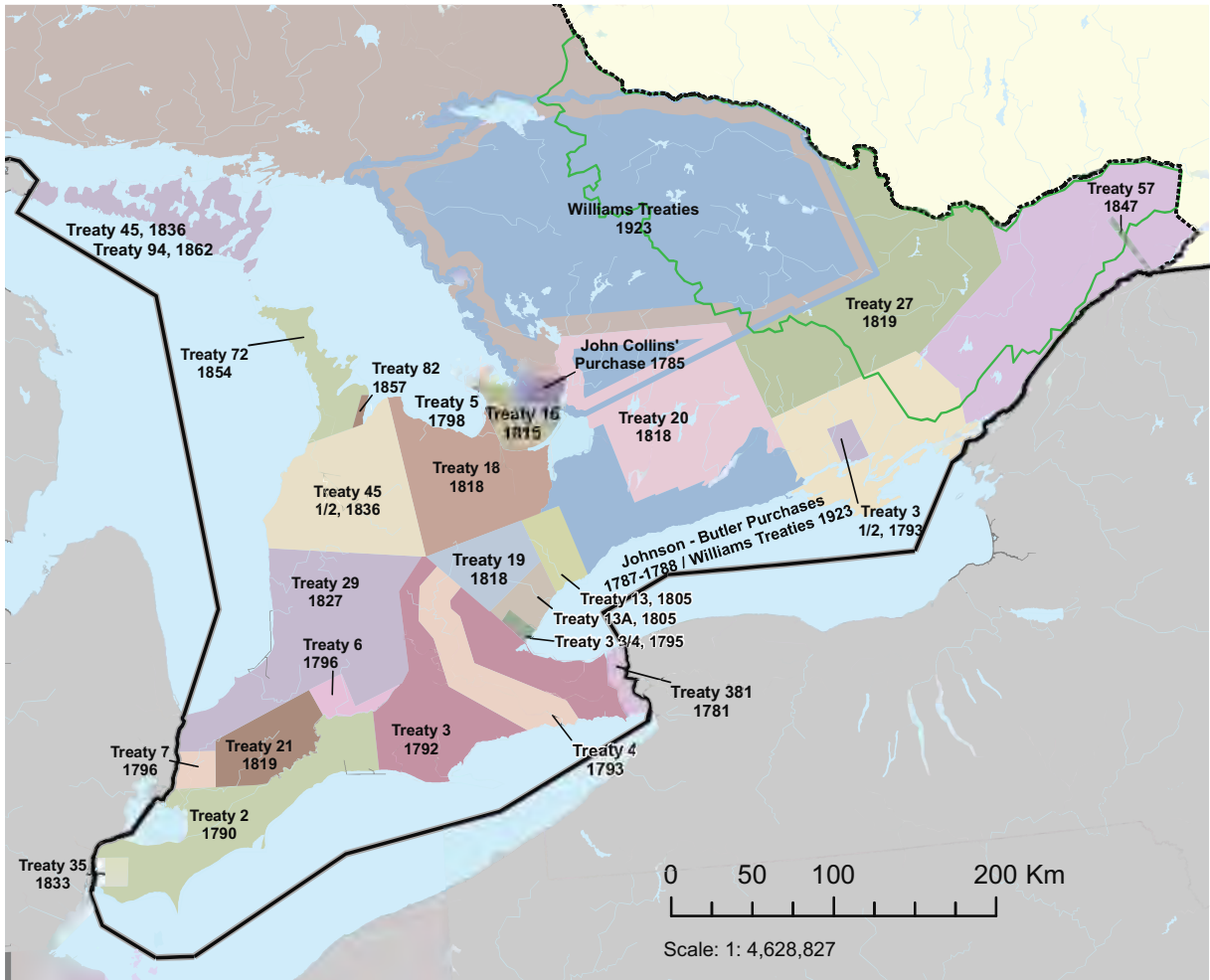
- Provisional Algonquin Settlement Area
- Canada - US Border
- Provincial Border

Note: Maps provided by the Ministry of Indigenous Affairs for illustrative purposes only. The maps do not reflect Ontario's position, nor do they constitute any admission, or limit Ontario's rights in any way.

\$700 million of which was provided by the province. The remainder of the financial compensation was provided by the federal government. See **Appendix 4** for a list of settled land claims. **Appendix 5** shows that as of October 2020, the Ministry had another 74 land claims in progress,

with 54 in active negotiations. The Ministry currently anticipates that an estimated 24 land claims may be settled from 2019/20 to 2021/22. The total amount of financial compensation that may be provided to settle these claims is estimated at up to \$558 million.

## Southern



- Provisional Algonquin Settlement Area
- Canada - US Border
- Provincial Border

Note: Maps provided by the Ministry of Indigenous Affairs for illustrative purposes only. The maps do not reflect Ontario's position, nor do they constitute any admission, or limit Ontario's rights in any way.

### 2.5.5 Consultation Guidance

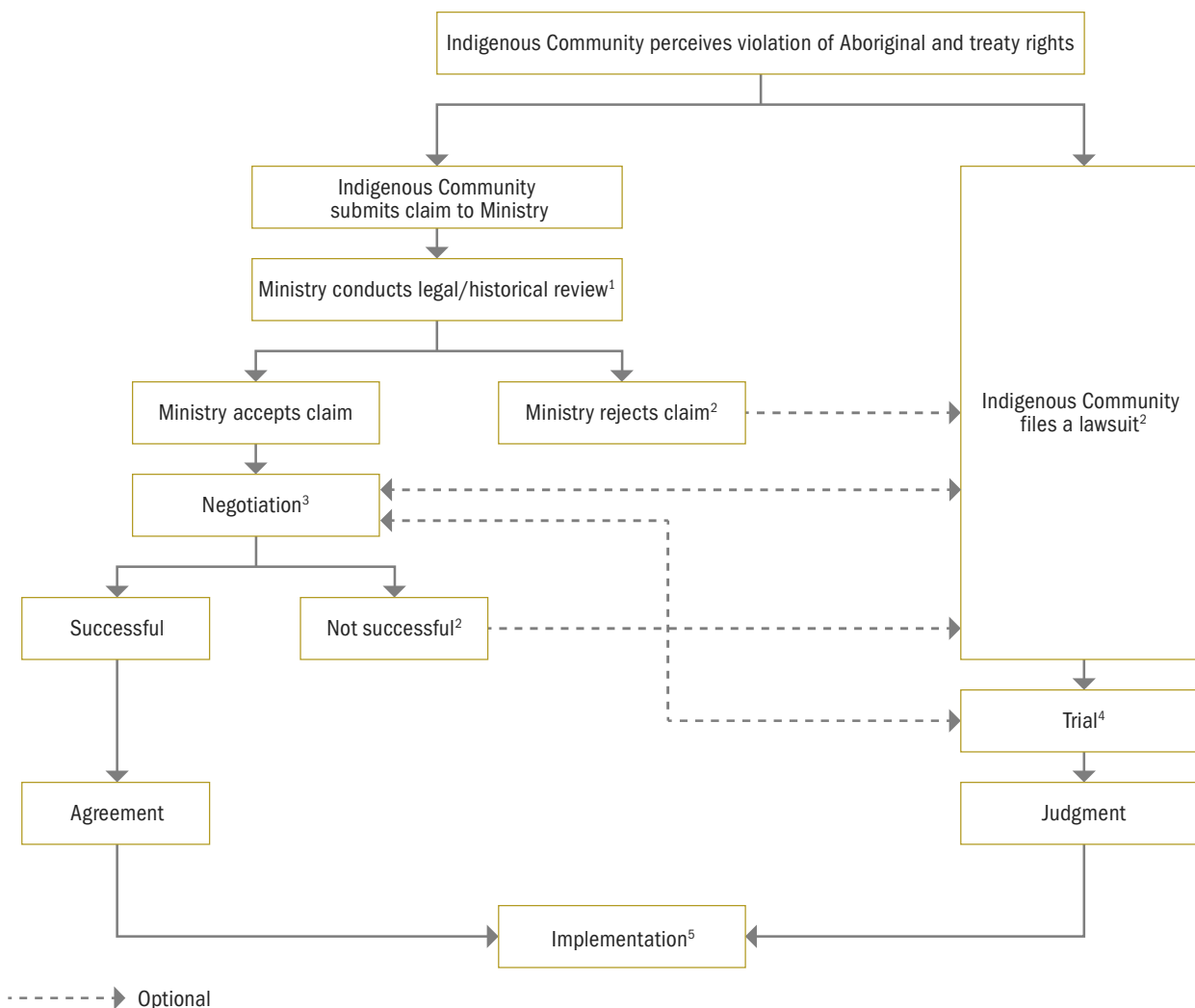
The Supreme Court of Canada ruled that the Crown has an obligation to consult with an Indigenous community when it has knowledge of an established or credibly asserted Aboriginal (Indigenous) or treaty right, and contemplates conduct that may adversely affect that right. Established rights are those that have been recognized by a court or through a settlement agreement with the Crown, or outlined in a treaty where there is no dispute regarding the meaning of the treaty right in ques-

tion. Asserted rights are claims made by an Indigenous community. Section 35 of the *Constitution Act, 1982* affirms Indigenous and treaty rights.

The Ministry is mandated to ensure the province is meeting its constitutional obligation to consult Indigenous communities. Specifically, the province must consult Indigenous communities when it is contemplating conduct that it knows might adversely impact Indigenous or treaty rights. For example, if the Ministry of Energy, Northern Development and Mines is considering approving

### Figure 9: Land Claim Process

Prepared by the Office of the Auditor General of Ontario



1. The Ministry may request additional information to support the claim from the community before deciding whether to accept or reject the claim for negotiation.
2. The community may file a lawsuit without filing a claim with the Ministry if the Ministry rejects the claim, or if negotiations are unsuccessful.
3. During negotiations, other government ministries are engaged if information needed is under the purview of the other ministries (see Figure 10). The First Nation community will have their own legal representative and their community Chief and/or community member(s) in the negotiations process.
4. Both parties, if they agree, can put the trial on hold and enter into negotiations.
5. During implementation, other government ministries and/or the federal government are engaged if duties to be performed fall under the mandates of the other ministries or the federal government (see Figure 10).

mineral exploration on traditional Indigenous lands, it must first discuss this meaningfully with the potentially impacted Indigenous community. To support this, the Ministry of Indigenous Affairs drafts guidelines, and provides training and advice to other ministries. Each ministry decides on the details of the consultation depending on its mandate and legislative framework.

The province also conducts engagement with Indigenous Peoples when it is contemplating government policies or programs that are intended to benefit Indigenous Peoples and their communities. Unlike consultation, there is no legal obligation for the Crown to conduct engagement. However, it is considered a best practice in effectively developing Indigenous programs and services. For example,

### Figure 10: Involvement of Other Provincial Ministries and the Federal Government in Land Claim Settlements

Prepared by the Office of the Auditor General of Ontario

Government Entity	Responsibility <sup>1</sup>
Ministry of Natural Resources and Forestry	<ul style="list-style-type: none"> <li>• Approves all land that is to be transferred over as part of the settlement agreement</li> <li>• Performs various land analyses used during the negotiation and implementation, for example environmental assessments</li> <li>• Provides key information to negotiation table such as any existing rights or future interests on proposed lands</li> <li>• Assists in the implementation of land transfers by carrying out activities such as land surveys and site remediation</li> <li>• Ontario Surveyor General is responsible for undertaking land surveys</li> <li>• Assists with determining the value of the lands</li> <li>• Provides relevant information on claims impacted by forestry industry such as stakeholders and active licences</li> </ul>
Ministry of Environment, Conservation and Parks	<ul style="list-style-type: none"> <li>• Provides mapping and analyses of the provincial parks and conservation reserves</li> <li>• De-regulates parks and conservations so they can be transferred as part of settlement</li> </ul>
Ministry of Energy, Northern Development and Mines	<ul style="list-style-type: none"> <li>• Provides analyses on lands and their mineral potential</li> <li>• Provides information on third-party mining interests and proposed areas for mining development</li> <li>• Issues Mineral Withdrawal Orders on identified crown lands so no rights can be issued during negotiations</li> <li>• Ontario Power Generation can be engaged as a party on flooding claims as a result of their operations (dams) and are vital in settlement discussions</li> </ul>
Ministry of Transportation	<ul style="list-style-type: none"> <li>• Identifies all parcels of land in which the province has current or future transportation interest</li> </ul>
Treasury Board Secretariat	<ul style="list-style-type: none"> <li>• Approves the negotiation mandate</li> <li>• Approves the disbursement of funds as part of settlement</li> <li>• Approves any additional funding requests as part of negotiations process, either for the Ministry or First Nation community</li> </ul>
Federal Government	<ul style="list-style-type: none"> <li>• Researches and accepts claims<sup>2</sup></li> <li>• Participates in negotiations that involve both the federal and provincial government<sup>3</sup></li> <li>• Adds lands to reserves<sup>4</sup></li> </ul>

1. Additional responsibilities for other ministries may be involved depending on the nature of the land claim.
2. When Ontario and Canada are both part of a land claim they each perform their own research and assessment of the claim.
3. When the claim enters negotiations, it is expected that both levels of government attend the negotiations.
4. When an agreement is reached, both Ontario and Canada perform their own environmental assessments and vested rights check on the lands prior to transferring the land. Ontario transfers administration and control of the land to Canada, and Canada then sets aside the lands as reserve for the benefit of the First Nation community.

the Ministry of Indigenous Affairs engaged with Indigenous partners to develop the First Nations Community Economic Development Guide. This guide is used across Ontario by First Nations development officers, chiefs, councils and community members to capitalize on community economic opportunities, create new jobs and better partnerships, and strengthen First Nations economies.

## 3.0 Audit Objective and Scope

Our audit objective was to assess whether the Ministry of Indigenous Affairs, working in partnership with other ministries and the broader public sector, has effective and efficient systems and processes in place to:

- lead the development of policy, programs and services that improve outcomes for Indigenous Peoples in the areas of health, community and social services and economic development;
- lead provincial negotiations towards the timely and effective settlement of Indigenous land and other claims; and
- measure and publicly report on the results of negotiations and the effectiveness of programs and services in meeting the needs and improving the social and economic outcomes of Indigenous Peoples.

In planning our work, we identified the audit criteria (see **Appendix 6**) we would use to address our audit objective. We established these criteria based on a review of applicable legislation, policies and procedures, internal and external studies, and best practices. The Ministry's senior management reviewed and agreed with the suitability of our objective and associated criteria.

We conducted our audit at the Ministry office between January 2020 and March 2020. Due to the impacts of COVID-19, our work was subsequently conducted remotely. However, we continued to engage the Ministry, Indigenous communities and other stakeholders through video-conferencing and other forms of electronic communication.

We received written representation from Ministry management that, effective October 14, 2020, they had provided us with all the information they were aware of that could significantly affect the findings or the conclusions of this report.

Our audit focused on the Ministry's collaboration with other ministries in providing Indigenous programs and services, its co-ordination of those programs and services, its settlement of land claims, and its oversight of consultations with Indigenous Peoples.

We analyzed data, including:

- social and economic data for Indigenous Peoples in Canada and Ontario from 2001 to 2016 (latest available);

- health data for Indigenous and non-Indigenous people in Canada and Ontario for 2015 and 2019;
- average community well-being scores for First Nation communities in Ontario and other Canadian provinces in 1981 and 2016 (latest available);
- expenditure and performance data for primarily Indigenous programs in Ontario from 2015/16 to 2019/20; and
- the province of Ontario's land claims data from 1973 to 2020.

We found that reliable data on other indicators of well-being such as infant mortality rates, suicide prevalence and life expectancy was limited.

In order to review land claims settlements, consultations, and Indigenous programs and services, we interviewed staff and reviewed relevant documentation from the following ministries: Ministry of the Attorney General; Ministry of Children, Community and Social Services; Ministry of Colleges and Universities; Ministry of Education; Ministry of Energy, Northern Development and Mines; Ministry of the Environment, Conservation and Parks; Ministry of Finance; Ministry of Health; Ministry of Natural Resources and Forestry; and the Ministry of Transportation.

We met with the provincial organization, Chiefs of Ontario, and also spoke with Chiefs and representatives from Indigenous communities including Anishinabek Nation, Grand Council Treaty #3, Association of Iroquois and Allied Indians, Independent First Nations, Mississaugas of the New Credit First Nation, Nipissing First Nation and Sagamok Anishnawbek.

We also spoke with staff from non-government entities providing services to Indigenous people, including the Ontario Federation of Indigenous Friendship Centres, Ontario First Nations Technical Services Corporation, and the Tungasuvvingat Inuit.

In addition, we reviewed relevant research and best practices in Indigenous affairs in Canada and other provinces. We also engaged an independent



advisor with expertise in Indigenous affairs to assist us on this audit.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standard on Quality Control and, as a result, maintains a comprehensive quality-control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Chartered Professional

Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

## 4.0 Detailed Audit Observations

### 4.1 Indigenous People Continue to Experience Poorer Social and Economic Conditions than Non-Indigenous People

Despite significant average annual provincial investments of \$898 million over the last five years, there continues to be social and economic disparities between Indigenous and non-Indigenous people. **Figure 11** compares indicators of Indigenous and non-Indigenous people. Many societal

**Figure 11: Social and Economic Indicators for Indigenous Peoples and Non-Indigenous People in Ontario, 2001, 2006 and 2016**

Source of data: Statistics Canada 2001, 2006, 2016

Indicator	2001		2006		2016	
	Indigenous	Non-Indigenous	Indigenous	Non-Indigenous	Indigenous	Non-Indigenous
% of population over the age of 15 with a high school degree	57.7	70.5	62.4	78.0	70.9	82.8
% of population aged 25–64 with a university degree	7.0	22.6	9.0	26.3	12.5	32.4
Employment rate of the population aged 25-64 (%)	63.5	76.8	65.4	76.9	63.8	76.0
Median annual employment income (before tax) for people over the age of 15 (\$)	20,036	28,338	21,151	29,515	26,714	34,165
% of dwellings in need of major repairs	n/a	n/a	18.3	6.3	16.9	5.8
% of children under the age of 15 in foster care	1.8	0.4	2.6	0.5	2.0	0.2
# of adults admitted to federal and provincial custody per 100,000 population	3,873	757	3,690	788	2,430	510

Note: 2001 and 2016 represent the widest range of available data

\* n/a indicates the data was not available for that year.

and historical issues have led to inequity between Indigenous and non-Indigenous people. However, a decentralized approach to Indigenous policy and program development (see **Sections 4.2** and **4.4**), the lack of monitoring for program effectiveness (see **Sections 4.3** and **4.8**), poor oversight of program and service delivery (see **Section 4.7**), the lack of engagement with Indigenous communities on government programs and services (see **Section 4.5**), and delayed delivery of funding for programs and services (see **Section 4.9**) may have affected the province's effectiveness in reducing disparities between Indigenous and non-Indigenous people in Ontario.

Below we discuss significant areas of provincial responsibility where Indigenous people continue to have lower social and economic outcomes.

## Health

Although the federal government jointly funds some health-care services, ensuring equal access to health care for Indigenous people living in Ontario is the responsibility of the provincial government. Despite the province's average annual investment of about \$295 million over the last five years for on-reserve and off-reserve Indigenous health-care programs and services, Indigenous people continue to have poorer health outcomes in key areas.

First Nations Chiefs indicated that there is limited access to on-reserve health and wellness programs, which is a shared responsibility of the federal and provincial governments. The 2019 Chiefs of Ontario Regional Health Survey found that 46% of First Nations respondents who lived on reserve rated the quality of health-care services there as fair or poor. Respondents also reported high levels of health conditions such as arthritis (26%), high blood pressure (23%) and diabetes (23%). In contrast, the 2019 Canadian Community Health Survey found that Indigenous people residing off reserve reported lower rates of arthritis (22%), high blood pressure (15%) and diabetes (7%).

**Figure 12** demonstrates disparities in 2015 and 2019 between Indigenous people living off reserve and non-Indigenous people with self-reported chronic conditions, mental health conditions and substance use. This disparity existed despite the fact that Indigenous people living off reserve in urban centres have access to the same level of health care as non-Indigenous people living in those urban centres.

## Child and Family Well-being

Ontario provided an average of around \$134 million in funding over the last five years specifically targeted to Indigenous child, family and welfare services in 2019/20. Provincial governments have a responsibility to regulate child welfare. As outlined in **Figure 11**, Indigenous children are 10 times more likely to be in foster care than non-Indigenous children.

## Justice

Ontario spent, on average, around \$101 million annually on Indigenous justice programs over the last five years. Of this \$101 million, approximately \$67 million (or 66%) was spent on policing programs, while the remaining expenditures were related to legal services, victims' services, and correctional and community services. **Figure 11** demonstrates the disparities in admission rates to provincial and federal correctional institutions between Indigenous and non-Indigenous people.

## Education and Child Care

Over the last five years, Ontario spent an average of \$178 million annually on education and child care programs for Indigenous people (\$134 million for education and \$44 million for child care programs).

The province provides a grant for Indigenous students attending schools off reserve. On-reserve schools are funded by the federal government. In these schools, the responsibility for the develop-

**Figure 12: Self-Reported Health of Indigenous People Residing Off Reserve and Non-Indigenous People in Ontario, 2015 and 2019**

Source of data: Statistics Canada 2015 and 2019

Health Indicator	2015		2019	
	% of Indigenous People (Off Reserve)	% of Non-Indigenous People	% of Indigenous People (Off Reserve)	% of Non-Indigenous People
<b>Chronic Health</b>				
Self-reported health is fair or poor	19.3	11.0	17.7	10.9
Has one or more chronic condition	42.1	30.6	42.1	32.7
Has a respiratory disease	19.1	10.1	13.1	9.0
Self-reported obesity	29.1	19.9	30.8	20.7
<b>Mental Health</b>				
Self-reported mental health is fair or poor	14.2	6.5	18.8	8.6
Has depression that is moderate to severe	15.6	6.5	15.2	6.5
Self-reported mood disorder	18.5	8.4	21.2	9.4
Self-reported anxiety disorder	22.1	8.0	20.0	9.6
Has attempted suicide in their lifetime	10.5	2.4	9.7	2.5
Has considered suicide in their lifetime	26.1	9.9	25.8	11.4
<b>Substance Use</b>				
Has used illicit drugs in the last year <sup>1</sup>	27.0	11.1	27.4	15.9
Self-reported heavy drinker <sup>2</sup>	36.4	24.3	34.3	22.2

1. This health indicator was not available for 2019, so 2018 data has been substituted.

2. Statistics Canada defines heavy drinking as drinking five or more drinks on one occasion at least once per month in the past year for males, and drinking four or more drinks on one occasion at least once per month in the past year for females.

ment of the curriculum resides with the First Nation community, but it must be comparable to the provincial curriculum.

Ontario also funds child care programs on and off reserve. As shown in **Figure 11**, while both high school and university educational attainment improved for Indigenous people from 2001 to 2016, a significant disparity still exists between Indigenous and non-Indigenous people.

## Employment

Ontario spent an average of \$70 million annually on programs supporting Indigenous economic development and employment over the last five years. However, as shown in **Figure 11**, Indigenous people were less likely to be employed and earned almost \$7,500 less in employment

income per year than non-Indigenous people.

According to a 2017 Statistics Canada survey, the three biggest barriers Indigenous people residing off reserve faced in finding a job was a shortage of available jobs, not having enough work experience, and not having enough education or training. The 2019 Chiefs of Ontario Regional Health Survey found that 20% of respondents who said they were not currently looking for work indicated the reason for this was poor health or a disability.

## Housing

On average, Ontario spent approximately \$29 million annually on programs for Indigenous off-reserve housing over the last five years. The federal government is responsible for First Nations housing on reserve lands. Indigenous people living

off reserve were more than twice as likely as non-Indigenous people to report that they resided in housing that needed major repairs.

## 4.2 No Coordinated Approach to Indigenous Policies, Programs and Services

The Ministry of Indigenous Affairs was formed in 2007 as a result of the Ipperwash Inquiry, which recommended that the province create a separate Ministry with its own authority and a clear mandate to ensure that Indigenous issues receive the priority and focus they deserve. Unlike ministries responsible for Indigenous affairs in British Columbia and Manitoba, who have clear mandates to lead a cross-government vision of reconciliation, the Ministry does not have a mandate giving it the authority to lead the development of policies, programs and services related to Indigenous people. The Ministry states on its public webpage that its role is only to “promote collaboration and coordination across ministries.”

Saskatchewan also has legislation that outlines the powers of the Minister responsible for Indigenous Affairs to establish social and economic development programs and policies for Indigenous Peoples, and make recommendations with respect to Indigenous affairs. Unlike Saskatchewan, the work of the Ministry is not governed by similar legislation in Ontario. As noted earlier, the Ministry was formed by an Order-in-Council.

In 2016, the Ministry developed a strategy with the intention of ensuring efforts to improve social and economic outcomes for Indigenous people would be aligned across ministries in Ontario. However, our audit noted that each ministry independently designs and implements its own Indigenous policy initiatives according to its own priorities. In its 2018/19 published plans and annual results, the Ministry noted that while it had supported strategies of other ministries and Indigenous partners, it did not lead any policy development in the areas of economic develop-

ment, health (other than mental health and addictions), or community and social services.

The province’s decentralized approach to Indigenous affairs has created confusion and has increased demands on resources in Indigenous communities. Representatives from Indigenous communities and organizations identified concerns about the lack of coordination between and within provincial ministries. For example, they raised concerns that:

- The Ministry of Indigenous Affairs is disconnected from other provincial ministries. For example, the Ministry was unable to relay community concerns to the Ministry for Seniors and Accessibility, the Ministry of Education or the Ministry of Health, or arrange meetings with these ministries. Communities were left on their own to arrange these meetings, in some cases without success.
- Other ministries are not aware of the Ministry of Indigenous Affairs’ role or how to involve it in discussions. One community said that in the past, other ministries would have gone through or involved the Ministry of Indigenous Affairs in conversations, but the community reported that since 2018, this is no longer the case.
- A lack of coordination between ministries does not allow for programs and services that could better address a specific community’s needs. For example, one community struggled to identify a program that would address problems with addictions in the community. None of the available individual programs could address the community’s needs. The community was instead required to apply to many ministry programs of differing duration and reporting requirements, and piece together the funding to address the need.
- Ministries do not coordinate with each other in requests to community service providers for information related to Indigenous programs and services. This results in Indigenous communities and other service providers

submitting duplicate, manually produced reports to various ministries. Basic registration information and documentation is required for each program application. Funding agreements also differ between programs, requiring separate legal review. Between programs, there is also confusion about reporting requirements. For example, the definition of what is considered an eligible expense varies from program to program. These types of issues create additional administrative burdens for Indigenous service providers with limited resources.

In contrast, representatives from Indigenous communities and service providers noted that the Ministry had effectively coordinated with other ministries to provide emergency supports during the COVID-19 pandemic. During the pandemic, the Ministry has been able to meet with Indigenous communities and service providers to get a more comprehensive understanding of their needs, relay those needs to the responsible ministries, and coordinate the government's response. The communities we spoke to informed us that this "one-window" approach would also be valuable outside of emergencies.

On April 27, 2020 the province announced an investment of over \$37 million to support outbreak planning, prevention and mitigation efforts to ensure the health and well-being of Indigenous people and communities. The funding is intended to respond to the unique needs of First Nations, Métis and Inuit and their families across the province and includes:

- \$16.4 million from the Ministry of Indigenous Affairs to provide emergency funds for food, household goods, critical supplies, transportation, support and care, self-isolation facilities in remote and northern communities, and prevention and awareness;
- \$10 million from the Ministry of Children, Community and Social Services to support Indigenous communities and Children's Aid Societies to respond to the protection needs

of vulnerable children and their families during the outbreak;

- \$7.4 million from the Ministry of Municipal Affairs and Housing to help social service providers, charities and non-profits delivering critical housing services to Indigenous people living off reserve; and
- \$4 million from the Ministry of Transportation to ensure continued service to remote and northern airports, enabling essential goods and services to continue reaching isolated communities.

## RECOMMENDATION 1

To guide the government's initiatives to improve social and economic outcomes for Indigenous people, we recommend that the Ministry of Indigenous Affairs work with the government to consider updating its mandate to enable it to lead Indigenous affairs in Ontario and to ensure that the development and delivery of Indigenous policies, programs and services are coordinated across the province.

## MINISTRY RESPONSE

The Ministry of Indigenous Affairs will work with the government to address the recommendation made by the Auditor General of Ontario. The Ministry of Indigenous Affairs is supportive of having a more centralized role in co-ordinating Indigenous policies, programs and services across government. The Ministry will work with other ministries to determine how best to move forward. This would require operational changes at the Ministry, as well as buy-in across government for potential reorganizations across multiple ministries. The Ministry will work with Cabinet Office on ways to improve efficiencies and implement processes that involve the Ministry in policy and program development and decision-making earlier and more frequently.

### 4.3 Province Does Not Regularly Measure and Report on Social and Economic Outcomes of Indigenous People

Neither the Ministry of Indigenous Affairs nor any other ministry tracks, assesses, or reports on the effectiveness of the government’s strategic efforts and funded initiatives in improving outcomes of Indigenous Peoples. Using such information and analysis, the government would likely be more effective in implementing a government-wide approach to Indigenous affairs by adjusting current programs or creating new ones to align with the needs of Indigenous Peoples and their communities. The federal government, British Columbia and Alberta publicly report on government objectives and performance measures related to Indigenous Peoples. For example:

- The federal government has a responsibility to ensure that Indigenous Peoples have reliable and sustainable infrastructure. The indicators measured and publicly reported include the percentage of First Nations housing that is assessed as adequate, the percentage of First Nations schools with a condition rating of good or new, and the number of long-term drinking water advisories. In addition, indicators of related programs are also reported.
- British Columbia measures and reports annually on social and economic outcomes of Indigenous Peoples. The province’s annual service plan for the Ministry of Indigenous Relations and Reconciliation outlines how it will continue to track progress on key commitments and other emerging priorities.
- Alberta also measures and reports annually on the social and economic well-being of Indigenous Peoples in Alberta. Further, Alberta published a four-year business plan (2019-2023) that outlines the mandate and structure of the provincial ministry responsible for Indigenous affairs, outcomes desired, performance measures, targets, and financial information.

In 2015, the Truth and Reconciliation Commission (Commission) recommended that all levels of government release public reports annually on key social and economic indicators, including changes in identified outcomes of Indigenous Peoples. For example, the number of Indigenous children in care compared to non-Indigenous children; comparative funding for education of First Nations on and off reserve; and a number of health indicators including infant mortality, life expectancy, suicide rate, prevalence of mental health and chronic diseases, and the availability of health services.

In response to the Commission, the provincial government committed to publicly report on the progress of Indigenous initiatives in the areas of health, employment, education and justice. In 2016, the Ministry of Indigenous Affairs created an internal report on Indigenous social, health, and economic data from external sources, such as the 2006 Census, as well as data from other ministries. However, the Ministry said that this report was never intended to be publicly released and was not produced in response to the Commission’s recommendation. In 2018, the Ministry updated this data, producing a second report with the intention of publicly releasing it. While the Ministry shared both progress reports with other ministries to help inform programming and funding decisions, the Ministry did not publicly release the 2018 report.

#### RECOMMENDATION 2

To ensure the programs and services provided by the province are achieving desired outcomes and are transparent to the public, we recommend that the Ministry of Indigenous Affairs:

- measure and publicly report on the province’s effectiveness in improving key social and economic outcomes of Indigenous Peoples; and
- provide guidance to other ministries on adjusting and realigning the programs and supports to better meet the needs and priorities of Indigenous Peoples.

## MINISTRY RESPONSE

The Ministry of Indigenous Affairs accepts the recommendation made by the Auditor General of Ontario. The Ministry will assess how it can increase information sharing on the province's programs and services and how they are improving Indigenous well-being, as measured through the achievement of key specific social and economic outcomes for Indigenous Peoples. As part of this effort, the Ministry will work with partners/third parties, both within and external to government, to ensure that the right data is being collected and shared in a timely manner to assess progress in achieving outcomes. The Ministry agrees that public reporting provides an opportunity for the Ontario government to increase public awareness of Indigenous issues across the province. The Ministry is committed to providing guidance to ministries and will actively mobilize efforts to aid ministries in adjusting and realigning programs and support across the Ontario government to better meet the needs and priorities of Indigenous Peoples.

The Ministry will examine opportunities to replicate the "one-window" approach taken during the COVID-19 pandemic.

### 4.4 No Centralized Tracking or Disclosure of Programs and Services for Indigenous Peoples

Neither the Ministry of Indigenous Affairs nor any other provincial ministry or agency is aware of all provincial programs and services for Indigenous Peoples in Ontario. The effective coordination of programs and services, as discussed in **Section 4.2**, cannot be performed without centralized knowledge of all the government's Indigenous programs and services. Further, some of the Indigenous representatives we spoke with raised concerns about the lack of transparency of the types of programs and services offered by the Ontario government. Not only is it unclear what the government was

doing to address many of the health, social and economic disparities of Indigenous Peoples, Indigenous communities and organizations that provide services for Indigenous Peoples are not always aware of what programs are available.

The Ministry of Indigenous Affairs maintains a public website on programs and services available to Indigenous Peoples. However, at the time of our audit, the information on the website was outdated and incomplete. The website included information on only 11 of the 140 Indigenous programs offered. An organization that provides services for Indigenous Peoples told us about one education program they became aware they could apply for only because they had directly contacted the Ministry of Education for a listing of their programs.

We asked the Ministry to provide a list of all Indigenous programs in Ontario. The list the Ministry provided included only 30 out of the total of 140 programs in 2019/20, which accounted for only \$351 million of the total of \$1.1 billion in Indigenous spending in Ontario. To compile a complete inventory of all Indigenous programs and services in the province (see **Appendix 7**), we had to contact the Treasury Board Secretariat and each ministry separately for the information. As this information had never been compiled before, some ministries took up to six months to identify and compile a list of information about their programs and funding for 2014/15 to 2019/20 for our Office.

In comparison, the federal government maintains a public database of Indigenous programs and services offered by all departments, including spending on the programs and federal transfers to provinces. Further, there is reporting on performance indicators aligned with the core responsibilities of the programs.

## RECOMMENDATION 3

To create a comprehensive understanding for the government and the public about Indigenous programs and services available that can be used for decision-making and public communication, we recommend that the Ministry of Indigenous Affairs:

- Develop and maintain a list of all Indigenous programs and supports offered by the province and make the list available on its website; and
- Update the list on an annual basis.

## MINISTRY RESPONSE

The Ministry appreciates the work the Auditor General has done in compiling programs tailored for Indigenous Peoples in Ontario. The Ministry commits to updating the external website to reflect a comprehensive list of all relevant programs. The Ministry commits to leveraging its relationships with other ministries to maintain this list, which will be updated annually, and adding contacts for program information.

### 4.5 Indigenous Peoples and Communities Are Not Engaged Consistently in the Development of Government Programs, Services and Policies That Impact Them

Engagement refers to engaging in discussions with Indigenous Peoples and communities about government policies or programs that affect them. Unlike consultation, there is no legal obligation for this type of engagement. However, it is considered a best practice because it helps ensure that ministries have the key information and partnerships needed to develop programs and services that more effectively meet the needs of Indigenous communities in a culturally safe and appropriate manner. In 2015, the Truth and Reconciliation Commission called upon all governments to fully adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples (a non-binding resolution adopted by the United Nations which advocates for the protection and promotion of the rights of Indigenous Peoples), which includes engaging Indigenous Peoples in developing and determining health, housing and other social and economic programs and policies affecting them.

The Ministry of Indigenous Affairs, which is responsible for providing advice to other ministries on engagement, does not always engage Indigenous Peoples. For example, the Ministry did not engage Indigenous Peoples in 2016 when it developed a strategy to outline the government’s approach to Indigenous affairs. Further, the Ministry had not engaged Indigenous communities in 2019 when it developed a guide for other ministries on engaging with Indigenous Peoples.

Other ministries also did not always engage Indigenous Peoples when developing programs and services to meet their needs. In our review of a sample of programs and services for Indigenous Peoples, we found that ministries had not engaged with Indigenous communities and organizations in two of the 18 programs in the last five years. In eight of the 16 programs where ministries noted that they had engaged Indigenous communities, there was minimal documentation on the number of Indigenous communities and organizations identified as engagement participants. In four of the 16 programs, ministries were unable to provide documentation that demonstrated the perspectives gathered in engagement with communities or organizations. Lack of engagement reduces the effectiveness and participation in programs and services for Indigenous Peoples. For example:

- Indigenous Peoples were not engaged in the development of the *People’s Health Care Act, 2019*, by Ontario Health and Ontario Health Teams. As a result, Indigenous service providers said that there is a lack of culturally appropriate and safe care for Indigenous Peoples in Ontario. Specifically, provincial health initiatives have not created an inclusive environment incorporating traditional healing methods or translators to facilitate communication and understanding between health-care providers and Indigenous patients. This limits Indigenous people’s comfort in accessing health services. The Ministry of Health informed us that it had begun



engaging Indigenous Peoples to work towards addressing this gap in 2019/20.

- In one of the programs we sampled, physician services at the Weeneebayko Health Authority in Moose Factory, Ontario, we found that the Ministry of Health had not conducted any significant engagement in the last five years with the communities that received services through the Authority. As discussed later in **Section 4.8**, the quantity of services provided to these communities has declined significantly since 2016/17. Additionally, a 2017 clinical review of the Authority conducted by the Ministry of Health stated that some health services with low participation were likely not being accessed by patients because they were not adapted to their culture, and patients did not have trusting relationships with health-care providers.

#### RECOMMENDATION 4

To improve the effectiveness of government programs, services and policies for Indigenous Peoples, we recommend the Ministry of Indigenous Affairs:

- Engage Indigenous Peoples on their needs prior to or during the development of its programs, services, policies, as well as its government-wide approach to Indigenous affairs; and
- Work with other ministries to ensure they are engaging with Indigenous Peoples when they are developing relevant programs, services and policies.

#### MINISTRY RESPONSE

The Ministry of Indigenous Affairs agrees with the recommendation made by the Auditor General of Ontario. The Ministry is committed to build sufficient time into planning processes to ensure engagement with Indigenous partners and to provide advice accordingly except in the most urgent cases (for example, the creation of

policies around emergency COVID-19 funding for Indigenous businesses). The Ministry will develop a tracker for all policies, programs and services, as well as the engagement level that was provided, or, where engagement was not possible, the reason why. The Ministry will work across ministries to develop training, guidance, advice and other supports to ensure ministries have the tools they need to support meaningful engagement with Indigenous partners.

### 4.6 Lack of Broadband Impedes Benefits from eCommerce, eHealth and Online Learning in Indigenous Communities

The Indigenous communities we spoke with raised concerns about the lack of broadband access limiting social and economic progress. This was particularly impactful during isolation in response to the COVID-19 pandemic. One community informed us that they had children without access to high-speed Internet who were not able to participate in home schooling. Outside of COVID-19 isolation, the lack of Internet access restricted students from completing homework or accessing post-secondary programs available online. Another community informed us that Telehealth Ontario is not available to their community because they lack broadband, but another community about 25 kilometres away does have this access.

Better Internet access in Indigenous communities can improve the social and economic outcomes for Indigenous people by:

- Allowing members of the community to participate in eCommerce and jobs that can be performed remotely;
- Improving health outcomes through access to provincial eHealth services; and
- Improving education outcomes by enabling access to remote learning and other educational supports and opportunities.

In 2016, the Canadian Radio-television and Telecommunications Commission (CRTC) declared

broadband Internet a basic telecommunications service, and set new targets for Internet service providers download speeds of at least 50 megabits per second (Mbps) and upload speeds of at least 10 Mbps. Broadband speeds at this targeted level are offered by major telecommunications companies for moderate usage that enables customers to video conference and perform general activities such as emailing and web browsing.

In 2017, the Ontario government committed close to \$530 million for broadband infrastructure investments in rural communities, including Indigenous communities across Ontario. However, in 2018, only 17% of households on First Nations reserves in Ontario had access to Internet services that met the 50 Mbps download and 10 Mbps upload speed. In comparison, 98.8% of all households within medium and large urban populations in Ontario have access to Internet meeting the CRTC’s target speed. Availability of the target speed service on First Nations reserves was also behind other rural areas – 29.5% of Ontario’s rural population had access to this level of service. In 2018, households on First Nations reserves in New Brunswick and British Columbia had the highest availability of Internet services at speeds of 50 Mbps or faster (87.2% and 69.1%, respectively).

In the 2018 Ontario Budget, the province announced it would invest \$315 million over the next five years, in addition to the \$530 million committed to in 2017, to expand broadband access to underserved areas, including some First Nations communities. The plan includes a \$150 million commitment for a new broadband fund to bring broadband to 220,000 underserved homes and businesses, with additional funding expected from private sector companies and other levels of government. However, the Ministry of Infrastructure informed us that there is no specific investment targeted for First Nations communities, and that they had not engaged First Nations communities in developing the program. Further, the Ministry of Infrastructure was unaware of how many

First Nations communities were intended to be included in the government’s commitment.

In the 2019 Government of Canada budget, the federal government committed \$1.7 billion to support connectivity initiatives. Additional funding would be provided for the Connect to Innovate program, which aims to improve satellite capacity to cover remote regions of the country. The program has connected more than 900 rural and remote communities, including 190 Indigenous communities. In total, from 2016 to 2019, the federal government committed to deliver up to \$6 billion in investments to connect all Canadians. Provinces, territories, municipalities, Indigenous communities, companies and others can submit proposals for infrastructure projects that provide fixed and mobile wireless broadband Internet service to underserved Canadians. The federal government’s strategy aims to deliver the connectivity for 50 Mbps download and 10 Mbps upload speeds to 90% of Canadians by 2021, 95% of Canadians by 2026 and the hardest-to-reach Canadians by 2030.

### RECOMMENDATION 5

To improve social and economic outcomes for Indigenous Peoples, we recommend the Ministry of Indigenous Affairs work with the Ministry of Infrastructure and the Government of Canada to ensure all First Nations communities have access to broadband to enable participation in eCommerce, eHealth and online learning opportunities within a clearly defined time frame.

### MINISTRY RESPONSE

The Ministry of Indigenous Affairs accepts the recommendation made by the Auditor General of Ontario. The Ministry is actively working with the Ministry of Infrastructure (MOI), the Ministry of Energy, Northern Development and Mines (ENDM), the Ministry of Education (EDU) and others, as well as the Government of Canada, to aggressively scale up capacity on

reserve and in Northern communities to support Broadband Internet.

The Ministry will work with the above-noted partners to support a broadband strategy that is responsive to the needs of Indigenous communities and organizations in line with public commitments made by the Canadian Radio-television and Telecommunications Commission to close the digital divide across Canada.

#### 4.7 Ministries Have Poor Oversight of Funding Provided for the Delivery of Programs and Services to Indigenous Peoples

Ministries do not have accountability measures in place to confirm program funding is being used as intended. Of the 18 Indigenous programs and services we sampled, only two had documents to prove that funds were being used as intended. This limits the ministries' ability to ensure their programs and services are operating as intended to meet the needs of Indigenous Peoples.

We reviewed a sample of 18 significant programs and services that support Indigenous people, accounting for approximately 33% (\$400 million of \$1.2 billion) of budgeted expenditures in 2019/20 (see **Appendix 7**). The province transfers money to Indigenous communities and service providers, as well as non-Indigenous service providers, to deliver programs and services for Indigenous people. Fourteen of these programs were delivered by Indigenous communities or organizations and the other four programs were delivered by other public organizations such as school boards and universities.

We reviewed these programs to assess whether they had agreements with clear accountability provisions and processes in place to ensure that funds were used for the purposes intended. In all of these programs, there was a provision in the program agreements that would enable the ministries to verify how these funds were spent. For example, the ministries could request receipts or invoices,

and audit the organization that received the funds. However, ministries had verified whether funds were being used properly for only two of the 18 programs we sampled. Without this information, ministries could not ensure that the programs were operating as intended.

For 10 Indigenous programs from six ministries, we reviewed specific expenses, such as costs for membership meetings, and for building a health-care facility. We requested that ministries provide documents showing that the funds were expensed as intended. We found that ministries were able to provide adequate support for these expenses for only two programs. For the remaining programs, the ministries could not provide sufficient documentation to support the expenses claimed. For example, we reviewed a conference expense for one program because the calculation of the expense was not clear in the report submitted by the community. We requested receipts and invoices from the ministry to support this expense, but the ministry was only able to provide hand-written notes from the program recipient explaining that the expenses consisted of travel, accommodation and catering. No invoices or receipts were available. Having ministries verify how program funding is spent supports the accountability for public funds and ensures Indigenous people are receiving the intended benefits from these programs.

#### RECOMMENDATION 6

To ensure the programs and services provided by the province are operating as intended, we recommend that the Ministry of Indigenous Affairs develop guidance for other ministries providing Indigenous programs and services to:

- ensure that the agreements for programs and services have sufficient accountability measures so that funding is spent as intended; and
- ensure ministries follow the requirements contained in the agreements.

## MINISTRY RESPONSE

The Ministry of Indigenous Affairs agrees with the recommendation made by the Auditor General of Ontario. Indigenous communities have indicated a lack of capacity to meet the numerous administrative reporting requirements across government, and for many First Nations it was identified as the single largest challenge. The Ministry understands accountability measures are important; however, it is mindful of not creating additional reporting burdens.

The Ministry will work to develop a summary of guiding principles on transfer payment delivery to Indigenous communities that align with the province's goals to improve outcomes for Indigenous Peoples in Ontario. The Ministry will share this broadly within one year and adjust its programs accordingly. The Ministry will also encourage other ministries to follow enterprise-wide policies and directives such as the Transfer Payment Accountability Directive, the Transfer Payment Operational Policy, and the Transfer Payment Financial Management Policy, which set out accountability measures to ensure program funding is being used as intended.

The Ministry does not have the authority to enforce, direct or require other ministries to follow accountability measures related to the administration of transfer payment agreements in other ministries.

### 4.8 Ministries Do Not Ensure Programs and Services are Achieving Intended Outcomes

Ministries do not have adequate performance measures in place to ensure Indigenous programs and services are effective in achieving the desired outcomes. We found that 12 of the 18 programs we sampled did not have performance measures. Of the six programs that did have performance measures in place, half were not able to measure effectiveness because outcome measures were not reasonable,

targets were not established to be able to assess progress, or the performance measures were not directly relevant to the objective of the program. This limits the ministries' ability to ensure programs and services are meeting the government's objectives and the needs of Indigenous communities.

Four of the six programs with performance measures had shown improvements, one program had not existed long enough to assess a trend, and one program—the Ministry of Natural Resources and Forestry's Far North Program—had not shown any progress. The goal of the Far North Program is to work collaboratively with First Nations communities to create land use plans for northern areas where the communities have Indigenous and treaty rights. These land use plans dictate which lands will be protected for activities such as hunting, and which lands will be made available for development like mining or forestry. Developing these land use plans allows First Nations communities to have a greater say on the future of their traditional lands. Generally, without land use plans in place on these lands, development cannot occur. While the target set for this program is to have 100% of land in the Far North with a land use plan, the ministry had only developed plans for 6.7% of the area at the time of our audit. Though the percentage of lands with developed plans had not changed since 2011, the Ministry of Natural Resources and Forestry had not adjusted its target or identified a date to achieve its target.

The 12 programs that did not have performance measures instead had service metrics to measure outputs, such as the number of clients served. We found that two programs showed decreased service. Specifically, we reviewed the Weeneebayko Health Authority which provides physician services to a northern Ontario hospital in Moose Factory, as well as five surrounding communities, four of which are located in remote areas. The program has targets for the number of days physicians must provide services in both the local community and in the four remote communities. The Ministry of Health established these targets in 2006 and has

not adjusted them since. We reviewed data on the program from 2016/17 to 2019/20 and found that the number of days that services were provided in all communities had decreased by 29%, and the total number of service days in the remote communities decreased by 45%. The Ministry of Health said that it had not conducted any analysis on why there was a decrease in health-care services in these communities, but that the decrease in service days was most likely due to high physician turnover and difficulty recruiting physicians.

A 2017 clinical review of the Weeneebayko Health Authority conducted by an inspector appointed by the Ministry of Health stated that the lack of physician services provided in the community had led to worse health outcomes for local residents, increased costs to transport patients to other regions to access health services, and the lack of ability to provide services for chronic disease management. The report also found that the current number of physicians was not enough to meet the demand, as there were only two dedicated physicians to provide community health-care services to a population of 12,000 people. The report recommended that the Ministry and the Authority should identify the number of physicians needed to provide health-care services in their service area, comparable to other non-urban areas of the province. In response to the review, the Ministry increased the number of physician positions by six full-time equivalents in November 2018, but these additional positions had yet to be filled at the time of our audit.

For the On-Reserve Child Care and Child and Family Programs, we found that the main service metric, the number of children enrolled, had decreased by 34% across all service providers from 2015/16 to 2018/19. The Ministry of Education, which is responsible for overseeing this program, was not able to provide any analysis on this trend. They told us that yearly service variances were most likely due to delays in reporting of the number of children enrolled by Indigenous child care organizations.

## RECOMMENDATION 7

To ensure Indigenous programs and services provided by the province are operating as intended and achieving desired outcomes, we recommend that the Ministry of Indigenous Affairs develop guidance for other ministries providing such programs and services to ensure that the programs and services:

- include measures that assess their effectiveness in achieving the desired outcomes; and
- use the information to adjust the programs as required.

## MINISTRY RESPONSE

The Ministry of Indigenous Affairs agrees with this recommendation. The Ministry will work with the Treasury Board Secretariat over the next three years to encourage other ministries to have their programs assessed for efficiency and effectiveness, overall value-for-money, and alignment with core government priorities and the desired outcomes of the programs and services as they specifically relate to Indigenous people in Ontario. The Ministry will communicate to all ministries to leverage enterprise-wide processes and activities (such as undertaking program reviews, collecting and reporting on performance indicators) to identify opportunities to streamline, transform, become more efficient and improve outcomes and adjust the Ministry's programs accordingly over the next three years.

### 4.9 Effectiveness of Some Indigenous Programs and Services Limited by Uncertainty and Delays in Funding

Indigenous communities and service providers are unable to perform long-term planning or effectively retain staff because many government programs and services do not guarantee funding for more

than a year. The need to re-apply to these programs annually also creates additional demands on the community’s resources, and delays in approval can limit the effectiveness of the funding by requiring significant spending in a short period of time.

In our sample of 18 programs and services, 14 were transfer payment programs to Indigenous communities or organizations. Of these 14 programs, we found that for two programs, the funding recipients had to re-apply annually, even though many of these recipients had continued to be granted these funds year after year. For example, one Indigenous recipient had received funding for the Ministry of Natural Resources and Forestry’s Far North Program for twelve consecutive years. However, they had to re-apply every year for these funds. Some ministries had created more flexible contracts and reporting processes for other programs. Two agreements we reviewed funded programs for two years and three years respectively, and set out secured funding and reporting processes for the entire term. The remaining 10 contracts we reviewed were “evergreen” contracts that were automatically renewed every year with an amendment outlining any yearly changes for service levels or additional one-time funding. For example, the Ministry of Children, Community and Social Services recently created a mechanism to allow Indigenous service providers to apply to multiple child welfare programs under one evergreen contract. This decreases the administrative burden for the service provider by allowing them to report annually on these programs in two consolidated reports. After the original contract was signed, the service provider did not need to re-apply the following year, and the budget was set with dates the provider would be paid.

Indigenous communities and service providers we spoke to raised concerns that they struggled to maintain qualified staff because jobs could not be guaranteed. For example, one community we spoke to said they struggled to bring mental health care providers to their northern community because funding was not guaranteed beyond a year.

Ministries can also take a long time to provide funding to Indigenous communities or service providers, leaving a short window to spend the funds. Ministries took more than three months into the term of a program’s contract to transfer funding to recipients in three of the 14 Indigenous transfer payment programs we sampled. This further limits the effectiveness of the programs. For example, one community we spoke to identified that they had completed their application for the Ministry of Indigenous Affairs’ Indigenous Economic Development Program by July 15, 2019 but did not receive a transfer payment until January 2020. This left less than three months for them to spend the funding, which was required to be completed by March 31, 2020. We reviewed application data for all recipients of this program and found that it took, on average, almost six months for the ministry to make the first payment after the application was completed by the recipient. This was an improvement from 2018/19 however, when the average time to transfer the first payment was over nine months.

To determine whether this issue was more prevalent in smaller programs, we sampled an additional 10 programs with annual expenditures below \$10 million, and found that in four of these programs, recipients had to re-apply annually. In three of these programs, it took, on average, 80 days for the Ministry to approve the application and a further 66 days to provide funding. For the fourth program, the Ministry was unable to provide the data needed to complete the analysis.

## RECOMMENDATION 8

We recommend that the Ministry of Indigenous Affairs guide ministries on:

- developing Indigenous program funding agreements with a long-term view, where appropriate; and
- approving and transferring funds under agreements prior to the beginning of the funding year.

## MINISTRY RESPONSE

The Ministry of Indigenous Affairs agrees with the recommendation. The Ministry will work with other ministries to encourage the development of multi-year funding agreements, where possible, to assist with flowing funds early in the fiscal year. However, it does not have the authority to direct other ministries or to approve and transfer funds prior to the beginning of the funding year.

### 4.10 Ministry Lacks Information to Adequately Oversee Consultations Performed by Other Ministries

The Ministry of Indigenous Affairs does not have sufficient information to effectively fulfil its mandate to ensure that the province is meeting its constitutional obligation to consult with Indigenous communities. Consultations are performed by various ministries, and the Ministry does not obtain knowledge of these consultations and whether they are being conducted in compliance with legislative requirements.

Each ministry conducts its own consultations and is not required to inform the Ministry of Indigenous Affairs of its consultation activities. The Ministry would only have knowledge of other ministries' consultations or their compliance in meeting their obligations if the consulting ministry informed the Ministry of Indigenous Affairs or reached out for advice or support. The level of consultation ministries perform depends on their assessments of the strength of the Aboriginal (Indigenous) and treaty rights, and their understanding of potential adverse impacts in each case. Consultation can range from a notice to the impacted community of an upcoming decision, to requiring the Indigenous community's consent for the government to perform the action contemplated.

Aside from the Ministry of Energy, Northern Development and Mines, which performed 458 consultations in 2019/20, no other ministries tracked

how many consultations they performed and who they consulted. In 2018, the Ministry conducted a one-time survey of the nine ministries that perform the majority of consultations to find out how many consultations they had initiated. The Ministry estimated that three ministries performed more than 500 consultations a year, two performed between 50 and 500 a year, and the remaining four ministries performed fewer than 50 consultations a year.

In 2006, the government developed a system that can track the consultations being performed by various ministries. The system also holds information on existing treaties, assertions by communities, and the province's interpretation of which communities to consult in a given area. The system cost \$1.4 million dollars to develop, and has required about \$2.5 million to maintain since 2012. However, the use of this system is not mandatory and it is not being consistently accessed or updated by ministries. The number of individuals who accessed the system decreased by 34% from 2016 to 2019. Additionally, no consultation information had been added to the system by any ministry since 2015, including consultations conducted by the Ministry itself. The Ministry informed us that the staff assigned to update this information were moved to other areas within government. However, the Ministry continued to pay the annual system maintenance fees so that other ministries could access the system. Individuals we talked to at other ministries mentioned that the system was not user-friendly and that it was very time consuming to enter information.

The Ministry is currently procuring a new system to replace the 2006 system, and estimates that the new system will be launched in March 2021. At the time of our audit, the Ministry estimated that the new system would cost approximately \$1.6 million, including \$775,000 in one-time development costs, as well as approximately \$807,000 in ongoing operational costs over the first five years. Although other ministries have been involved in developing this new system, its use will again not be mandatory. Ministries we met with mentioned that they

supported the development of a new system, but they had doubts about whether or not it would be adequately used. They felt that not all information would be input into the system and, therefore, were not sure if the information would be complete, accurate and relevant to their needs.

### RECOMMENDATION 9

To assist the province in meeting its constitutional obligation to consult Indigenous Peoples so that the Ministry can meet its mandate of ensuring the province is meeting its duty to consult, we recommend that the Ministry of Indigenous Affairs:

- Work with other ministries to ensure they have complete and accurate information on consultations occurring in the province;
- Mandate the use of the consultation tracking system for all ministries and establish the type of information required to be entered into the system; and
- Review consultations on a risk basis to ensure they are meeting the province’s requirements.

### MINISTRY RESPONSE

The Ministry is committed to meeting its constitutional duty to consult. The Ministry also commits to working with ministries to develop and implement a comprehensive Knowledge Management System that will effectively support Indigenous consultations and allow the Ministry to track information for all ministries. To ensure other ministries’ use of the system, the Ministry will provide ongoing training and supports for users and regularly update the tool to ensure accurate and complete information is available, including regular outreach to ministries as required and sharing costs of the system across ministries.

The Ministry will use the Knowledge Management System to provide guidance on consultations to help ministries ensure that they are meeting provincial requirements.

## 4.11 No Centralized Resource for Assessment of Indigenous Rights Assertions

The obligation to consult Indigenous communities is based on established and asserted Aboriginal (Indigenous) and treaty rights. When an Indigenous community asserts that they have Indigenous and treaty rights in a given geographic area, the province needs to determine the extent of consultation required based on these assertions. While the Ministry of Indigenous Affairs drafts consultation guidelines and provides training and advice to other ministries, ministries do not have consistent processes to assess the credibility and strength of assertions of Indigenous and treaty rights. This can lead to inconsistent interpretations of which Indigenous communities to consult, and how to meaningfully consult them.

Currently, the Aboriginal Consultation Issues Working Group (created in 2012) comprised of legal counsel from multiple ministries assesses and provides advice on the need to consult for assertions that are not established. However, these decisions have not been uploaded on the Ministry’s information system for consultations. This can create confusion among multiple ministries and lead to a duplication in work, which constrains the resources of other ministries. For example, the Ministry of Natural Resources and Forestry identified four challenging assertions they had received from First Nations communities outside of the province, and from communities that are not recognized by the federal government under the *Indian Act*. These communities have asserted rights over different areas of Ontario, and wish to be consulted on initiatives like forest management plans. However, the working group had already assessed the credibility of these assertions, therefore the Ministry of Natural Resources and Forestry had unnecessarily duplicated this work. At the time of our audit, the Ministry of Natural Resources and Forestry was still trying to determine if three of these communities’ Indigenous rights require consultation, even though



the working group had already determined that the three assertions did not require consultation.

In addition, as discussed in **Section 4.10**, the system that holds historical information on assertions of Indigenous and treaty rights made by Indigenous communities is not consistently used by all ministries and has not been updated since 2015. Ministries we interviewed, and meeting minutes between the Ministry and both Indigenous communities and industry stakeholders we reviewed, noted concerns about inconsistent knowledge and interpretation of assertions. The Supreme Court has ruled that the Crown has a duty to consult when it has knowledge of an asserted right. If one ministry is aware of an assertion of Indigenous or treaty rights, a court could rule that the entire provincial government was aware. Therefore, if another ministry was unaware of the assertion and failed to consult, the province may not be fulfilling its legal obligation.

Ministries we interviewed identified that it would be useful to have one ministry responsible for receiving and interpreting assertions, and providing guidance on which communities to consult and how to consult with them based on the geographic locations of the projects and the assertions made. In 2017, the Ministry of Indigenous Affairs developed options to establish a centralized unit to support the assessment of assertions and to develop a process to make assertion decisions more transparent through public disclosure. The Ministry said that the work on this had not progressed over the last two years due to other government priorities. However, at the time of our audit, the Ministry said that they had begun working on this initiative again in May 2020.

Allegations that consultations with Indigenous communities were not handled properly in the past have resulted in legal disputes. Civil cases against the province are rare when factoring in the estimated number of consultations conducted in a year. Nevertheless, from January 2010 to October 2020, there were 35 cases brought against the Crown involving allegations that Ontario, and sometimes other levels of government, had failed to

adequately consult with an Indigenous community. Of the 35 proceedings:

- three found that Ontario did not adequately consult with Indigenous communities;
- seven were settled outside of court, three of which resulted in the ministry covering the litigation costs or providing funding to the Indigenous community;
- nine were dismissed;
- five were abandoned, went dormant, or were withdrawn; and
- the remaining eleven are still ongoing.

Failure to properly consult Indigenous communities has also resulted in delays to private sector development and the associated economic benefits. For example, in 2018 the Superior Court of Justice found that the then Ministry of Northern Development and Mines did not adequately ensure that a mining company had consulted with a First Nations community prior to issuing an exploration permit for the company in 2016. The Court ruled that the exploration permit could not be enforced until the ministry and the mining company adequately consulted with the First Nations community. At the time of our audit, the permit was still on hold, the project had not proceeded, and according to the Ministry of Energy, Northern Development and Mines, the relationship between the First Nations community and ministry was strained. In another example, the Superior Court of Justice found that the Ministry of Natural Resources and Forestry had not adequately consulted with a First Nations community before approving a licence for a limestone quarry in 2016. The court decided to set aside the licence until adequate consultation had occurred. At the time of our audit, the company had not continued its pursuit of a licence.

## RECOMMENDATION 10

To avoid inconsistencies when ministries comply with the province's duty to consult, we recommend the Ministry of Indigenous Affairs:

- centralize the assessment of assertions made by Indigenous communities; and
- provide guidance to all ministries on the consultation based on the assessment of the assertions made.

## MINISTRY RESPONSE

The Ministry of Indigenous Affairs recognizes that there are a number of challenges associated with assessing assertions related to Aboriginal and treaty rights.

The Ministry has been leading discussions with other ministries and partners to provide operational and policy guidance to increase consistency in the assessment of assertions. In addition, a primary objective of the development and implementation of the new Knowledge Management System (KMS) is to support ministries by providing access to regularly updated resources (such as historical, geographical, legal, etc.) necessary to make informed, timely and transparent consultation decisions (such as who, when and how). The centralized KMS solution will also provide information on the assessment and consultation processes underway across the province to assist with inter-ministerial coordination where needed.

### 4.12 Land Claims Process Lengthy with No Accountability Measures to Determine Path to Improvement

Land claims are assertions made by a First Nation or another Indigenous community that their Indigenous and/or treaty rights have been violated. These are legal issues which could be litigated in court or settled through negotiations. Each land claim involves unique rights assertions and perceived violations to be negotiated.

In a land claims process, the Ministry reviews and assesses the validity of the claim received, negotiates a settlement with the Indigenous community if the claim is accepted, and coordinates

the implementation of the agreement. This may involve providing financial compensation and/or parcels of land.

The Ministry supports First Nations' participation in land claims negotiations through the Support for Community Negotiations Fund (Fund), which includes funding lawyers and other professionals providing services to Indigenous communities pursuing land claims. Between 2015/16 and 2019/20, the Fund provided First Nations with \$23 million. In the same period, a total of \$526.6 million was awarded in land claims settlements. Similar to the issues identified in **Section 4.7**, we found that the reporting requirements associated with the Fund lack adequate accountability measures to ensure the funds are being spent as intended.

The Ministry informed us that fees for legal, consulting and other professional services identified by the Indigenous communities sometimes exceed Fund amounts. These fees can be funded through other sources such as a contingency arrangement, where the community commits to pay these expenses with a portion of the land claims settlements they are awarded. However, we could not ascertain how much money First Nations are paying through these arrangements for legal, consulting and other professional services for land claims. There was no record of how much of the settlement amount was paid out to legal, consulting and other professional firms for fees and charges that the Fund did not cover.

The Ipperwash Inquiry report noted, "The single biggest source of frustration, distrust, and ill-feeling among [Indigenous] people in Ontario is [the provincial government's] failure to deal in a just and expeditious way with breaches of treaty and other legal obligations to First Nations." Lengthy land claims assessments, negotiations and implementations delay communities from being acknowledged and compensated for infringements of their Indigenous and treaty rights.

We reviewed the 19 land claims implemented between Ontario and First Nations communities

from 1983 to 2019, to determine the time it took for agreements to be reached and implemented. We found that it took, on average, 22 years to reach a settlement agreement and fulfill the responsibilities outlined in the terms of the agreement, such as providing the compensation negotiated. Another 12 claims have settled but have yet to be fully implemented. These claims have been ongoing for, on average, 10 years (ranging from one to 29 years).

#### 4.12.1 Ministry Does Not Document External Causes of Delays

As discussed in 4.12.2 below, the Ministry does not track or document the causes of delays in settling land claims. We interviewed staff from the Ministry of Indigenous Affairs and other ministries, and reviewed 12 land claims files to get a better understanding of the causes of delays.

We noted that Ontario is one of three parties, along with the First Nations community and the federal government, in the land claims process. Representing Ontario, the Ministry is not the sole decision-maker that determines the timely resolution of land claims. Each party has their own internal process for approaching the claim and when or if to move forward. From its anecdotal experience, the Ministry said changes in First Nations councils can result in new negotiators representing the Indigenous communities' interests in a claim. This limits progress, as negotiations may have to start over. However, the Ministry could not provide examples of when this had occurred or the delays it had caused because negotiators did not adequately document it in the land claims files.

We also noted that land claims settlements involving the federal government can take significantly longer. In one claim we reviewed, Ontario accepted the land claim in 2003 but did not begin negotiations until 2009 because the federal government had not accepted the claim for negotiations until then. Ontario did not engage with the First Nations community between 2003 and 2009.

We also reviewed two land claims involving land to be added to reserves, a process under the

jurisdiction of the federal government. We noted that in both instances, while Ontario fulfilled its duties in transferring lands within five years of the settlement agreement, the federal government had yet to add the land to the reserves. These communities' land settlement agreements date back to 1991 and 1994.

In another land claim, formal proposals for provincial and federal compensation amounts were made pending the completion of a land survey. However, Ontario's Surveyor General at the Ministry of Natural Resources and Forestry was not satisfied with the survey conducted by the federal government. It took a year for an agreement to be reached amongst the parties on acceptable survey terms. While a survey was completed and accepted by all parties, the First Nation expressed concern about the delay and sought additional compensation from both levels of government. The amount is still in negotiation. This land claim has been ongoing for 16 years since Ontario accepted the claim for negotiation.

The Ministry said another cause of delays is the lack of timely responses from other provincial ministries. See **Figure 10** for a listing of other governments involved in settling land claims. The Ministry does not have the legislative authority to demand the timely information or the collaboration from partner ministries that is vital to the land claims process.

However, partner ministries such as the Ministry of Environment, Conservation and Parks, the Ministry of Energy, Northern Development and Mines, the Ministry of Natural Resources and Forestry, and the Ministry of Transportation also expressed concerns about the following types of delays during land claims:

- If partner ministries are not involved in or represented at the negotiation table, some things can be "lost in translation" when the Ministry of Indigenous Affairs represents their interests during negotiations;
- If there is inadequate engagement with partner ministries during land claims negotiations, the Ministry of Indigenous Affairs can

make commitments that are sometimes contrary to their interests or cannot be fulfilled;

- Partner ministries do not receive enough information on what is being communicated at the negotiation table to identify potential implications for ongoing projects;
- The Ministry of Indigenous Affairs often reaches out directly to staff-level contacts at partner ministries instead of following a formal process involving staff at the senior management level who have decision-making power.

Similar to the Ministry of Indigenous Affairs, the partner ministries could not provide support for the causes of delays mentioned or their impacts due to poor record-keeping of the negotiations.

#### 4.12.2 Land Claims Process Lacks Timelines and Milestones

The Ministry does not establish expected timelines, milestones, or cost estimates for the settlement of land claims once research and assessment are completed (see **Section 4.12.1**). It also does not track and report its progress on land claims, including any barriers resulting in delays. Without this information, the Ministry is unable to assess its performance, use this information to improve its processes and hold itself and other parties accountable for delays in the land claims settlement process.

In 2008, the federal government made a commitment to research and assess claims within three years. As well, the federal government established a three-year target for the negotiation and settlement of claims where outstanding lawful obligations were found.

The Ministry does not use its land claims negotiation system, developed in 2011, to track and report progress on land claims. The information in the system is also inaccurate. For example, when we reviewed the system, it showed 61 claims under negotiation when at that time, there were actually only 54 claims under negotiation. Therefore, the Ministry also did not have an accurate and up-to-

date list of all settled land claims. The list of settled land claims and dates of significant milestones the Ministry provided to our audit team required over 15 adjustments which took the Ministry two months to make.

The Ministry also did not record key dates, such as settlement and implementation dates (for example, the date land was transferred to a community). The Ministry informed us that these dates must be requested from other ministries, as it did not have this information. However, when requested the other ministries did not have this information readily available, because they assumed the Ministry was tracking it.

We reviewed 12 land claims files with a total of over 20,000 documents and found that the files did not contain documents to explain the causes of delays or information that would enable us to determine the impact of these delays. The Ministry was unable to provide any evidence to support the Ministry's rationale for the delays. Further, the Ministry did not provide any guidance for staff regarding the type of information that should be maintained, resulting in inconsistencies between files and negotiators. We were told that various informal meetings were held internally to provide updates on files. However, no minutes were taken at these meetings. The lack of useful information in land claims files is a barrier to improving the land claims settlement process.

#### RECOMMENDATION 11

To improve the timeliness of land claims resolutions, we recommend that the Ministry of Indigenous Affairs:

- Establish milestones and reasonable timeframes for negotiating, settling and implementing land claims;
- Document the causes of delays;
- Provide guidance on documentation to all staff involved in land claims; and
- Monitor and report on the progress achieving set milestones.

## MINISTRY RESPONSE

The Ministry is committed to the timely resolution of land claims. The Ministry of Indigenous Affairs recognizes the value in establishing milestones and monitoring progress to achieving those milestones. There is also merit in documenting challenges to reaching settlements on a timely basis to inform future process improvements. The Ministry is undertaking several projects to address this recommendation, including: modernizing the information management system and practices applied to land claims, process mapping, key milestone identification and reporting, and internal operating policy development, including guidance on documentation.

### 4.13 Concerns in Land Claims Process

The Ministry of Indigenous Affairs is responsible for assessing whether an Indigenous land claim is valid and should be negotiated. This means the government determines the validity of the Indigenous community's claim that it had violated Indigenous and treaty rights. The Ministry then determines the Indigenous community's financial support for participating in negotiations. Because the government is the defendant in the claim, determines the validity of the claim and controls the Indigenous community's financial support, the land claims process itself has created long-standing First Nations concerns.

Historically, frustration with the land, treaty and Indigenous claim processes have led Indigenous Peoples to blockade or occupy public and private spaces, as seen in significant events such as the Oka crisis in Quebec and the Ipperwash crisis in Ontario. The underlying causes of these disputes involved assertions to land and the lack of a timely, fair and effective process for dealing with land issues and historical claims.

In 1996, the Royal Commission on Aboriginal Peoples recommended that an independent tribunal be appointed to facilitate negotiations on land issues and historical claims. In 2007, the Ipperwash Inquiry reiterated the recommendation that Ontario create an independent treaty commission to establish and publish benchmarks for negotiations and dispute resolution techniques. However, Ontario does not have an independent treaty commission, nor has it established, monitored or published negotiation benchmarks.

Between 1979 and 2000, Ontario had an independent commission, called the Indian Commission of Ontario, with a mandate to oversee and facilitate the process for First Nations land claims. The commission was established with the federal government, Ontario, and First Nations Chiefs in Ontario. This commission had a range of powers including the ability to convene meetings, meet separately with the parties, request information, and recommend suspension of negotiations or court proceedings. These powers could not be used without the consent of all parties. After the mandate of the commission expired, the then federal Department of Indian and Northern Affairs Canada conducted a review of the commission and identified that it had inadequate powers and lacked the authority to resolve disputes.

Between 2008 and 2012, the Ministry engaged First Nations and the federal government on the creation of a treaty commission based on a recommendation of the Ipperwash Inquiry. The attempts were unsuccessful because the federal government did not communicate its interest in a treaty commission. However, the Ipperwash Inquiry recommended that "the provincial government should make every reasonable effort to establish the [treaty commission] ... with full cooperation of the federal government. If that is not possible, however, the provincial government should proceed to establish the [treaty commission] and address other issues on its own with the full participation and cooperation of First Nations in Ontario."

We noted that other provinces, such as British Columbia, Saskatchewan and Manitoba, have independent treaty commissions with varying mandates and powers in the land claims process between the federal and provincial governments and Indigenous communities.

The federal government has a tribunal that can hear land claims the government decides not to negotiate. The tribunal disagreed with the federal government on 12 of the 14 claims brought between 2009 and 2016. However, Ontario does not have a tribunal or a process for obtaining independent reviews of land claims decisions. In the last 10 years, the Ministry of Indigenous Affairs has rejected 10 claims with no independent review of its decision, which could identify any gaps or shortfalls in the Ministry's assessment. For example, one land claim was submitted in 1985 to both the federal government and Ontario. Canada accepted this claim in 1995, but put negotiations on hold pending Ontario's involvement. In 2007, Ontario rejected this claim. In January 2011, the First Nations community that filed the claim launched a lawsuit including additional allegations, at which time Ontario decided to begin negotiations. A settlement agreement was reached in March 2017.

#### RECOMMENDATION 12

To address concerns about the land claims settlement process, we recommend the Ministry of Indigenous Affairs assess the feasibility of establishing an independent body to assess future land claims, determine negotiation funding for Indigenous claimants, and monitor and report on the progress of land claims. If feasible, recommend its implementation to the province.

#### MINISTRY RESPONSE

The Ministry agrees that the land claims process must be unbiased and fair. Ontario has a Ministry division of professional staff dedicated to a fair land claims process. This process includes an evidence-based historical and legal

assessment of land claims. The land claims process in Ontario is voluntary and First Nations can also utilize the independent court system.

The Ministry is aware that the development of a National Treaty Commission was referenced in the December 13, 2019 "Federal Minister of Crown-Indigenous Relations Mandate Letter" and will monitor those federal efforts.

### 4.14 Province Lacks Transparency in Reporting on Land Claims

Minimal information is publicly available on the number of land claims, the nature of these claims, or their progress in negotiations. This lack of transparency reduces public awareness of Indigenous land claims and the Ministry's accountability for effectively and efficiently settling these claims.

In contrast, the British Columbia Treaty Commission publishes an annual report that outlines the number of land claims and their progression through the negotiation process, including timelines and the settlement amounts paid. The commission has identified the public disclosure of land claims information as a best practice.

In comparison, Ontario only publicly reports information on land claims through its website. The information posted includes the total number of claims in negotiation. For claims in negotiation, the Ministry reports on the location of the claim, the type of claim, and when the claim was received or submitted, as well as a brief overview of the claim. However, we noted that the information is not complete, and there is no reporting on costs to date or the progress made in negotiations. For example, the province is currently negotiating three claims dating back to 2011 that are not on the Ministry's website. The Ministry discloses the total land claim settlement amount paid and further amounts anticipated to be paid in aggregate through its annual Public Accounts reporting. However, it does not differentiate between the portion of the settlement that has already been paid and the portion expected to be paid in the future.

### RECOMMENDATION 13

To enhance public awareness of Indigenous land claims and the Ministry's accountability for effectively and efficiently settling these claims, we recommend the Ministry of Indigenous Affairs:

- ensure the reporting of its land claims is complete; and
- publicly report the costs by individual claim, as well as the progress made in negotiations.

### MINISTRY RESPONSE

The Ministry agrees that public awareness of Indigenous land claims is important and is committed to timely and informative reporting of land claims under negotiation on our public website at Ontario.ca. The Ministry currently reports funds transferred for land claim settlements through the Public Accounts annual reporting process and will work with negotiation partners for more specific annual reporting of land claim settlement amounts.

## 4.15 No Reporting on Status of Ipperwash Recommendations

The Ipperwash Inquiry, the Royal Commission on Aboriginal Peoples, and the Truth and Reconciliation Commission were the results of significant events in Indigenous history in Canada. According to the provincial and federal governments, lessons learned from these events, along with the recommendations made by the Ipperwash Inquiry, the Royal Commission on Aboriginal Peoples and the Truth and Reconciliation Commission are important for reconciliation between Canadians and Indigenous Peoples. While the provincial and federal governments have made commitments to act on the recommendations, there is minimal assessment and reporting on the progress in implementing these recommendations.

The then Minister of Aboriginal Affairs committed to implementing all recommendations in the Ipperwash Inquiry's report in May 2008, and a Memorandum of Understanding (MOU) between the Government of Ontario and the Ontario First Nations Political Confederacy was signed in September 2008. The MOU commits the parties to work collaboratively under the Ipperwash Inquiry Priorities and Action Committee to implement the Ipperwash recommendations. The province last reported on the status of the Ipperwash recommendations in February 2014 when the Ipperwash Priority Actions Committee was disbanded. There has been no reporting on progress in implementing the Ipperwash recommendations by the government since 2014. Key recommendations that have not been implemented from the Inquiry and the Commissions include:

- establishing a treaty commission;
- establishing measurable goals to identify and close the gaps in health outcomes between Indigenous and non-Indigenous communities;
- publishing annual progress reports and assessing long-term trends and indicators in areas such as suicide, mental health, chronic diseases and availability of appropriate health services;
- committing to meaningful consultation and informed consent of Indigenous Peoples before proceeding with economic development projects; and
- publishing annual reports on the number of Indigenous children who are in care, compared with non-Indigenous children.

As seen in **Figure 13**, many issues discussed in earlier sections of this report are related to the outstanding recommendations previously made by the Ipperwash Inquiry, which could have addressed issues identified in our report.

### Figure 13: Ipperwash Inquiry Report Recommendations

Prepared by the Office of the Auditor General of Ontario

Auditor General Report Section	Ipperwash Inquiry
4.2 No Coordinated Approach to Indigenous Policies, Programs and Services	Recommended a Ministry be created with its own Minister and the resources to carry out its responsibilities.
4.5 Indigenous Peoples and Communities Are Not Engaged Consistently in the Development of Government Programs, Services and Policies That Impact Them	Recommended creating “mechanisms for obtaining input from [Indigenous] communities on planning, policy, legislation, and programs affecting [Indigenous] interests.”
4.10 Ministry Lacks Information to Adequately Oversee Consultations Performed by Other Ministries	Recommended that the “initial mandate and responsibilities of the Ministry of [Indigenous] Affairs should include the following: Ensure that the province fulfills its duty to consult and accommodate.”
4.12 Land Claims Process Lengthy with No Accountability Measures to Determine Path to Improvement	Recommended the then Treaty Commission of Ontario “should be given the mandate to improve the efficiency and cost-effectiveness of the land claims process in Ontario” and “be given the authority to work with parties to establish and publish benchmarks for processing claims.”
4.13 Concerns in Land Claims Process	Recommended the provincial government “establish a permanent, independent, and impartial agency to facilitate and oversee the settling of land and treaty claims in Ontario.”
4.14 Province Lacks Transparency in Reporting on Land Claims	The recommended treaty commission should be given a mandate to “make the claims process accountable and transparent to all Ontarians.”
4.15 No Reporting on Status of Ipperwash Recommendations	Recommended that the Ministry “Oversee and report on the implementation of the recommendations of the Ipperwash Inquiry.”

## RECOMMENDATION 14

To further reconciliation between the government and Indigenous Peoples, we recommend that the Ministry of Indigenous Affairs work with other provincial ministries to:

- implement the recommendations of the Ipperwash Inquiry; and
- regularly monitor and publicly report on progress on actions taken toward implementing the recommendations.

## MINISTRY RESPONSE

The Ministry of Indigenous Affairs accepts the recommendation made by the Auditor General of Ontario. The Ministry agrees that public awareness of the province’s progress in addressing the recommendations of the Ipperwash Inquiry is important.

Between 2008 and 2014, the Ministry led efforts across ministries and with the Chiefs of Ontario through the Ipperwash Inquiry Prior-

ities and Action Committee (IIPAC) to assess and address the Ipperwash recommendations. This multi-year effort resulted in legislative, policy and operational changes including: establishing the Ministry of Aboriginal Affairs as a stand-alone ministry; launching the New Relationship Fund to fund consultation capacity in Indigenous communities; implementing significant changes to the OPP’s standard operating procedures including the way police respond to demonstrations; proclaiming in 2012 the *Funeral, Burial and Creation Services Act, 2002*, which is inclusive of processes regarding Indigenous burials; working extensively with Indigenous communities to develop new material for the provincial curriculum that reflect Indigenous perspectives; and implementing substantial changes to the land claims process to make it more effective and efficient, as well as signing a land transfer agreement for Ipperwash Provincial Park with Kettle and Stony Point First Nation.



Since 2015, when the joint IIPAC process concluded, the province has continued to address the longer-term issues identified in the report including: entering into Resource Revenue Sharing agreements with First Nations communities and establishing a legislative basis for First Nations policing through the *Community Safety and Policing Act, 2019*.

The Ministry will use the Ipperwash recommendations as a basis for the advice to ministries in policy development in the sectors covered in the inquiry. The Ministry will also work with Indigenous partners to determine indicators that are meaningful for reporting on Indigenous well-being and Ontario's progress in meeting the needs of Indigenous communities. This includes reporting on progress on actions in responding to the Ipperwash recommendations and other significant reports.

## Appendix 1: First Nations Communities in Ontario

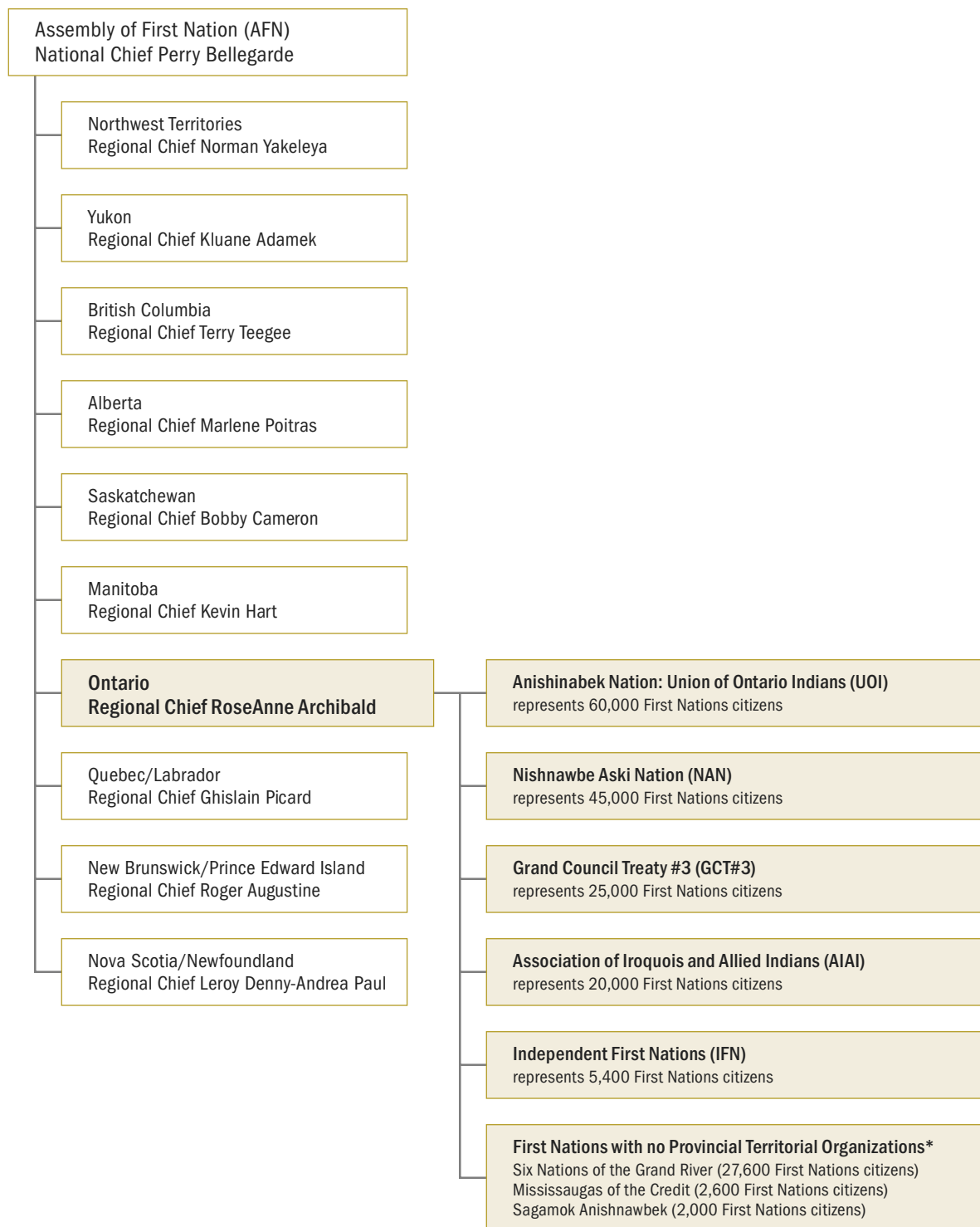
Source of data: Ministry of Indigenous Affairs

Provincial Territorial Organizations		
Grand Council Treaty #3		
Animakee Wa Zhing Asubpeeschoseewagong (Grassy Narrows) Buffalo Point Couchiching Migisi Sahgaigan (Eagle Lake) Iskatewizaagegan 39 Lac des Mille Lacs Lac La Croix Lac Seul	Mishkosiminiziibiing (Big Grassy) Mitaanjigamiing Naicatchewenin (Northwest Bay) Naongashiing (Big Island) Naotakamegwanning (Whitefish bay) Nigigoonsiminikaaning (Red Gut) Northwest Angle 33 Niisaachewan (Dalles) Onigaming (Sabaskong) Rainy River (Manitou Rapids)	Sagkeeng (Fort Alexander) Saugeen Seine River Shoal Lake 40 Wabaseemoong (Whitedog) Wabauskang Waabigoniiw Saaga'iganiiw (Wabigoon Lake) Wauzhushk Onigum (Rat Portage) Washagamis Bay
Nishnawbe Aski Nation		
Aroland First Nation Attawapiskat First Nation Bearskin Lake First Nation Beaverhouse First Nation Brunswick House First Nation Cat Lake First Nation Chapleau Cree First Nation Chapleau Ojibwe First Nation Constance Lake First Nation Deer Lake First Nation Eabametoong First Nation Flying Post First Nation Fort Albany First Nation Fort Severn First Nation Ginoogaming First Nation Hornepayne First Nation Kasabonika Lake First Nation	Kashechewan First Nation Keewaywin First Nation Kingfisher Lake First Nation Koocheching First Nation Lac Seul First Nation Long Lake #58 First Nation McDowell Lake First Nation Marten Falls First Nation Matachewan First Nation Mattagami First Nation Mishkeegogamang First Nation Missanabie Cree First Nation Mocreebec Council of the Cree Nation Moose Cree First Nation Muskrat Dam First Nation Neskantaga First Nation	Nibinamik First Nation North Caribou Lake First Nation North Spirit Lake First Nation Pikangikum First Nation Poplar Hill First Nation Sachigo Lake First Nation Sandy Lake First Nation Slate Falls First Nation Taykwa Tagamou Nation (New Post) Wahgoshig First Nation Wapekeka First Nation Wawakapewin First Nation Webequie First Nation Weenusk First Nation Whitewater Lake First Nation Wunnumin Lake First Nation
Anishinabek Nation: Union of Ontario Indians		
Aamjiwnaang First Nation Alderville First Nation Algonquins of Pikwakanagan First Nation Atikameksheng Anishnawbek Aundeck Omni Kaning Beausoleil First Nation Binjitiwaabik Zaaging Anishinaabek (Rocky Bay) Chippewas of Georgina Island Chippewas of Kettle and Stoney Point Chippewas of the Thames Chippewas of Rama First Nation Curve Lake First Nation Dokis First Nation Fort William First Nation	Garden River First Nation Henvey Inlet First Nation Long Lake #58 M'Chigeeng First Nation Magnetawan First Nation Michipicoten First Nation Mississauga First Nation Mississaugas of Scugog Island First Nation Moose Deer Point Munsee Delaware Namaygoosisagagun First Nation Netmizaagamig Nishnaabeg (Pic Morbert)	Nipissing First Nation Ojibways of the Pic River First Nation Pays Plat First Nation Red Rock Indian Band Sheshegwaning First Nation Sheguiandah First Nation Serpent River First Nation Thessalon First Nation Wahnapiatae First Nation Wasauksing First Nation Whitefish River First Nation Wiikwemikoong Unceded Territory Zhiibaahaasing First Nation
Association of Iroquois and Allied Indians		
Batchewana First Nation of Ojibways Caldwell First Nation Delaware Nation	Hiawatha First Nation (Mississaugas of Rice Lake) Mohawks of the Bay of Quinte	Oneida Nation of the Thames Wahta Mohawks

<b>Independent First Nations</b>		
Animbiigoo Zaagiigan Anishinaabek First Nation (Lake Nipigon Ojibway) Bingwi Neyaashi Anishinaabek Bkejwanong Territory (Walpole Island) Chippewas of Nawash (Cape Croker)	Chippewas of Saugeen Iskatewizaagegan No. 39 Independent First Nations Kitchenuhmaykoosib Inninuwug (Big Trout Lake)	Mohawks of Akwesasne Shawanaga First Nation Temagami First Nation Wabaseemoong First Nation Whitesand First Nation
<b>First Nations with no Provincial Territorial Organization Affiliations</b>		
Six Nations of the Grand River	Mississaugas of the Credit First Nation	Sagamok Anishnawbek First Nation

## Appendix 2: Political Confederacy, August 2020

Prepared by the Office of the Auditor General of Ontario



\* In Ontario, the majority of First Nations are affiliated with larger regional groupings known as Provincial Territorial Organizations (PTOs). PTOs are the primary support for advocacy and secretariat services for First Nations and each PTO has an elected Grand Chief.

## Appendix 3: Federal and Provincial Responsibilities for Social and Economic Outcomes

Prepared by the Office of the Auditor General of Ontario

Sector	Roles and Responsibilities Related to Indigenous People	
	Ontario	Canada
Health and Mental Health	<p>Federal and provincial responsibility for health overlap for First Nations living on reserve.</p> <ul style="list-style-type: none"> <li>Ontario designs and delivers services in the areas of: primary and specialty care, home and community care, long term care and public health.</li> <li>Province provides insured health services to OHIP-eligible residents, including Indigenous people regardless of where they live in Ontario (on or off reserve).</li> <li>Ontario funds these insured services for all Ontario residents under the Health Insurance Act. Regulation 552 sets out the requirements to be a resident in Ontario. Any person who meets these requirements is eligible for OHIP coverage.</li> </ul>	<ul style="list-style-type: none"> <li>The Canada Health Act outlines criteria and conditions provinces and territories must meet, in relation to insured health services and extended health services, to receive their entire allocation of federal health funding through the Canada Health Transfer.</li> <li>Historically, Canada has provided funding for health care programs and services on First Nation reserve lands including major capital projects and selected health benefits (e.g. Non-Insured Health Benefits for Inuit and Status First Nations).</li> </ul> <p>On-reserve health services (nursing stations) are generally provided through the federal government (may not be billed to OHIP).</p>
Child and Family Wellbeing	<p>Child and family wellbeing on First Nation reserve lands are cost-shared between Ontario and Canada through the 1965 Indian Welfare Agreement. The intent of the agreement is for Canada to reimburse Ontario for approximately 92-95% of eligible expenses across four programs: income assistance, child care, child welfare, and homemakers and nurses services.</p> <ul style="list-style-type: none"> <li>Ontario provides funding to Children’s Aid Societies (including Indigenous Children’s Aid Societies) to deliver child protection services and prevention services.</li> <li>Ontario also provides funding to a number of Indigenous child and family services organizations to provide Indigenous-specific, community-based child, youth and family wellbeing and prevention programs.</li> <li>Ontario has developed a system whereby local service system managers oversee the delivery and planning of child care and early years programs and services in their areas of service.</li> <li>Some First Nations operate licensed child care and early years and family programs in their communities and are funded directly by Ontario.</li> <li>Ontario funds early years and child care programs for people living off reserve through Consolidated Municipal Service Managers and District Social Services Administration Boards.</li> <li>Ontario is responsible for the statutory, regulatory and policy frameworks governing Ontario Works and the program is delivered through Consolidated Municipal Service Managers and District Social Services Administrative Boards and First Nations communities.</li> <li>Ontario fully funds the Ontario Disability Support Program to First Nations residents on reserve as it not cost shared through the Indian Welfare Agreement.</li> </ul>	<ul style="list-style-type: none"> <li>On January 1, 2020 the federal government’s new legislation, An Act respecting First Nations, Inuit and Métis children, youth and families (“the federal Act”) sets out a mechanism for laws of “Indigenous groups, communities or peoples” pertaining to child and family services to gain the force of federal law.</li> <li>The federal government funds two Indigenous early learning and child care programs on reserve: First Nations and Inuit Child Care initiative and Aboriginal Head Start On Reserve.</li> </ul>

Sector	Roles and Responsibilities Related to Indigenous People	
	Ontario	Canada
Justice	<p>The First Nations Policing Program (FNPP) is a program to support the delivery of policing to First Nations implemented through an agreement between Canada, Ontario and First Nation communities. Costs are shared between the Canada (52%) and Ontario (48%). Policing outside the FNPP is paid for at 100% of the costs by the police service of the jurisdiction which is primarily the Ontario Provincial Police.</p> <ul style="list-style-type: none"> <li>• Ontario designs and delivers programs and services in the area of policing and administers the Police Services Act which requires that policing be provided in all parts of the province, including First Nation communities, either by the OPP or a municipal police force.</li> <li>• Under the Police Services Act, the OPP is responsible for policing those parts of Ontario that do not have a municipal police force. Thus, OPP is responsible for policing on most First Nation reserves, even where there are First Nation police services.</li> <li>• Most First Nation police services operate like municipal services, however the underlying responsibility for the provision of adequate and effective policing lays with the OPP.</li> </ul>	<ul style="list-style-type: none"> <li>• Canada provides an enhancement to the existing police services (which across most of Ontario is the Ontario Provincial Police) on First Nation reserve lands.</li> <li>• Canada has limitations regarding the scope of items funded as they relate to this enhancement.</li> </ul>
Education	<p>Ontario and Canada both have authority to legislate all aspects of education on First Nations reserve lands.</p> <ul style="list-style-type: none"> <li>• Ontario designs and delivers programs and services and provides funding to institutions in the learning sector and administers legislation related to elementary and post-secondary education.</li> <li>• Provincial education laws of general application apply on reserve to Indigenous people.</li> <li>• Most First Nations, Métis, and Inuit learners in Ontario attend publicly assisted colleges, universities, and Indigenous Institutes. Ontario provides special purposes grants, including Indigenous student bursaries, to support the access and success of Indigenous learners in postsecondary education and training.</li> <li>• Indigenous learners may also access financial assistance through the Ontario Student Assistance Program, including the Ontario Indigenous Travel Grant.</li> <li>• Under the Indigenous Institutes Act, 2017 nine Indigenous Institutes are prescribed in regulation and ongoing operating funding from the province for the purposes of providing postsecondary education and training.</li> </ul>	<ul style="list-style-type: none"> <li>• Federal delivery of First Nations elementary and secondary education on reserve is managed principally by Department of Indigenous Services Canada through its Elementary and Secondary Education program.</li> <li>• This program supports instructional services in First Nation/federally-operated schools, reimbursement of tuition costs for on-reserve students who attend off-reserve provincially funded schools, and other services such as transportation, counselling and financial assistance.</li> <li>• The federal government provides funding to First Nation and Inuit learners through Post-Secondary Student Support Program and provides funding on a time limited basis to Indigenous Institutes through the Post-Secondary Partnerships Program.</li> <li>• The federal government provides funding to Indigenous Institutes on a time limited project basis through Post-Secondary Partnerships Program.</li> </ul>

Sector	Roles and Responsibilities Related to Indigenous People	
	Ontario	Canada
Housing	<p>Funding for off reserve Indigenous housing is cost shared between Canada and Ontario through the National Housing Strategy.</p> <ul style="list-style-type: none"> <li>• The Ministry of Municipal Affairs and Housing Ontario designs and delivers programs and services in the housing sector and administers legislation.</li> <li>• Ontario does not fund housing on reserve.</li> <li>• As part of the National Housing strategy, Ontario chooses to flow Ontario Priorities Housing Initiative funding to Indigenous Program Administrators to provide housing off reserve (federally/provincially cost-shared).</li> <li>• Ontario funds off reserve Indigenous housing through unilateral provincial funding through the Indigenous supportive Housing program.</li> </ul>	<p>Ontario through the National Housing Strategy.</p> <ul style="list-style-type: none"> <li>• The federal government has the Constitutional authority for First Nations housing on reserve lands.</li> <li>• The federal government provides housing services on reserve through Indigenous Services Canada and the Canadian Mortgage and Housing Corporation.</li> </ul>
Water	<ul style="list-style-type: none"> <li>• Provincial water laws are of general application, or aspects of them may apply on First Nation reserve lands and to Indigenous people, in certain circumstances.</li> <li>• Ontario manages and regulates drinking water in the province.</li> <li>• Ontario and municipalities regulate and provide drinking water related services in the province, most regulatory activities are limited to off-reserve locations.</li> <li>• Ontario does not fund clean water projects on reserve, but may provide technical support in some instances upon request.</li> <li>• Ontario has been delivering the federal-provincial cost-shared infrastructure program Clean Water and Waste Water Fund and Small Communities Fund which benefits recipients such as First Nations.</li> </ul>	

## Appendix 4: Settled Land Claims In Ontario Since 1983

Prepared by the Office of the Auditor General of Ontario

#	Land Claim	Settlement Year	Land (Acres)	Province (\$ million)	Federal (\$ million)
1.	Islington Band of Saulteaux	1983	–	8.80	–
2.	Wabigoon River Systems Mercury Contamination	1985	–	2.17	2.75
3.	United Chiefs and Councils of Mnidoo Mnising-Manitoulin	1990	9,444	7.28	–
4.	Ontario Ossington-Islington	1991	–	–	–
5.	Six Nishnawbe-Aski Nation (NAN) Bands	1991	150,464	–	–
6.	Aamjiwnaang (Sarnia)	1994	–	9.00	–
7.	Mississauga #8 Northern Boundary	1994	40,000	5.62	8.05
8.	Ojibways of Garden River	1994	23,100	6.35	–
9.	Shoal Lake Watershed	1994	–	0.18	–
10.	Brunswick House	1995	–	2.00	5.05
11.	Eabametoong (Fort Hope)	1995	–	–	–
12.	Nipissing	1995	32,864	–	–
13.	Wikwemkoong (Wikwemikong)	1995	24,000	0.30	13.60
14.	Grand River Notification Agreement	1996	–	–	–
15.	Whitefish River	1997	1,850	–	–
16.	Assabaska (Mishkosiimiiniiziibing and Onigaming)	1999	2,700	1.57	4.06
17.	Mishkosiminiziibing (Big Grassy River)	1999	650	1.50	0.50
18.	Cat Lake	2000	3,479	–	–
19.	Thessalon	2000	–	0.45	–
20.	Wahta Mohawks (Gibson)	2002	8,300	3.79	6.24
21.	Tyendinaga/Mohawks of the Bay of Quinte (Turton Penn)	2004	–	1.20	1.13
22.	Lake Nipigon Ojibway (Animbiigoo Zaagi'igan Anishinaabek)	2005	3,138	–	–
23.	Rainy River First Nation	2005	14,924	30.11	37.12
24.	Sand Point (Bingwi Neyaashi Anishinaabek)	2006	2,433	–	–
25.	Hunter's Point	2007	12	2.80	–
26.	Michipicoten Boundary Claim	2007	3,293	–	46.90
27.	Fort William Boundary	2010	11,505	5.20	149.40
28.	Missanabie Cree Land Transfer	2010	9,600	–	–
29.	Wabigoon Lake Ojibway Nation	2011	–	27.00	–
30.	Pic Mobert	2014	3,954	–	–
31.	Chapleau Cree	2015	9,884	0.35	22.13
32.	Shawanaga	2015	–	4.00	–
33.	Rocky Bay (Bijnjitiwaabik Zaaging Anishinaabek)	2016	4,480	–	–
34.	Lac des Milles Lac	2017	–	43.83	33.60
35.	Mitaanjigamiing	2017	4,135	1.80	23.60
36.	Pays Plat (Pagwaasheeng)	2018	4,078	–	–
37.	Williams Treaties First Nations	2018	–	444.00	666.00
38.	Flying Post First Nation	2019	–	14.00	–
39.	Garden River Settlement	2019	–	9.69	9.05
<b>Subtotal</b>			<b>368,287</b>	<b>632.99</b>	<b>1,029.18</b>



#	Land Claim	Settlement Year	Land (Acres)	Province (\$ million)	Federal (\$ million)
40.	Rat Portage (Wauzhushk Onigum)*	2009			
41.	Couchiching*	2011			
42.	Red Rock Settlement*	2011			
43.	Wabaseemoong Independent First Nation*	2011			
44.	Whitesand Settlement*	2011			
45.	Mishkegogamang Ojibway and Slate Falls*	2013			
46.	Chapleau Ojibwe*	2015			
47.	Mishkosiimiinibing (Big Grassy River) *	2015			
48.	Ojibways of Onigaming First Nation*	2015			
49.	Rainy River*	2015			
50.	Whitefish River*	2017			
51.	Agency 1 – Couchiching, Mitaanjigaming, Naicatchewenin, Nigigoonsiminikaaning*	2018	–	–	–
<b>Subtotal</b>			<b>14,017</b>	<b>68.49</b>	<b>104.00</b>
<b>Total</b>			<b>382,304</b>	<b>701.48</b>	<b>1,133.18</b>

\* We were requested by the Ministry to aggregate the individual settlement amounts.

## Appendix 5: Ontario Land Claims in Progress, as of October 2020

Prepared by the Office of the Auditor General of Ontario

First Nation/ File Name	Date Ontario Accepted
<b>Unsold Surrendered Land</b>	
1. Whitefish River	1995
2. Chippewas of Nawash	2016
3. Agency One	2017
<b>Flooding</b>	
4. Couchiching	2003
5. Naicatchewenin	2003
6. Nigigoonsiminikaaning	2003
7. Seine River	2003
8. Mitaanjigamiing (Stanjikoming)	2003
9. Anishinabe of Wauzhushk Onigum	2007
10. Anishinaabeg of Naongashiing	2007
11. Mishkosiminiziibiing	2007
12. Iskatewizaagegan 39	2007
13. Nootkamegwanning	2007
14. Northwest Angle 33	2007
15. Animakee Wa Zhing #37	2007
16. Niisaachewan Anishinabe	2007
17. Ochiichagwe'babigo'ining [Dalles]	2007
18. Ojibways of Onigaming	2007
19. Shoal Lake 40	2007
20. Buffalo Point	2007
21. Mississauga 8 (Flooding)	2009
22. Gull Bay	2017
<b>Treaty Land Entitlement</b>	
23. Grassy Narrows	2011
24. Seine River	2011
25. Wabauskang	2011
26. Lac La Croix	2012
27. Matachewan	2012
28. Moose Cree	2013
29. Animakee Wa Zhing #37	2013
30. Eabametoong	2013
31. Fort Severn	2016
32. Ginoogaming	2016
33. Naicatchewenin	2018

First Nation/ File Name	Date Ontario Accepted
<b>Boundary</b>	
34. Wiiwemkoong	2008
35. Wasauksing	2011
36. Thessalon	2016
37. Shawanaga	2019
38. Wahnapiatae	2020
39. Gull Bay	2020
<b>Aboriginal Title</b>	
40. Algonquins of Ontario	1991
<b>Highway</b>	
41. Mississauga 8	2001
42. Rainy River	2008
43. Ojibways of Onigaming	2011
<b>Other</b>	
44. Obashkaandagaang	2009
45. Temagami	2010
46. Naicatchewenin	2011
47. Pays Plat	2011
48. Sandy Lake	2015

Note: There are six additional claims in progress as of October 2020 that are not included in this appendix because lands under negotiations have not been publicly identified.

## Appendix 6: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. Roles and responsibilities between ministries and the federal government for Indigenous programs and services are clearly defined, and accountability requirements are established.
2. Ministry programs and services are:
  - directed to the achievement of desired outcomes that reflect the needs and priorities of Indigenous people; and
  - effectively monitored and coordinated across the ministries and the broader public sector.
3. The Ministry has effective processes in place to co-ordinate with and guide other ministries and the broader public sector to meet the province's constitutional duties to consult with Indigenous people.
4. A framework based on best practices exists to support the timely and effective resolution of Indigenous land claims and other settlements.
5. Accurate, timely and complete financial, operational and outcome data across the province's Indigenous programs and services are regularly collected and analyzed to help guide decision-making.
6. Meaningful performance measures and targets relating to Indigenous policies, programs and services are established, monitored and publicly reported to ensure that the intended outcomes are achieved and that corrective actions are taken on a timely basis when issues are identified.

## Appendix 7: Programs and Services for Indigenous People, 2019/20 (\$ million)

Prepared by the Office of the Auditor General of Ontario

Program or Service	Budgeted Amount	Expenditure
<b>Attorney General</b>	<b>35.3</b>	<b>31.3</b>
Indigenous Victims Services	8.3	8.3
Restorative Justice Programs	7.5	6.4
Other programs or services with annual budgets <\$5 million	19.5	16.6
<b>Children, Community and Social Services</b>	<b>180.6</b>	<b>181.9</b>
Child Welfare—Indigenous Community and Prevention Supports <sup>1</sup>	85.7	85.0
Indigenous Healing and Wellness Strategy*	71.5	68.7
Anti-Human Trafficking Supports*	9.9	9.9
Ontario Works—Transitional Support Fund for First Nations	7.1	11.9
Other programs or services with annual budgets <\$5 million	6.4	6.4
<b>Education</b>	<b>177.8</b>	<b>177.5</b>
Indigenous Education Grant*	80.2	82.8
First Nations Child Care and Child and Family on Reserve*	48.8	52.2
Indigenous-Led Child Care and Child and Family Programs*	30.0	25.5
Other programs or services with annual budgets <\$5 million	18.8	17.0
<b>Energy, Northern Development and Mines</b>	<b>97.1</b>	<b>78.9</b>
Aboriginal Economic Development <sup>2</sup>	29.3	21.8
On-Reserve First Nations Delivery Credit	26.2	24.4
Resource Revenue Sharing	15.9	15.9
Matawa Broadband	14.0	8.2
Winter Roads	5.8	5.8
Other programs or services with annual budgets <\$5 million	5.9	2.8
<b>Environment, Conservation and Parks</b>	<b>1.2</b>	<b>1.1</b>
First Nations Drinking Water Initiatives*	0.9	0.7
Other programs or services with annual budgets <\$5 million	0.3	0.4
<b>Health</b>	<b>395.4</b>	<b>377.7</b>
First Nations Land Ambulance Services	68.3	68.2
Aboriginal Health Access Centres	36.9	35.6
Sioux Lookout Meno Ya Win Health Centre	35.8	36.3
Weeneebayko Area Health Authority	33.4	33.4
Indigenous Inter-professional Primary Care Teams*	33.4	27.8
Mental Health Services for Indigenous Child and Youth	33.0	29.2
Indigenous-Led Mental Health and Addictions Programs & Indigenous Treatment and Healing Centres*	23.2	22.7
Sioux Lookout Regional Physicians' Services	17.3	15.6
Home and Community Care: First Nations	14.3	13.7
Aboriginal Community Health Centres	11.7	11.7
Indigenous Long-Term Care Homes	11.5	11.7
Diabetes Programs for Indigenous People*	9.0	9.0
Homemakers and Nurses Services	8.1	8.6

Program or Service	Budgeted Amount	Expenditure
Indigenous Mental Health and Addictions	7.0	3.1
Weeneebayko Area Health Authority – Physician Services*	6.5	5.3
Other programs or services with annual budgets <\$5 million	46.0	45.8
<b>Heritage, Sport, Tourism and Culture Industries</b>	<b>6.0</b>	<b>5.6</b>
Aboriginal Programs (Sport)	2.8	2.6
Other programs or services with annual budgets <\$5 million	3.2	3.0
<b>Indigenous Affairs</b>	<b>45.9</b>	<b>46.1</b>
New Relationship Fund	14.5	12.1
Indigenous Economic Development Fund	8.2	7.8
Policy Development Engagement Fund	5.7	2.2
Other programs or services with annual budgets <\$5 million	17.5	24.0
<b>Labour, Training and Skills Development</b>	<b>0.3</b>	<b>0.2</b>
G'minoomaadozimin Health and Safety Initiative	0.3	0.2
<b>Municipal Affairs and Housing</b>	<b>35.4</b>	<b>34.0</b>
Indigenous Supportive Housing Program—Ending Homelessness	13.3	13.3
Ontario Priorities Housing Initiative	8.4	8.4
Rural and Native Housing	8.4	7.0
Other programs or services with annual budgets <\$5 million	5.3	5.3
<b>Natural Resources and Forestry</b>	<b>16.2</b>	<b>11.0</b>
Resource Revenue Sharing	12.7	8.7
Other programs or services with annual budgets <\$5 million <sup>3</sup>	3.5	2.3
<b>Solicitor General</b>	<b>82.5</b>	<b>82.6</b>
First Nations Policing Program	48.9	48.1
OPP Indigenous Policing Bureau	21.2	23.5
Federal-Provincial First Nations Policing Agreement – Capital	5.0	4.9
Other programs or services with annual budgets <\$5 million	7.4	6.1
<b>Training, Colleges and Universities</b>	<b>54.3</b>	<b>53.7</b>
Indigenous Support Program <sup>4</sup>	51.3	53.7
Other programs or services with annual budgets <\$5 million	3.0	0.0
<b>Transportation</b>	<b>37.4</b>	<b>21.7</b>
Remote Aviation	31.5	16.0
First Nations Roads	5.5	5.4
Other programs or services with annual budgets <\$5 million	0.4	0.3
<b>Total</b>	<b>1,165.4</b>	<b>1,103.3</b>

\* Programs reviewed by the Office of the Auditor General of Ontario.

1. Contains three programs reviewed: Family Wellbeing Program, Akwe:go Urban Aboriginal Children's Program/Wasa-Nabin Urban Aboriginal Youth Program, and Aboriginal Fetal Alcohol Spectrum Disorder and Child Nutrition Program
2. Contains two programs reviewed: Ring of Fire Infrastructure Projects and Aboriginal Economic Development – Ring of Fire
3. Contains the Far North Program, which was reviewed by our office
4. Contains two programs reviewed: Indigenous Student Success Fund and Indigenous Institutes Operating Grant



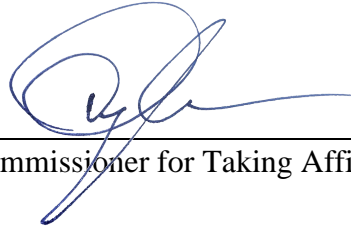
## Office of the Auditor General of Ontario

20 Dundas Street West, Suite 1530  
Toronto, Ontario

[www.auditor.on.ca](http://www.auditor.on.ca)

# EXHIBIT E

This is Exhibit "E" to the Affidavit of  
Brian Doolittle, sworn this 10<sup>th</sup> day of  
June, 2022

A handwritten signature in blue ink, consisting of a large, stylized initial 'B' followed by a series of loops and a long horizontal stroke extending to the right.

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Commissioner for Taking Affidavits





Haudenosaunee Development Institute  
Our Land, Our Law, Our People, Our Future

**APPLICATION FOR CONSIDERATION  
AND ENGAGEMENT FOR DEVELOPMENT**

NOTE: *This application to be completed in quadruplicate.*

**SECTION 1: APPLICANT INFORMATION**

1.1 Name of applicant and full mailing address:

Haldimand County, 53 Thorburn Street South  
Cayuga, ON N0A 1E0

Tel: 905-318-5932

Fax No.: n/a

1.2 Name of Registered owner(s) of subject land(s) and mailing address:

Study Area is located within lands owned by multiple owners in Caledonia, Ontario. The majority of land is owned by Haldimand County (see address above).

1.3 Party who is to be contacted about the application (check one):

Applicant  Agent, Planning Consultant  Owner  Surveyor

Name and address:

Kris Franklin, Manager of Engineering Services  
Haldimand County  
53 Thorburn Street South

Tel: 905-318-5932 x. 6438

Fax No.: n/a

Email: kfranklin@haldimandcounty.on.ca

## SECTION 2: LOCATION OF LANDS PROPOSED TO BE DEVELOPED

### 2.1 Municipal address:

The lands proposed for the transportation facility are bounded by McKenzie Road to the east, Sixth Line to the north, Highway 6 to the west, and the intersection of Argyle Street/Highway 6 to the south.

### 2.2 Legal description (please attach survey):

### 2.3 Maps (please attach):

## SECTION 3: PROPOSED AND CURRENT LAND USE

### 3.1 Current land use: (i.e. Agricultural, residential, commercial, industrial, other):

To the west of the Study Area, the majority of the land is agricultural with the land along the length of the Douglas Creek that is classified as Riverine Hazard Lands, and the lands adjacent to Argyle Street south of Sixth Line which are identified as Community Commercial. To the east of the Study Area, the proposed transportation facility will follow the existing Sixth Line with a new interchange at Highway 6/Sixth Line. The lands through this section of the Study Area are primarily agricultural.

### 3.2 Proposed use of subject land:

The lands are proposed for a new east-west arterial road connecting Argyle Street to McKenzie Road, and a new interchange at Highway 6/Sixth Line. Minor improvements will be made along the new Arterial Road and Sixth Line requiring sliver widenings for property along the corridor.

### 3.3 Are there any buildings or structures on the lands proposed to be developed?

If yes, are these buildings to be retained, demolished or otherwise removed?

There are two culverts proposed along the new Arterial Road between Argyle Street and McKenzie Road. The culverts are located within the Douglas Drain subwatershed.

## SECTION 4: ADDITIONAL INFORMATION FOR THE SITE

### 4.1 Current zoning: Agricultural, commercial, riverine hazard la

## **SECTION 5: ARCHAEOLOGY**

- 5.1 Have any archaeology studies been completed? If yes please attach. See attached.
- 5.2 If no archaeology studies have been undertaken to date are any archaeology studies planned? Please include any relevant details.

## **SECTION 6: LAND TITLE**

- 6.1 Please provide details and a history of the title including any information on the initial Crown patent and how the Crown obtained such patent.

## **SECTION 7: TIME FRAME**

- 7.1 Please set out the scheduling proposed for the project and any significant dates.

## **SECTION 8: OTHER PERMITS, LICENCES AND/OR APPROVALS**

- 8.1 Please provide details with respect to any other permits, licences and/or approvals which the Applicant is seeking for the project from any municipal, provincial and/or federal authority.

## **SECTION 9: APPLICATION FEE**

- 9.1 An application fee is enclosed in the amount of \$ 7,000 on the basis that the cost of the proposed project is:
- Less than \$300,000 (fee of \$3,000)
  - Greater than \$300,000 but less than \$500,000 (fee of \$5,000)
  - Greater than or equal to \$500,000 (fee of \$7,000)

## **SECTION 10: OTHER INFORMATION**

- 10.1 The HDI reserves the right to request such other information as it deems necessary in its sole discretion to process this application.

## **SECTION 11: FORM OF APPLICATION**

11.1 This form is provided for information purposes and requests the minimal information required to process an application. An applicant is free to amend the form as necessary and include such other information as necessary.

11.2 Application is to be provided to:

Haudenosaunee Development Institute  
16 Sunrise Court, Suite 417  
P.O. Box 714  
Ohsweken, Ontario  
N0A 1M0

## **SECTION 12: SIGNATURE OF APPLICANT**

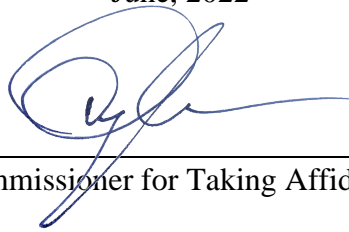
Name of Applicant: Kris Franklin

Signature of Applicant: 

Dated this 13 day of October, 2021.

# **EXHIBIT F**

This is Exhibit "F" to the Affidavit of  
Brian Doolittle, sworn this 10<sup>th</sup> day of  
June, 2022

A handwritten signature in blue ink, consisting of a large, stylized initial 'B' followed by a surname that is partially obscured by a horizontal line.

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Commissioner for Taking Affidavits



## Haudenosaunee Development Institute

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## **POLICIES**

As adopted in Council June 5, 2010

OUR LAND, OUR LAW, OUR PEOPLE, OUR FUTURE

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## **Vision Statement:**

### **Introduction:**

When the Haudenosaunee and the first colonist to arrive made the original agreement on our treaty relationship, it was about sharing the natural resources on this great land. That seventeen-century agreement is the foundation of our Haudenosaunee Land Use Strategy of today. By agreement we established a way to share, respect each other and resolve disputes peacefully. Those principles still apply today.

However, when those first agreements were made, the waters were clean and healthy. All fish could be eaten. The birds, plants, and animals were plentiful. Now we face an environmental holocaust that threatens human existence. This is not acceptable. Our land, water and biological systems have been polluted by unchecked growth. Endangered ecological communities and species are declining as a result of current land clearing, and also as a consequence of the fragmentation and degradation resulting from the past clearings. Our goal is to restore sanity to the use of the land, realizing that what we do today determines the well being of the future generations. It is with them in mind that we establish this plan for Haudenosaunee Land Use Agreements.

In Haudenosaunee tradition, the Earth is our mother. It is said that we should treat the Earth with kindness and respect, because our walking upon her is like walking upon the face of our own mother. It is also said that we should walk gently upon the Earth, for we are treading on the faces of our own unborn generations.

Haudenosaunee Law seeks balance in everything. Every authority is balanced by responsibility. This sense of balance extends to the use of land: the authority to use land or resources includes the responsibility to protect them.

Haudenosaunee law acknowledges the land and living things, not as a resource or assets intended for the use and enjoyment of humans, but as vital parts of a larger circle of life, each entitled to respect and protection. In Haudenosaunee thought, it is not possible to separate 'land' from the rest of the circle of life – the waters, grasses, medicine plants, food plants, berries and trees, the insects, animals, birds and people; the winds and other unseen forces that benefit the world. Our relationship with all these is one of gratitude and humility. We acknowledge that each part of the natural world seeks to fulfill its responsibility, as we humans do.

# LAND RIGHTS STATEMENT

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## LAND RIGHTS STATEMENT

(As adopted in Council November 4, 2006)

The Council of Chiefs of the Haudenosaunee, Grand River Territory, wish to affirm and clarify our land rights in the tract conferment by Governor Frederick Haldimand on October 25, 1784. In making this statement, the Council of Chiefs wants to make it clear that we hold certain land ethics and principles that must be respected in any agreements on land use or occupation. The Haudenosaunee, and its governing authority, have inherited the rights to land from time immemorial. Land is a birthright, essential to the expression of our culture.

With these land rights come specific responsibilities that have been defined by our law, from our Creation Story, the Original Instructions, the *Kaianeren:kowa* (Great Law of Peace) and *Kariwiiio* (Good Message). Land is envisioned as *Sewatokwa'tsherea't*, (the Dish with One Spoon); this means that we can all take from the land what we need to feed, house and care for our families, but we also must assure that the land remains healthy enough to provide for the coming generations. Land is meant to be shared among and by the people and with other parts of the web of life. It is not for personal empire building.

First and foremost is the concept that we are connected to the land in a spiritual way. The earth is our mother and she provides for our long-term well-being, provided that we continue to honour her and give thanks for what she has provided. We Haudenosaunee have upheld our tradition of giving thanks through ceremony, and in the cultural practices that manifest our beliefs, values, traditions and laws. Planting, cultivating, harvesting, gathering, hunting, and fishing also have spiritual aspects that must be respected and perpetuated if the land is to provide for our future generations, and the future generations of our neighbours. We are stewards. Our spiritual obligation is part of that stewardship.

Second, according to our law, the land is not private property that can be owned by any individual. In our worldview, land is a collective right. It is held in common, for the benefit of all. The land is actually a sacred trust, placed in our care, for the sake of coming generations. We must protect the land. We must draw strength and healing from the land. If an individual, family or clan has the exclusive right to use and occupy land, they also have a stewardship responsibility to respect and join in the community's right to protect land from abuse.

We have a duty to utilize the land in certain ways that advance our Original Instructions. All must take responsibility for the health of our Mother.

Our ancestors faced overwhelming odds and relentless pressure to give up our lands. We all know that unscrupulous measures were employed to seduce our ancestors into "selling" the land. At other times, outright fraud took place, as was acknowledged in the Royal Proclamation of 1763. The agreements we recognize reflect an intention to share land, and to lease land, within the context of the Covenant Chain relationship that our

nations maintain with the Crown.

Our wampum belts, treaty council documents and oral history inform us that we always retained the right to hunt, fish, and gather upon all of our lands. This reflects the spirit of sharing that we expect to continue and is another example of the Dish with One Spoon.

We seek justice in our long-standing land rights issues. We seek an accurate accounting of the use and investment of the funds held by the Crown on our behalf, and land transactions conducted by the Crown involving our lands. For nearly two hundred years our Chiefs have been asking for such accounting and justice. Generations of our elders have passed away with these matters unresolved. It is time to end the injustice.

Our faith in the Canadian people is strong, as we feel that the majority of Canadians also want to see justice on these matters. However, their elected representatives and public servants have failed to act effectively to address and resolve these matters. It is time to lift the cloud of denial and to wipe away the politics that darken the vision of the future. It is time we are heard clearly, and our cases should be addressed with utmost good faith and respect. We firmly believe that if we have respect and trust, we will find mutually agreeable solutions that will reflect our long-standing friendship.

We want the land that is ours. We are not interested in approving fraudulent dispossessions of the past. We are not interested in selling land. We want the Crown to keep its obligations to treaties, and ensure all Crown governments—federal, provincial and municipal—are partners in those obligations. We want an honourable relationship with Canada.

That relationship, however, must be based on the principles that were set in place when our original relationship with the Crown was created. That is the rule of law that we seek. It involves the first law of Canada—the law that Canada inherited from both France and Britain. It is the law of nations to respect the treaties, to not steal land, or take advantage of indigenous peoples by legal trickery. As the Supreme Court of Canada has frequently stated, where treaties are involved, the honour of the Crown is always at stake.

We seek to renew the existing relationship that we had with Crown prior to 1924. That relationship is symbolized by the *Tehontatenentsonterontahkwa* (“The thing by which they link arms”) also known as the Silver Covenant Chain of Peace and Friendship. Our ancestors met repeatedly to repolish that chain, to renew its commitments, to reaffirm our friendship and to make sure that the future generations could live in peace, and allow the land to provide its bounty for the well-being of all the people. The Covenant Chain symbolizes our treaty relationship, also symbolized by *Tekani Teyothata'tye Kaswenta* (Two Row Wampum), which affirms the inherent sovereignty and distinctness of our governments. An essential part of the relationship is our commitment to resolve matters through good-faith negotiation between our governments, including consultation on any plans, which might affect the other government or its people.

In any land issues, we want it understood that the following principles will govern any actions taken by the Haudenosaunee Council of Chiefs of the Grand River Territory:

- 1) The land is sacred to us. It defines our identities, belief system, languages and

- way of life.
- 2) We hold the aboriginal and treaty title to our lands collectively.
  - 3) Our treaty relationship with the Crown is still alive and in force and directs our conduct in our relationship to Canada. Within this relationship, the terms of the treaties continue to bind both our government and the Crown.
  - 4) We require a careful accounting for the Crown's dealing with our lands, and return of any lands that were improperly or illegally taken from our ancestors.
  - 5) We require an accounting for the funds administered or held by the Crown for the Six Nations people, and restitution of any funds unaccounted for.
  - 6) It is not only within the context of our treaty relationship with the Crown that we see justification for such accounting and restitution. Canadian and international law is clear on the right of the Haudenosaunee to see justice on these matters.
  - 7) In any agreements with the Crown concerning land our goal is to promote and protect a viable economy for our people on our land-an economy that will be culturally appropriate, environmentally sustainable, and not injurious to our people and our neighbours.
  - 8) Our fundamental approach is that Six Nations lands will come under the jurisdiction, management and control of Six Nations people. The federal and provincial governments must not impose jurisdictional, policing, taxation, and/or economic activities as part of the land rights settlement.

Our people, our laws, and our government have survived by being thoughtful, respectful, diligent and practical. In our relations with the Crown, and in any negotiations concerning land and the resolution of land-related issues, we will continue to apply those principles.

# HAUDENOSAUNEE DEVELOPMENT PROTOCOL

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## HAUDENOSAUNEE DEVELOPMENT PROTOCOL

### **Definition**

1. In this protocol

“Authority” means the Haudenosaunee Development Institute (HDI)

“Proponent” means a person contemplating any development within the Area of Jurisdiction

“Area of Jurisdiction” means that area generally set out by the Haudenosaunee and without limiting the foregoing includes lands described as the Haldimand Tract

### **Development Prohibited**

2. Subject to section 3, no person shall undertake development in or on the areas described in subsection 2 if, in its opinion:

- a) The development meets the environmental standards of the Authority; and
- b) The proponent agrees to enter into such agreements as determined necessary by the Authority; and
- c) The development is in accordance with any regulations or policies developed pursuant to the Protocol

### **Application for Permission**

4. A signed application for permission to undertake development shall be filed with the Authority and shall contain the following information:

- a) Four copies of a plan of the area showing the type and location of the development.
- b) The proposed use of the buildings and structures following completion of the development.
- c) The start and completion dates of the development.
- d) The elevations of existing buildings, if any grades and the proposed elevations of buildings and grades after development.
- e) Details and a history of the Proponent’s title including details pertaining to any purported surrenders of the land by the Haudenosaunee.



- f) Drainage details before and after development.
- g) A complete description of the type of fill proposed to be placed or dumped.

### **Cancellation of Permission**

- a) The Authority may cancel permission if it is of the opinion that the conditions of the permission have not been met.
- b) Before cancelling permission, the Authority shall give a notice of intent to cancel to the holder of the permission indicating that the permission will be canceled unless the holder shows cause at a hearing why the permission should not be cancelled.
- c) Following the giving of notice, the Authority shall give the holder at least five days notice of the date of the hearing.

### **Validity of permissions and extensions**

- a) A permission of the Authority is valid for a maximum period of 24 months after it is issued, unless it is specified to expire at an earlier date.
- b) A permission may be extended at the discretion of the Authority for such time period, as the Authority deems appropriate.

### **Appointment of Officers**

- a) The Authority may appoint officers to enforce this protocol.

### **Fees**

- a) The Authority may at its sole discretion set fees for any of the activities contemplated by this Protocol.

### **Environmental standards**

- a) The Authority shall provide for such environmental standards as in its sole discretion are necessary and appropriate.
- b) The Authority may from time to time amend the applicable environmental standards in consultation with the Haudenosaunee Confederacy Chiefs Council.
- c) The Authority may establish an Environment Review Commission ('ERC') and appoint members to the ERC
- d) The ERC shall make recommendations to the authority with respect to the application of appropriate environmental standards.

- e) The Authority may refer matters to the ERC with respect to determining whether a proponent's application meets the Authority's environmental standards.
- f) Members of the ERC may be removed from the ERC at the discretion of the Authority and/or the Haudenosaunee Confederacy Chiefs Council and where there is a conflict with respect to a removal decision as between the Authority and the Haudenosaunee Confederacy Chiefs Council the decision of the Haudenosaunee Confederacy Chiefs Council.

### **General**

- a) The Authority may take such actions as necessary to provide for the implementation of this Protocol, which may include the delegation of such activities as required.
- b) The Authority may make such Regulations under this Protocol as are necessary to further the objectives of the Protocol and without limiting the foregoing the HDI may make Regulations pertaining to:
  - Land Use Agreements
  - Environmental Standards
  - Application and Permit Fees

# TERMS OF REFERENCE

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**HAUDENOSAUNEE DEVELOPMENT INSTITUTE**

**TERMS OF REFERENCE**

(As adopted in council April 7, 2007)

The Haudenosaunee Confederacy Council has created a process that would allow developers who want to develop within their territory to be dealt with expeditiously and effectively. The process for exercising Haudenosaunee jurisdiction over their lands in the Haldimand Tract will be known as the Haudenosaunee Development Institute. The HDI will identify, register and regulated development, ensure compliance with the Tseh Niyohy Dwayadowhsra Ogwahweja Wihwageh (Haudenosaunee Green Plan), and provide benefits to the Haudenosaunee.

**Mandate**

A committee will be established to lay out all the steps necessary to ensure the successful implementation of the institute.

**Membership**

The Haudenosaunee Chiefs Council appointed the following people to the Committee and provided for them the mandate to bring people onto the committee as required:

Ron Thomas, Onondaga  
Brian Doolittle, Mohawk  
Aaron Detlor, Mohawk

**Authority and Accountability**

The committee is accountable to the Confederacy Chiefs Council and must make reports back on a regular Basis.

The committee has the authority to make decisions that pertains directly to the subject matters; the committee will not obligate the Confederacy Council to anything as a result of their work. The council will make final decisions based on the best options developed by the committee.

**Scope of Work**

Identify a model of governance that will set out expectations and monitor the performance of the institute.

Create a model for the efficient administration of all development enquiries/proposals received.

Identify the necessary human, plan and financial resources required to carry out the work.

Create all the workplace policies and procedures that will govern daily activities within the plan and other necessary places of work.

Identify economic model that will facilitate the financial aspects of the institute.  
**Haldimand Tract**



# LAND USE AGREEMENTS

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## HAUDENOSAUNEE LAND USE AGREEMENTS

### **1.0) Haudenosaunee Land Use Agreements**

Haudenosaunee Land Use Agreements are agreements that define a process for mapping out determinations of native title, future acts or acts associated with development proposals. Haudenosaunee Land Use Agreements (HLUAs) are the manifestation of three primary Haudenosaunee concepts:

- a) The Dish with One Spoon- We are to share equally in the bounty of land, provided that we only take what we truly need and respect the integrity of the ecosystem.
- b) The Trade and Commerce Principles established by the Covenant Chain, treaties and Best Practices of the past require a mutual benefit to any proposed land use.
- c) The Perpetual Care and Maintenance Fund- A community trust fund to subsidize Confederacy operations and long-term well-being programs for the Six Nations people.

Each HLUA is developed to be specific to a particular proposed land use, and is negotiated between at least two parties- the party wishing to use the land, and the Haudenosaunee interests, represented by the Council of Chiefs. The Provincial government may also be involved in the negotiations, or become involved subsequent to the agreement.

### **2.0) Land Use Principles**

Any HLUA will be based on the following principles:

- A spirit of cooperation and partnership
- All partners contribute and agree to priority setting
- Improved outcomes for communities, families and individuals at the local and regional levels.
- Responsibilities and commitments are shared; by business, organizations, governments and Indigenous partners to achieve outcomes.
- Outcomes are measurable.
- Accountability requirements are clear.
- Build capacity and strengthen governance.

### **3.0) Haudenosaunee Land Use Strategy**

Haudenosaunee Land Use Agreements will focus on three strategic themes:

- The promotion of sustainable agriculture and natural resource use to maintain the productivity, profitability and the sustainability of these resource-based industries;
- The conservation of biodiversity through the protection and restoration of ecosystems; and
- Individuals, industry and communities equipped with skills, knowledge and information, and supported by institutional frameworks that promote the conservation of biodiversity and sustainable agriculture production.
- Residential programs to develop alcohol and drug-free communities.

### **4.0) Project Planning Assessments**

Through more effective planning and service delivery mechanisms we can work together to plan productively for the future. This will require three important studies well in advance of any project implementation:

- 1.) Environmental Assessment- The Haudenosaunee Development Institute will provide a comprehensive review of the potential impacts of the proposed project upon the cultural landscape- both the physical features and the cultural properties.
- 2.) Cultural Resource Assessment- The Haudenosaunee Development Institute will provide a comprehensive review of the potential impact of the proposed project on the cultural resources important to the Haudenosaunee
- 3.) Quality of Life Assessment- The Haudenosaunee Development Institute will provide a comprehensive review of the potential social and economic impacts of the proposed project to assure that any such project will contribute to the long-term well being of the communities along the Grand River watershed.

### **5.0) Areas of Concern**

We seek to protect Haudenosaunee **heritage sites**. Our ability to access sacred sites, culturally-significant sites, traditional places for hunting, fishing, trapping and gathering



must not be infringed by any development. We want to work with developers and regional associations to identify such places well in advance of proposals.

We will seek to protect Native **threatened species** and **ecological communities** with their status in the landscape affected to the extent that their population viability is at risk. Specifically, we are concerned about national endangered or vulnerable species and ecological communities.

We will seek to protect **migratory species** and **wetlands**. Migratory species are recognized with international conventions to which Canada is a signatory. Wetlands, which help to clean the waters, are also important and we seek to protect the entire watershed that feeds into those wetlands. We are less inclined to consider 1 to 1 substitutions to wetlands, and prefer to avoid any disturbance.

The proposal that provide a realistic and measurable **“green” agenda** associated with the nature of the project will be viewed most favourably. We are willing to work with developers on defining those green standards, strategies and approaches. While these may require additional expenditures on the part of the developer, it will be considered one of the “benefits” of the project to overall well-being.

The following specific objectives, consistent with the Haudenosaunee Green Plan, were developed to guide investment strategies:

- To promote sustainable resource use, particularly sustainable agriculture
- To protect and improve condition of land, water (including groundwater) and vegetation resources that provide the ecosystem services that support sustainable resource use industries
- To improve the water quality and environmental condition in surface and ground water systems, including wetlands and estuaries, while maintaining the economic and social values derived from water use
- To protect our ecosystems and the Carolian environment
- To reverse the decline in the extent and quality of native vegetation and maintain and restore habitat for flora and fauna
- To protect and manage places and values of national environmental significance, including threatened species and communities, listed migratory species, heritage areas and heritage places
- To promote Haudenosaunee community participation in the planning and delivery of outcomes

## **6.0) Criteria for Reviewing Proposals**

The Haudenosaunee review process will follow the “Building a Strong Foundation”

approach used in the City of Hamilton's Planning and Economic Development Department, which includes the following "Nine Directions" to guide development:

Direction #1- Encourage a compatible mix of uses in neighbourhoods that provide opportunities to live, work and play.

Direction #2- Concentrate new development within existing built-up areas and within a firm urban boundary.

Direction #3- Protect rural areas for a viable rural economy, agricultural resources, environmentally sensitive recreation and enjoyment of the rural landscape.

Direction #4- Design neighbourhoods to improve access to community life.

Direction #5- Retain and attract jobs in regional strength areas and in targeted new sectors.

Direction#6- Expand transportation options that encourage travel by foot, bike and transit and enhance efficient inter-regional transportation connections.

Direction #7- Maximize the use of existing buildings, infrastructure and vacant or abandoned land.

Direction #8- Protect ecological systems and improve air, land and water quality.

Direction #9- Maintain and create attractive public and private spaces and respect the unique character of existing buildings, neighbourhoods and settlements.

## **7.0) Community Participation**

The applicant must submit a plan for community/public consultation to assure that local stakeholders are aware of, and supportive of, the project plans.

# LAND TITLE STATEMENT

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## LAND TITLE STATEMENT

Land Title- Two Row/Silver Covenant Chain

The ability to use, occupy, possess land and to right to legislate with respect to land, subject to Haudenosaunee obligations to the land, treaty obligations, and the general commitment to impair as minimally as possible, the property rights of ‘others’.

NOT fee simple

NOT personal usufructury

NOT lease

NOT rent

NOT easement

NOT doctrine of discovery ‘terra nullius’

NOT Royal Proclamation 1763- if not already Crown, that only surrender to Crown-Delga

“occupy” – physical ability to situate ‘yourself’ in a certain space

“possess” – exclude others from using

“legislate” – internal regulation- economy, environment, social planning

“treaty obligation” – 1768 Fort Stanwix etc.

“land” – water, air, surface, sub-surface, other

“usufructury” – land held in common, ploughs depth, use it but can’t damage

### Land Bank (Butterfly Concept)

Haudenosaunee Title Office                      (HTO) (CNP) – Charity – Canadian Non Profit

-Registry

-Run with Haud. Title

-Fence watchers

-Canadian Title

-Band Council

-Held in trust for Haudenosaunee

# LAND ISSUE PRINCIPLES

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### LAND ISSUES PRINCIPLES

In any land issues, we want it understood that the following principles will govern any actions taken by the Haudenosaunee Council of Chiefs of the Grand River Territory:

1. The land is sacred to us. It defines our identities, belief system, languages and way of life.
2. We hold the aboriginal and treaty title to our lands collectively.
3. Our treaty relationship with the Crown is still alive and in force and directs our conduct in our relationship to Canada. Within this relationship, the terms of the treaties continue to bind both our government and the Crown
4. We require a careful accounting for the Crown's dealing with our lands, and the return of any lands that were improperly or illegally taken from our ancestors.
5. We require an accounting for the Crown's dealing with our lands, and the return of any lands that were improperly or illegally taken from our ancestors.
6. It is not only within the context of our treaty relationship with the Crown that we see justification for such accounting and restitution. Canadian and international law is clear on the right of the Haudenosaunee to see justice on these matters.
7. In any agreements with the Crown concerning land our goal is to promote and protect a viable economy for our people on our land- an economy that will be culturally appropriate, environmentally sustainable, and not injurious to our people and our neighbours.
8. Our fundamental approach is that Six Nations lands will come under the jurisdiction, management and control of Six Nations people. The federal and provincial governments must not impose jurisdictional, policing, taxation, and/or economic activities as part of the land rights settlement.

Our people, our laws, and our government have survived by being thoughtful, respectful, diligent and practical. In our relations with the Crown, and in any negotiations concerning land and the resolution of land-related issues, we will continue to apply those principles.

# ENVIRONMENTAL POLICY

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## ENVIRONMENTAL POLICY

### **The Need for an Environmental Policy:**

When the Haudenosaunee and the first colonists made the original agreement on our treaty relationship, it was about sharing the natural resources on this great land. By agreement we established a way to share, respect each other, and resolve disputes peacefully. Those principles still apply today.

However, when those first agreements were made, the waters were clean and healthy. All fish could be eaten. The birds, plants and animals were plentiful. Now we face an environmental holocaust that threatens human existence. This is not acceptable. Our land, water and biological systems have been polluted by unchecked growth. Endangered ecological communities and species are declining as a result of current land clearing and also as a consequence of the fragmentation and degradation resulting from the past clearings.

### **Our Goal:**

Our goal is to restore sanity to the use of the land, realizing that what we do today determines the well being of the future generations. It is with them in mind that we establish this environmental policy.

### **Policy Principles:**

Protection

Improvement

Sustainability

#### **Protection**

- a. To protect and improve the condition of land, water (including groundwater) and vegetation resources that provide the ecosystem services that support sustainable resource use industries
- b. To protect our ecosystems and the Carolinian environment
- c. To protect and manage places and values of national environmental significance, including threatened species and communities, listed



migratory species, heritage areas and heritage places

- d. To promote Haudenosaunee community participation in the planning and delivery of outcomes

### **Improvement**

- a. To improve water quality and environmental condition in surface and groundwater systems, including wetlands and estuaries, while maintaining the economic and social values derived from water use
- b. To reverse the decline in the extent and quality of native vegetation and maintain and restore habitat for flora and fauna

### **Sustainability**

- a. To promote sustainable resource use, particularly sustainable agriculture

### **Environmental Policy Scope – Areas of Concern**

- A. Heritage Sites
- B. Threatened Species
- C. Ecological Communities
- D. Migratory Species
- E. Wetlands
- F. “Green” Agenda

We seek to protect Haudenosaunee **heritage sites**. Our ability to access sacred sites, culturally-significant sites, traditional places for hunting, fishing, trapping and gathering must not be infringed by any development. We want to work with developers and regional associations to identify such places well in advance of proposals.

We will seek to protect Native **threatened species** and **ecological communities** with their status in the landscape affected to the extent that their population viability is at risk. Specifically, we are concerned about nationally endangered or vulnerable species and

ecological communities.

We will seek to protect **migratory species** and **wetlands**. Migratory species are recognized within international conventions to which Canada is a signatory. Wetlands, which help to clean the waters, are also important and we seek to protect the entire watershed that feeds into those wetlands. We are less inclined to consider 1 to 1 substitutions to wetlands, and prefer to avoid any disturbance.

Those proposals that provide a realistic and measurable “**green**” **agenda** associated with the nature of the project will be viewed most favourably. We are willing to work with developers on defining those green standards, strategies and approaches. While these may require additional expenditures on the part of the developer, it will be considered one of the “benefits” of the project to overall well-being.

# ENVIRONMENTAL REVIEW PROCESS

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## HAUDENOSAUNEE ENVIRONMENTAL REVIEW PROCESS

### Section A: Draft Comprehensive Conservation Plan

#### **Background:**

- a.) Introduction- Plan prepared guide management actions and direct and assess alternates to proposed actions
- b.) Purpose and Need for the Plan- To develop proposed action plan to achieve stated purpose, attains vision and goals for the site, help other understood reasons for actions
- c.) Authority- The Jurisdictional Agencies that Impact on site management
- d.) Legal and Policy Context- Impacting legal factors
- e.) National, Regional and local plans and Initiatives- Overview of existing plans and policies
- f.) Two Row Relationships

#### **Site Overview**

- a.) Introduction- Location Summary
- b.) Site History and Purpose- Brief History and Purpose Overview
- c.) Special Designations- Listing of any special designations
- d.) Ecosystem Context- Brief overview of the ecosystem
- e.) Cultural Factors- Traditional Indigenous Use and Patterns
- f.) Regional Conservation Plans and Initiatives- Summary of existing plans
- g.) Ecological Threats and Problems- Summary of documentation
  - 1. Habitat loss and fragmentation
  - 2. Alterations to hydrology
  - 3. Siltation and Aquatic Ecosystems
  - 4. Invasive Species Introduction and Proliferation
- h.) Physical Resources- Summary of Common Understandings
  - 1. Climate
  - 2. Geography and Topology
  - 3. Minerals
  - 4. Soils
  - 5. Hydrology
  - 6. Water Quality
  - 7. Air Quality

8. Visual Resources- aesthetics/scenic vistas/landmarks
- i.) Biological Resources- Summary of state of the following:
  1. Habitat
  2. Invasive and Non-invasive Plants
  3. Threaten and Endangered Plants
  4. Wildlife
- j.) Cultural Resources- Summary of known Historic Properties, Archaeological Resources and culturally-significance sites/features
- k.) Socioeconomic Environment- Summary of know current economic status
  1. Lane Use
  2. Demographics
  3. Employment
  4. Forestry
  5. Outdoor recreation in the Area
  6. Outdoor Recreation Economics
  7. Tourism- Summary of recreational and cultural tourism
  8. Transportation
  9. Cultural Setting- summary of cultural features, uses and educational interests
- l.) Site Administration and Management
  1. land Protection and Conservation
  2. Visitor Services (hunting, fishing, wildlife observation, trails, environmental education, interpretation, user outreach and involvement)
  3. personnel, Operations, and Maintenance- Current agencies and personnel

### **Plan Development**

- a.) Planning process and Public Involvement- Record of Public scoping and formal consultations
- b.) Summary of Issues, Concerns and Opportunities
  1. Fish and Wildlife Population Management
  2. Habitat Management
  3. Resource Protection
  4. Restoration
  5. Visitor Services
  6. Site Administration
- c.) Wilderness Review- Areas managed to preserve its natural conditions to protect ecological, geographical, scientific, educational, scenic, and or historic value.

### **Management Direction**

- a.) Introduction
- b.) Vision
- c.) Goals, Objectives and Strategies
  1. Fish and Wildlife Population management
  2. Habitat Management

3. Resource Protection
4. Restoration
5. Visitor Services
6. Site Administration

### **Plan Implementation**

- a.) Introduction
- b.) Proposed Projects
  1. Fish and Wildlife Population management
  2. Habitat Management
  3. Resource Protection
  4. Restoration
  5. Visitor Services
  6. Site Administration
- c.) Funding and Personnel
- d.) Partnerships/Volunteer Opportunities
- e.) Monitoring and Adaptive Management
- f.) Plan Review and Revision

### **Environmental Assessment**

#### **Background**

- a.) Introduction- Plan prepared to guide management actions and direct and assess alternates to proposed actions
- b.) Purpose and Need for the Action- To develop proposed action plan to achieve stated purpose, attains vision and goals for the site, help other understand reasons for actions
- c.) Decision Framework- How decisions are to be made
- d.) Planning Study Area- Outline of potential impact area
- e.) Authority, Legal, Compliance and Compatibility- Impacting legal factors
- f.) Public Involvement and the Planning Process

#### **Affected Environment**

## **Description of Alternatives**

- a.) Formulation of Alternatives
- b.) Description of Alternatives
  - 1.) Current Management (No action)
  - 2.) Proposed alternative
  - 3.) Moderately Expanded Program
- c.) Features Common to all alternatives
- d.) Alternatives Considered but Eliminated from Future Consideration
  - 1.) Moderate Program Increases and Buffer Land Protection
  - 2.) Optimum Program Increases and Buffer and landscape level Land Protection
- e.) Comparison of the issues by Issue

## **Environmental Consequences**

- a.) Overview
- b.) Effects Common to all Alternatives
  - 1. Environmental Justice
  - 2. Climate Change
  - 3. Other Management
  - 4. Land Acquisition or Loss
  - 5. Cultural Resources
  - 6. Site Revenue Sharing
  - 7. Other Effects
- c.) Summary of Effects by Alternatives
  - 1. Alternative A- Current Management (No Action)
  - 2. Alternative B- Proposed Alternative
  - 3. Alternative C- Moderately Expanded Program
- d.) Unavoidable Impacts
  - 1. Water Quality from Soil Disturbance /use of Herbicides etc.
  - 2. Wildlife Disturbance
  - 3. Vegetation Disturbance
  - 4. User Groups Conflicts
  - 5. Effects on Adjacent Landowners
  - 6. Land Ownership and site Development
- e.) Cumulative Impacts
  - 1. Anticipated Impacts on Wildlife Species
  - 2. Anticipated Impacts on Site Programs, Facilities, Cultural Resources
  - 3. Environmental Justice, Environmental Resources and Surrounding

- Communities
- f.) Direct and Indirect Effects and Impacts
  - g.) Short term uses versus Long-term Productivity

### **Consulting and Coordination**

### **APPENDICES**

Appendix A. Glossary- Definition of terms, acronyms and abbreviations

Appendix B. References and Literature Citations- Listing of any reports, publications or sources of knowledge cited in the study

Appendix C. Relevant Legal Mandates- Applicable Statutes, Policies and Mandates from both the Haudenosaunee Confederacy and the Crown

Appendix D. Environmental Protection Consistency- Assurances that all relevant permitting processing have been followed.

Appendix E. Appropriate use Determinations- Preliminary decision on whether or not to allow the proposed activity based upon the following:

1. Do we have jurisdiction over use?
2. Does the use comply with applicable existing laws and regulations?
3. Is the use consistent with stated policies?
4. Is the use consistent with the goals and objectives of the approved land use management plan?
5. Has this been previously considered and denied, or approved?
6. Is the use manageable in the future with existing budget and personnel?
7. Will this be manageable in the future with existing resources?
8. Does the use contribute to the public understanding and appreciation of the site's natural or cultural features, or is the proposed use beneficial to the site's natural or cultural resources.
9. Can the use be accommodated without impairing existing wildlife-dependent uses or reducing the potential to provide quality, compatible, wildlife dependent recreation into the future?

Appendix F. Public Comment- Summary of Public Scoping Comments

Appendix G. Compatibility Determinations- Is the proposed project compatible with other previously approved projects?

Appendix H. Wilderness Review- The following questions should be addressed:

- 1.) Has the project area generally been influenced primarily by the forces of nature, with human imprint substantially minimal?
- 2.) Does this site have outstanding opportunities for solitude or unconfined types



of recreation?

- 3.) Is the area of significant size to make preservation practical, or continue its use in an unimpeded condition?
- 4.) Is the area free from substantial logging, farming, grazing, or other extensive developments?
- 5.) Could its wilderness character be restored through appropriate management through time?
- 6.) Does the site contain ecological, geographical, or other features of scientific, educational, scenic, historic or cultural value?

Appendix I. Cultural Resources Review- Detailed summary of know Historic Properties, Archaeological Resources and culturally-significance sites/features

Appendix J. Site Biota- Listing of all documented bird, mammal, reptile, amphibian, fish, and other aquatic organism that are known to currently exist within the site ecosystem.

# ARCHAEOLOGY POLICY

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## ARCHAEOLOGY AND BURIAL POLICY

1. Within this policy the following definitions apply:

The “**Territory**” is including but not limited to the lands described as the Haldimand Proclamation Lands and the 1701 Treaty Lands.

The “**Project**” is any impact or disturbance.

“**Burial**” includes not only human remains but also funerary objects, and includes unintentional as well as intentional burials, and burials of part of a human being as well as of entire bodies.

“**Haudenosaunee Law and Customs**”

“**Funerary objects**” means objects that have been buried with a person.

“**Registrar**” means the Registrar of the Cemeteries Branch of the Ontario Ministry of Government Services.

“**Respected**” in the context of a burial, means that once it is located it shall not be subjected to further disturbance.

“**Site Disposition Agreement**” a landowner may register an agreement concerning the protection of any burial site pursuant to the *Ontario Cemeteries Act*.

*Ontario Cemeteries Act*. In acknowledgment of this, we will seek to ensure that their conduct and processes pursuant to this agreement meet or exceed the standards and requirements of that statute.

2. In the Haudenosaunee view, protecting burials is a matter of rights and obligations: the obligations are to the ancestors and in accordance with Haudenosaunee law and custom; the rights are matters of law and also exist in the context of Haudenosaunee Treaty relations with the Crown. The ancestors are considered to be an integral part of the people, and they are acknowledged and provided for in the annual cycle of ceremonies. In Haudenosaunee law, it is fundamentally wrong to interfere with burials.

3. In order to protect, avoid and respect any burials that might be affected, we agree that there should be prior investigation by professional archaeologists, with the assistance of an osteologist, to determine the extent and location of any burials. This Agreement governs the conduct of that archaeological investigation.

4. We intend that the archaeological investigations will be completed far enough in advance of any construction that construction plans will be adjusted to accommodate the integrity and dignity of any burials, or Haudenosaunee protocols.

5. The Haudenosaunee will develop a list of licensed archaeological firms and archaeologists they consider suitable for the archaeological work to be undertaken pursuant to this agreement.

6. All archaeological work will meet or exceed standards set pursuant to the *Ontario Heritage Act* and its Regulations, and those set in Ontario Ministry of Culture guidelines and permits concerning archaeological methodology and analysis. The archaeological work will be conducted in a way that respects Haudenosaunee law and customs.

7. Each future contract for archaeological work in the right-of-way of the Project shall require that a person designated by the Haudenosaunee shall be hired as part of the archaeological team. This person shall have the same authority as the archaeologist in charge to stop work on a site if a burial is found, or in situations where Haudenosaunee protocols differ greatly from that of the Ontario Ministry guidelines. Where a contract involves simultaneous work at several separate sites, enough workers shall be hired to ensure consistent monitoring of the archaeological work.

8. In addition to the workers referred to in Paragraph 7, the Haudenosaunee may designate persons who shall have the right to monitor or inspect any archaeological site during the time that work on that site is being conducted. The Haudenosaunee will notify the persons so designated.

9. Where an isolated human bone or tooth is found, we will immediately discuss whether the find is a burial, and whether it will be dealt with pursuant to this agreement.

10. If a burial is found during archaeological or construction work in connection with the Project:

- a.) All archaeological or construction on that site will stop immediately.
- b.) The person in charge of the archaeological or construction work, as the case may be, shall immediately provide notice both by telephone and by facsimile to the Haudenosaunee Development Institute, contact information provided at the beginning of the policy. The notice will include the location of the burial and any information available to the person giving notice at the time.
- c.) The person in charge of the work shall immediately notify the police or the coroner, as provincial law requires.
- d.) The person in charge of the work shall immediately notify the Registrar.
- e.) Whether the Registrar orders it or not, and if the coroner or police have determined that a human burial is not the result of a recent crime, then in consultation with the Haudenosaunee an investigation shall be made to define the origin of the burial. The investigation shall be carried out by the archaeologist contracted to the site investigation. In conducting the investigation, the archaeologist shall not exceed any authority not expressed in this protocol.
- f.) If the Haudenosaunee request it, the investigation shall be carried out jointly by an archaeologist contracted and one contracted by the Haudenosaunee.
- g.) The investigator or investigators shall, as soon as practicable, provide a written report containing the following information:
  - i) a determination of the possible cultural origin and religious affiliation of the persons whose remains are interred and the basis upon which the determination is made;
  - ii) a description of the boundaries of the burial site, and of any village or communal site with which the burials may be associated;
  - iii) details of the style and manner in which the human remains are interred;
  - iv) a description of any artifacts that, in the opinion of the investigator,

form part of the burial;

v) an opinion as to whether the burial site was set apart with the apparent intention of interring human remains in accordance with cultural affinities and the basis on which the opinion is made;

vi) an opinion as to whether there are likely to be other burials in the immediate vicinity;

vii) a description of the methodology used in the investigation; and,

viii) any information which, in the opinion of the investigators, may assist in arriving at an agreement concerning the future protection of the remains.

h) The information required pursuant to subparagraph 10(g)(1) will be provided within five days after the investigation has begun.

i) Reports of investigations made pursuant to Paragraph 10 (g) shall be delivered to the Haudenosaunee at the same time.

j) If the investigation conducted pursuant to Paragraph 10 (g) concludes that the remains were not burial sites, work stopped shall resume once the report has been received.

k) An investigation conducted pursuant to Paragraph 10(g) shall be conducted with a minimum of interference with the burial. Human remains and funerary artifacts shall not be removed from the site during the investigation. The remains and funerary artifacts shall not be photographed without Haudenosaunee consent.

l) We will as soon as possible make every reasonable effort to arrive at an agreement providing for the protection of the burial. These efforts will include, with respect to construction, finding practical design or construction solutions aimed at ensuring the burial site is respected. If a burial is found in right-of-way of the Project, the Haudenosaunee, or any aboriginal people they notify in accordance with Paragraph 11, will have the opportunity immediately to perform ceremonies at the site in accordance with their laws and customs.

m) Many human cultures place objects with their dead, to accompany them to the next world. As a matter of respect for the dead and for the people who buried them, artifacts found with burials shall be treated as funerary objects and shall remain with the burial unless the Haudenosaunee consent otherwise in writing.

11. Where an indigenous burial in the right-of-way of the Project is not clearly that of an ancestor of the Haudenosaunee, the Haudenosaunee accept responsibility for ensuring that representatives of other indigenous nations are appropriately involved in discussions and decisions with respect to that burial.

12. The Haudenosaunee will advise of the kinds of objects, that if discovered require under Haudenosaunee custom that they be treated ceremonially.

13. All artifacts recovered as a result of archaeological or construction work and which are identified as Haudenosaunee, or associated with peoples linked to the Haudenosaunee, and are not funerary objects shall be delivered to the Haudenosaunee as soon as practically possible, subject to Haudenosaunee customs and good archaeological practice.

14. The Haudenosaunee will have access on a continuing basis to all artifacts found in connection with the Project, until the final disposition of the artifacts is agreed upon.

15. The Parties and the archaeologists hired will discuss ways in which the results of archaeological work referred to in this Agreement may be used to help produce educational facilities or materials that will enhance understanding of the past.

16. The provisions of an Agreement shall govern the conduct of any archaeological work remaining to be conducted.

17. If the Haudenosaunee or other Party has a concern about the fulfillment of any part of this Agreement, that concern shall be addressed in the same manner as the resolution of issues is provided for in the Protocol.

18. Neither the Haudenosaunee nor other Party will seek to have any issue relating to burials resolved by way of arbitration pursuant to the *Ontario Ceremonies Act*.

19) Notice pursuant to this Agreement shall be provided in the same manner as provided in the Protocol.

# ENERGY POLICY

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**HAUDENOSAUNEE DEVELOPMENT INSTITUTE**

**ENERGY POLICY**

First Nations Communities and their residents are required to have access to various forms of energy to function successfully in today's society.

The delivery and distribution of energy sources are challenged by geography, reliable suppliers and costs.

Various forms of energy required for:

Transportation	Communication
Health Care	Recreation
Education	Home Life
Economic Development	

Currently available technologies to facilitate these societal needs are based on:

- Petroleum fuels example: gasoline, diesel, propane etc.
- Natural gas
- Electricity, generated by several methods
- Wood

Emerging technologies based on renewable biological sources are increasingly important. The processes produce either liquid fuels to replace petroleum fuels or methane gas and synthetic gas, which can replace natural gas. Thus biological based sources can be used for either transportation or electrical generation.

**The Need for an Energy Policy**

Policy principles are intended express clearly the fundamental values of the populace, in this case the Haudenosaunee People living in the community of the Six Nations of the Grand.

Policy principles should permit a clear evaluation of various energy sources to be made available for a community by comparing them to the three criteria listed in **Policy Principles** below.

Various forms of energy are available for use in today's society. Some of the alternative forms are consistent with the Haudenosaunee values, some are not.

The people who will receive the energy should play a vital role in its generation and delivery. First Nations communities have often been marginalized from the process of development, construction and operation.



Finally, energy policy guidelines are necessary because, over history, First Nations communities, as proven by history, are often directly impacted by the development of energy production facilities. Unfortunately these facilities are usually developed for markets far removed from the First Nation home community.

### **Policy Principles**

Energy policy, in terms of Haudenosaunee principles, should be centered on three criteria:

Sustainability

Conservation

Low Environmental Impact

Any energy initiative within a community should be judged against these criteria.

Working definitions for use within this policy document are as follows:

“Sustainable” - an energy source that meets the needs of the present without compromising the ability of future generations to meet their own needs.

“Renewable” -many energy technologies are based on natural resources which are known to be of finite supply. Other technologies employ natural environmental phenomena or feed stocks that can be re-grown easily and regularly.

“Low Impact” -The environment within which the energy source is located should be impacted as little as possible, with regard to air emissions, noise, dust, displacement of people and their activities.

“Conservation” – To preserve and carefully manage energy sources. To be used minimally, only using what is really needed.

### **Energy Policy Scope**

Several forms of energy are required for society to function. The territory of the Six Nations of the Grand River is no different in this respect than other communities within the Grand River Valley.

The Energy Policy is compromised of the following elements:

Part A.

Electricity

Part B.	Transportation
Part C.	Conservation
Part D.	Sustainability

### **Part A: Electricity**

While energy can be classified in many ways such as by type (radiant, chemical, potential, kinetic, or atomic), end use (transportation, home heating, industrial process) or fuel source (petroleum, wood), this policy document focuses on the subset of radiant energy known as electricity.

Different forms of energy can be converted into electrical energy through physical and chemical processes.

This policy document is intended as a guide to select among the various processes available for the creation of electricity so that the Policy Principles of the Haudenosaunee are not compromised.

### **Ranking of Electricity Supply Options**

Listed below are various supply of options for meeting the needs of People of the Six Nation of the Grand and the people of Ontario in general. They are ranked in order of preference for implementation on the assumption that the supply of electricity to Six Nations will continue to be integrated into the electrical distribution grid of Ontario but that Six Nations has a right not only to an opinion on how that energy is generated when generating activity impinges on traditional territory, but also an obligation to the next Seven Generations to impose responsible stewardship of resources used in the creation of that electricity.

### **Preferred Options**

#### 1. *Conservation*

The use of electricity must be managed responsibly so that no one wastes electricity and causes valuable natural resources to be consumed to supply necessary needs.

Energy conservation must be promoted. Energy audits of homes and offices should be carried out to identify areas of savings and then changes implemented.

Conservation can save not only fuel, but land, the environment and even capital.

## 2. *Renewable Energy*

Renewable sources include water, wind, solar radiation and biomass.

Renewable energy alternatives are both sustainable and offer low impact on the environment.

Current and renewable technologies that employ renewable sources must be supported.

Energy created from biomass such as animal manure or renewable crops is acceptable provided they provide further useful byproducts for food, fiber, or fertilizer and do not and do not reduce the organic matter and life in the soil. Many processes also absorb carbon dioxide and offer reduction from greenhouse gas emissions increases.

Electricity produced from municipal waste or end use items such as animal renderings or waste cooking oil is also acceptable.

### **Unacceptable Options**

The policy rejects the use of generation of electricity from non-renewable fossil fuels such as natural gas and petroleum oils. Documented studies show that these fuel sources have a fixed remaining life, are not renewable and are too valuable for servicing the needs of people and industry to waste on mass electrical generation. Information is available to support these conclusions.

Also unacceptable is the burning of source bio products such as whole grains. Even at low selling prices, grains are too valuable to burn. Whole grains are filled with proteins, carbohydrates and minerals. The grain constituents can be separated to form foods, converted to fuels, while the remainder is still suitable for animal feed. Even chaff and low value residue from processing has value as fuel.

### **Transitional Sources**

Electricity generated from coal would be acceptable under the following conditions:

Coal is clearly identified as a transitional mode of generation to be used until new renewable technologies become commercially viable and reliable.

Coal has a much longer lifetime of availability than either oil or gas, on the order of hundreds of years.

Coal burning stations can and are being equipped with scrubbers to reduce undesirable emissions.

Coal can be combined with biomass to further reduce the emission of undesirable elements.

Coal can be gasified and carbon dioxide sequestered to provide a cleaner fuel for combustion without drawing on natural gas reserves.

There is an inventory of coal type generators with associated transmission line rights of way which already impose a considerable impact on the natural landscape. Building new stations elsewhere simply consumes more land for the same end use.

### **Emerging Technologies**

New technologies are being developed to permit the production of fuels and electrical energy from biological sources. These technologies rely on the following processes, many of which occur naturally in nature:

- |                           |   |
|---------------------------|---|
| i) fermentation           | to create liquid fuels such as ethanol in place of gasoline   |
| ii) crushing of oil seeds | to make diesel from the oil   |
| iii) decomposition        | rotating garbage, manure or green hay, to make methane gas  |
| iv) combustion            | burning dry bulk low value materials such as corn cobs, wood chips, for heat or with coal for electric generation |

Some countries such as Brazil already power most of their cars with ethanol which has a lower impact on the environment than gasoline.

Research is underway on various specialty crops that could be grown purposely for conversion to fuel by converting plant cellulose to fuel and returning the residue to the field.

Because plants absorb Carbon Dioxide as they grow, and burning of the fuels they produce releases Carbon Dioxide, it is hope that the closed loop of crops to fuel and back again can help restrain the growth of Carbon Dioxide in the atmosphere.

# HYDRO PROTOCOL

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Under Review

# CONSULTATION POLICY

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## HAUDENOSAUNEE GOVERNMENT-TO-GOVERNMENT CONSULTATION POLICY

### **The Principles of Consultation:**

The principle that drives this policy is that the Covenant Chain of Peace is the one political protocol that we share with all European and North American governments. It is a time-honoured tradition that all of our governments have used to address issues of mutual concern. That tradition called for the "repolishing" of the Covenant Chain, which is symbolized as a three-link silver chain. To the Haudenosaunee, the Government-to-Government Consultation Policy is the way by which this repolishing will take place. The causes of hurt will be removed. New aspects of our relationship will be clarified. Our relationship will be renewed.

The Covenant Chain is based upon three principles that our Government-to-Government Consultation Policy must reflect:

1. **Peace** must be maintained. We will use the power of reason to arrive at peaceful solutions. Our objective is to assure that no one will be harmed by any action to be taken. To us, peace is the result of fairness.
2. **Respect** must be given to all parties. We will use common respect, encouraging words and find ways that show respect to all parties. To us, respect results from understanding on the importance of maintaining our languages, culture, and way of life and treaty relationships.
3. **Friendship** must be evident. We will speak honestly and forthright, not attempting to deceive each other. We will find ways to encourage the friendship that has existed between our people since the American and Canadian nations came into existence. To us, friendship results we can trust each other to keep our word and communicate on a regular basis to assure the peace and respect continue.

### **The Political Protocol of Consultation:**

The Haudenosaunee have a treaty relationship with the Crown. That relationship is more than a written document or single wampum belt. The relationship is a commitment to respect our sovereignty, land rights, cultural rights and human rights. It is a commitment to communicate respectfully. At the same time, the relationship is dependent upon timely consultation to address issues that arise from time to time. We commit to the negotiations necessary to resolve the matters peacefully.

We view consultation with the Crown to be a nation-to-nation process. The Crown, under its own authority, may delegate its responsibility to various governments under its jurisdiction. By this policy we commit to a government-to-government process, with the understanding that the governments authorized by the Crown thereby represent the Crown in these consultations.

**The Reasons for Consultation:**

Consultation is required when one of three following events occur:

- a) When difficulties arise between our people over matters of jurisdiction, land, hunting and gathering, environmental planning, policing etc., we must work at reducing the cause of distress and removing the source of injury.
  
- b) When proposed laws, policies, programs or practices impact on the lands, or may affect the right of our people to maintain their cultural identity, aboriginal rights and treaty rights. We must work cooperatively, in the spirit of the Two Row Wampum, to assure that we respect our jurisdictional responsibilities.
  
- c) When the Haudenosaunee request such consultation due to issues of concern. From time to time, we will initiate a request for consultation by informing the Governor General of the source of our concern and always in which we would like to consultation to proceed.

**The Procedures of Consultation:**

Consultation is a formal process. Consultation is also meant to better inform all parties as to the nature, dimensions and possible consequences of an action to be addressed. Open and honest communication is key to the entire process.

**The first step** in consultation is to identify the causes of concern and agree that these are matters of state.

**The second step** is to formally convene the consultation. This would be with an exchange of letters to confirm the matters and the appointment of authorized officials to deal with matters.

**The third step** is to have the authorized officials develop a work plan to address the matters, with concrete mandates, mutually agreed upon strategies and clearly defined expected outcomes.

**The fourth step** is to conduct the consultation and work at defining solutions. The



authorized officials will develop and sign a proposed solution plan - an agreement in principle.

**The fifth step** will be to have each government review and approve the proposed solution plan, thereby making it the final result of the consultation.

**The sixth step** would be a plan to implement the approved plan. This may require additional consultation meetings to work out the details.

**The seventh step** would be to implement and monitor the approved plan. From time to time, adjustments to the plan may be necessary due to changing circumstances or unforeseen consequences. This may require additional consultation meetings to work out the details.

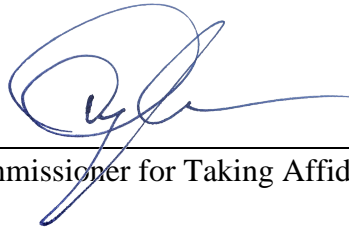
There is no specific timeframe for consultation, as it will vary significantly based upon the nature of the discussion and the cultural and spiritual obligations of the Haudenosaunee from time to time. A word of warning: Our process of consensus building takes time. The earlier that consultation is started the better for all.

### **Approval of the Consultation**

Any government-to-government agreement is not considered legal until such a time as it is formerly adopted by the Council of the Chiefs, which will provide written verification of the adoption of the agreement by the Haudenosaunee, by way of the Secretary of the Council.

# **EXHIBIT G**

This is Exhibit "G" to the Affidavit of  
Brian Doolittle, sworn this 10<sup>th</sup> day of  
June, 2022

A handwritten signature in blue ink, consisting of a large, stylized initial 'B' followed by a cursive name, positioned above a horizontal line.

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Commissioner for Taking Affidavits

**Ministry of Energy, Northern  
Development and Mines**

77 Grenville Street  
6<sup>th</sup> Floor  
Toronto ON M7A 2C1

**Ministère de l'Énergie, du  
Développement du Nord et des  
Mines**

77, rue Grenville  
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VIA EMAIL

July 28, 2020

Susan Jackson  
Manager Environment, Health & Safety  
Sun-Canadian Pipe Line  
150 – 6th Avenue S.W.  
Calgary, Alberta T2P 3E3

**Re: SCPL East Sixteen Mile Crossing Replacement**

Dear Susan Jackson:

Thank you for your email dated June 11, 2020 notifying the Ministry of Energy, Northern Development and Mines (ENDM) of Sun-Canadian Pipe Line's intention to apply to the Ontario Energy Board (OEB) for Leave to Construct for the SCPL East Sixteen Mile Crossing Replacement (the Project).

I understand that Sun-Canadian Pipe Line is has identified the need to replace approximately 500m segment of an existing 12-inch diameter pipeline (TRL system) near Trafalgar Road and south of Britannia Road in the Town of Milton. The existing pipeline segment crosses under East Sixteen Mile creek and has become exposed in several locations in the watercourse due to ongoing erosion and creek meander. This project intends to install a new segment of 12-inch diameter pipe via horizontal directional drilling at a greater depth to eliminate the environmental risks of the current pipe exposure.

On behalf of the Government of Ontario (the Crown), ENDM has reviewed the information provided by Sun-Canadian Pipe Line with respect to the Project and assessed it against the Crown's current understanding of the interests and rights of Aboriginal communities who hold or claim Aboriginal or treaty rights protected under Section 35 of Canada's Constitution Act 1982 (Indigenous Communities) in the area. In doing so, ENDM has determined that the Project may have the potential to affect such Indigenous communities.

The Crown has a constitutional duty to consult and, where appropriate, accommodate Indigenous communities when the Crown contemplates conduct that might adversely impact established or asserted Aboriginal or Treaty rights. These consultations are in addition to consultation imposed by statute.

While the legal responsibility to meet the duty to consult lies with the Crown, the Crown may delegate the day-to-day, procedural aspects of consultation to project Proponents. Such a delegation by the Crown to Proponents is routine practice for ENDM.

I am writing to advise you that on behalf of the Crown, ENDM is delegating the procedural aspects of consultation in respect of the Project to Sun-Canadian Pipe Line (Proponent) through this letter. ENDM expects that the Proponent will undertake the procedural aspects of consultation with respect to any regulated requirements for the proposed Project. The Crown will fulfill the substantive aspects of consultation and retain oversight over all aspects of the process for fulfilling the Crown's duty.

Please see the appendix for information on the roles and responsibilities of both the Crown and the Proponent.

Based on the Crown's assessment of First Nation and Métis community rights and potential project impacts, the following Indigenous communities should be consulted on the basis that they have or may have constitutionally protected Aboriginal or Treaty rights that may be adversely affected by the Project.

Community	Mailing Address
Mississaugas of the New Credit First Nation	2789 Mississauga Road R.R. #6 Hagersville, ON N0A 1H0
Six Nations of the Grand River *	Six Nations of the Grand River Elected Council PO Box 5000 Ohsweken, Ontario N0A 1M0  Haudenosaunee Confederacy Chiefs Council P.O Box 714 Ohsweken, ON N0A 1M0
Huron Wendat**	255, place Chef Michel Laveau Wendake, QC G0A 4V0

*\*Please note, proponents are required to consult with both, Six Nations Elected Council and Haudenosaunee Confederacy Chiefs Council (HCCC). Please copy Haudenosaunee Development Institute (HDI) on all correspondence to Haudenosaunee Confederacy Chiefs Council (HCCC).*

*\*\*interests are specific to archeological resources*

This rights-based consultation list is based on information that is subject to change. Consultation is ongoing throughout the duration of the project, including project development and design, consultation, approvals, construction, operation and decommissioning. First Nation and Métis communities may make new rights assertions

at any time, and further project related developments can occur that may require additional First Nation and/or Métis communities to be notified and/or consulted. If you become aware of potential rights impacts on Indigenous communities that are not listed above at any stage of project, please bring this to the attention of ENDM with any supporting information regarding the claim at your earliest convenience.

ENDM is assuming a coordinating role within government in relation to rights-based Aboriginal consultation on the Project. We recommend contacting the following ministry representatives if you have any questions or concerns relating to a specific ministry's mandate:

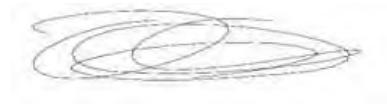
<b>Ministry/Contact</b>	<b>Phone/Email</b>
<b>Ministry of Energy, Northern Development and Mines</b>  Kristen Bromfield – Policy Advisor, Indigenous Energy Policy Unit	(416) 735-3297 <a href="mailto:kristen.bromfield@ontario.ca">kristen.bromfield@ontario.ca</a>
<b>Ministry of Environment, Conservation and Parks</b>  Peter Brown – Consultation Advisor, Environmental Assessment and Permissions Division	(416) 314-0149 <a href="mailto:peter.brown@ontario.ca">peter.brown@ontario.ca</a>
<b>Ministry of Transportation</b>  Donna Bigelow - Team Lead, Indigenous Relations Branch	(647) 537-9423 <a href="mailto:donna.bigelow@ontario.ca">donna.bigelow@ontario.ca</a>
<b>Ministry of Government and Consumer Services</b>  Uyen Ha – Senior Policy Advisor, Infrastructure Projects - Realty	(437) 994-8446 <a href="mailto:Uyen.ha@ontario.ca">Uyen.ha@ontario.ca</a>
<b>Ministry of Heritage, Sport, Tourism and Culture Industries</b>  Karla Barboza - Team Lead, Heritage, Tourism and Culture Division	(416) 314-7120 <a href="mailto:karla.barboza@ontario.ca">karla.barboza@ontario.ca</a>

### **Acknowledgement**

By accepting this letter, the Proponent acknowledges this Crown delegation and the procedural consultation responsibilities enumerated in the appendix. If you have any questions about this request, you may contact Kristen Bromfield (see above).

I trust that this information provides clarity and direction regarding the respective roles of the Crown and Sun-Canadian Pipe Line. If you have any questions about this letter or require any additional information, please contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Delaquis". The signature is written in a cursive style with several overlapping loops.

Dan Delaquis  
Manager, Indigenous Energy Policy

C: Ontario Pipeline Coordinating Committee (OPCC)

## **APPENDIX: PROCEDURAL CONSULTATION**

### **Roles and Responsibilities Delegated to the Proponent**

On behalf of the Crown, please be advised that your responsibilities as Project Proponent for this Project include:

- providing notice and information about the Project to Indigenous communities, with sufficient detail and at a stage in the process that allows the communities to prepare their views on the Project and, if appropriate, for changes to be made to the Project. This can include:
  - accurate, complete and plain language information including a detailed description of the nature and scope of the Project and translations into Aboriginal languages where appropriate;
  - maps of the Project location and any other affected area(s);
  - information about the potential negative effects of the Project on the environment, including their severity, geographic scope and likely duration. This can include, but is not limited to, effects on ecologically sensitive areas, water bodies, wetlands, forests or the habitat of species at risk and habitat corridors;
  - a description of other provincial or federal approvals that may be required for the Project to proceed;
  - whether the Project is on privately owned or Crown controlled land;
  - any information the Proponent may have on the potential effects of the Project, including particularly any likely adverse impacts on established or asserted Aboriginal or treaty rights;
  - a written request asking the Indigenous community to provide in writing or through a face-to-face meeting:
    - any information available to them that should be considered when preparing the Project documentation;
    - any information the community may have about any potential adverse impacts on their Aboriginal or treaty rights; and
    - any suggested measures for avoiding, minimizing or mitigating potential adverse impacts;
    - information about how information provided by the Indigenous community as part of the consultation process will be collected, stored, used, and shared for their approval;
  - identification of any mechanisms that will be applied to avoid, minimize or mitigate potential adverse impacts;
  - identification of a requested timeline for response from the community and the anticipated timeline for meeting Project milestones following each notification;



- an indication of the Proponent's availability to discuss the process and provide further information about the Project;
- the Proponent's contact information; and
- any additional information that might be helpful to the community;
- following up, as necessary, with Indigenous communities to ensure they received Project notices and information and are aware of the opportunity to comment, raise questions or concerns and identify potential adverse impacts on their established or asserted rights;
- gathering information about how the Project may adversely affect Aboriginal or treaty rights;
- bearing the reasonable costs associated with the procedural aspects of consultation (paying for meeting costs, making technical support available, etc.) and considering reasonable requests by communities for capacity funding to assist in participating in the consultation process;
- considering and responding to comments and concerns raised by Indigenous communities and answering questions about the Project and its potential impacts on Aboriginal or treaty rights;
- as appropriate, discussing and implementing changes to the Project in response to concerns raised by Indigenous communities. This could include modifying the Project to avoid or minimize an impact on an Aboriginal or treaty right (e.g. altering the season when construction will occur to avoid interference with mating or migratory patterns of wildlife); and
- informing Indigenous communities about how their concerns were taken into consideration and whether the Project proposal was altered in response. It is considered a best practice to provide the Indigenous community with a copy of the consultation record as part of this step for verification.

If you are unclear about the nature of a concern raised by an Indigenous community, you should seek clarification and further details from the community, provide opportunities to listen to community concerns and discuss options, and clarify any issues that fall outside the scope of the consultation process. These steps should be taken to ensure that the consultation process is meaningful and that concerns are heard and, where possible, addressed.

You can also seek guidance from the Crown at any time. It is recommended that you contact the Crown if you are unsure about how to deal with a concern raised by an Indigenous community, particularly if the concern relates to a potential adverse impact on established or asserted Aboriginal or treaty rights.

The consultation process must maintain sufficient flexibility to respond to new information, and we request that you make all reasonable efforts to build positive relationships with all Indigenous communities potentially affected by the Project. If a community is unresponsive to efforts to notify and consult, you should nonetheless make attempts to update the community on the progress of the Project, the environmental assessment (if applicable) and other regulatory approvals.

If you reach a business arrangement with an Indigenous community that may affect or relate to the Crown's duty to consult, we ask that that Crown be advised of those aspects of such an arrangement that may relate to or affect the Crown's consultation obligations, and that the community itself be apprised of the Proponent's intent to so-apprise the Crown. Whether or not any such business arrangements may be reached with any community, the Crown expects the Proponent to fulfill all of its delegated procedural consultation responsibilities to the satisfaction of the Crown.

If the Crown considers that there are outstanding issues related to consultation, the Crown may directly undertake additional consultation with Indigenous communities, which could result in delays to the Project. The Crown reserves the right to provide further instructions or add communities throughout the consultation process.

### **Roles and responsibilities assumed directly by the Crown**

The role of the Crown in fulfilling any duty to consult and accommodate in relation to this Project includes:

- identifying for the Proponent, and updating as appropriate, the Indigenous communities to consult for the purposes of fulfillment of the Crown duty;
- carrying out, from time to time, any necessary assessment of the extent of consultation or, where appropriate, accommodation, required for the project to proceed;
- supervising the aspects of the consultation process delegated to the Proponent;
- determining in the course of Project approvals whether the consultation of Indigenous communities was sufficient;
- determining in the course of Project approvals whether accommodation of Indigenous communities, if required, is appropriate and sufficient.

### **Consultation Record**

It is important to ensure that all consultation activities undertaken with Indigenous communities are fully documented. This includes all attempts to notify or consult the community, all interactions with and feedback from the community, and all efforts to respond to community concerns. Crown regulators

require a complete consultation record in order to assess whether Aboriginal consultation and any necessary accommodation is sufficient for the Project to receive Ontario government approvals. The consultation record should include, but not be limited to, the following:

- a list of the identified Indigenous communities that were contacted;
- evidence that notices and Project information were distributed to, and received by, the Indigenous communities (via courier slips, follow up phone calls, etc.). Where a community has been non-responsive to multiple efforts to contact the community, a record of such multiple attempts and the responses or lack thereof.
- a written summary of consultations with Indigenous communities and appended documentation such as copies of notices, any meeting summaries or notes including where the meeting took place and who attended, and any other correspondence (e.g., letters and electronic communications sent and received, dates and records of all phone calls);
- responses and information provided by Indigenous communities during the consultation process. This includes information on Aboriginal or treaty rights, traditional lands, claims, or cultural heritage features and information on potential adverse impacts on such Aboriginal or treaty rights and measures for avoiding, minimizing or mitigating potential adverse impacts to those rights; and
- a summary of the rights/concerns, and potential adverse impacts on Aboriginal or treaty rights or on sites of cultural significance (e.g. burial grounds, archaeological sites), identified by Indigenous communities; how comments or concerns were considered or addressed; and any changes to the Project as a result of consultation, such as:
  - changing the Project scope or design;
  - changing the timing of proposed activities;
  - minimizing or altering the site footprint or location of the proposed activity;
  - avoiding impacts to the Aboriginal interest;
  - environmental monitoring; and
  - other mitigation strategies.

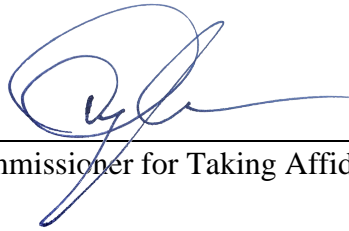
As part of its oversight role, the Crown may, at any time during the consultation and approvals stage of the Project, request records from the Proponent relating to consultations with Indigenous communities. Any records provided to the Crown will be subject to the *Freedom of Information and Protection of Privacy Act*, however may be exempted from disclosure under section 15.1 (Relations with

Aboriginal communities) of the Act. Additionally, please note that the information provided to the Crown may also be subject to disclosure where required under any other applicable laws.

The contents of what will make up the consultation record should be shared at the onset with the Indigenous communities consulted with and their permission should be obtained. It is considered a best practice to share the record with the Indigenous community prior to finalizing it to ensure it is a robust and accurate record of the consultation process.

# EXHIBIT H

This is Exhibit "H" to the Affidavit of  
Brian Doolittle, sworn this 10<sup>th</sup> day of  
June, 2022

A handwritten signature in blue ink, consisting of a large, stylized initial 'B' followed by a series of loops and a long horizontal stroke extending to the right.

---

Commissioner for Taking Affidavits

**From:** Minister of Transport / Ministre des Transports (TC) TC.MinisterofTransport-MinistredesTransports.TC@tc.gc.ca   
**Subject:** Regarding the High Frequency Rail (HFR) project  
**Date:** June 3, 2022 at 12:06 PM  
**To:** aaron@detlorlaw.com  
**Cc:** Marc.Miller@parl.gc.ca

---

June 3, 2022

Hohahe, Leroy Hill  
Council Secretary  
Haudenosaunee Confederacy Chiefs Council  
c/o Aaron Detlor  
[aaron@detlorlaw.com](mailto:aaron@detlorlaw.com)

Dear Leroy:

Thank you for your correspondence of April 26, 2022, regarding the High Frequency Rail (HFR) project.

Allow me to reiterate my commitment to advancing reconciliation and nation-to-nation relationships with Indigenous peoples and to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples. As part of this commitment, I emphasized having an open and constructive relationship with Indigenous Peoples throughout the HFR project. I also underscored the importance of grounding this relationship in the principles of early and meaningful engagement, advancing priorities on reconciliation, and fulfilling the Crown's duty to consult and, where appropriate, accommodate.

I understand that the HFR Technical Office has reached out to the Haudenosaunee Confederacy Chiefs Council (HCCC) and the Haudenosaunee Development Institute (HDI) to schedule a briefing on the HFR project. I have also received your communication confirming that the HCCC has delegated engagement on the HFR project to the HDI.

The Government of Canada recognizes that to maximize outcomes of a project as large and complex as HFR, it must be advanced through a phased and inclusive approach. I have committed that Indigenous Peoples will have an opportunity to provide feedback and get involved in the project through the engagement and consultation process. I invite you to use the consultation process as an opportunity to provide any feedback and raise issues, such as those you articulated in your letter, through the stages of the project.

HFR is a proposed project that is envisioned to unfold over many years and, as illustrated in the recently released Request for Expressions of Interest, we are in the very early stages. This presents an important opportunity to initiate consultations that will inform future phases of the project. As the HFR project becomes better defined, in-depth dialogue with Indigenous peoples on the project specifics and

socio-economic opportunities and potential partnerships will take place.

As requested by the HCCC, the Crown will engage and consult with the HCCC through the HDI as its agent on the HFR project. In the event of any agreements or accommodations reached through the consultation process, we would seek the HCCC's ratification. There may also be times during consultations where the HCCC's direct input might be warranted and requested.

To date, the government has identified Indigenous Peoples that require engagement and consultation on the HFR project with varying interests and potential impacts on their existing Aboriginal and treaty rights. Currently, we are engaging each of the identified Indigenous Peoples to better understand their interest in and the possible impacts of the project. We will continue to send key engagement and consultation communications to HCCC and HDI.

Again, allow me to assure you that both the government and I, as Minister of Transport, prioritize reconciliation with Indigenous Peoples, and we value the time being taken by Indigenous Peoples to provide input that will shape the project.

Thank you again for sharing your views and perspectives with me. I look forward to our continued engagement.

Sincerely,

A handwritten signature in black ink, appearing to read 'Omar Alghabra', written in a cursive style.

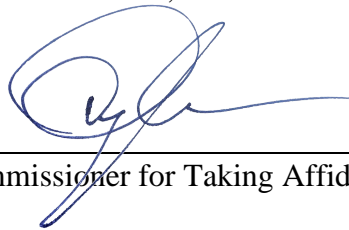
The Honourable Omar Alghabra, P.C., M.P.  
Minister of Transport

c.c. The Honourable Marc Miller, P.C., M.P.  
Minister of Crown-Indigenous Relations



# EXHIBIT I

This is Exhibit "I" to the Affidavit of  
Brian Doolittle, sworn this 10<sup>th</sup> day of  
June, 2022

A handwritten signature in blue ink, consisting of a large, stylized initial 'B' followed by a series of loops and a long horizontal stroke extending to the right.

---

Commissioner for Taking Affidavits



Six Nations "Iroquois" Confederacy  
GRAND RIVER COUNTRY

2634 6<sup>th</sup> Line R.R.# 2 Ohsweken, ON NOA 1M0

April 6, 2022

The Honourable Marc Miller, PC, MP  
Minister of Crown Indigenous Relations  
House of Commons  
Ottawa, Ontario  
K1A 0A6

Dear Minister Miller:

I trust this correspondence finds you well and in good spirits.

I am writing to follow up on my correspondence to you of March 7, 2022 which was provided in response to your correspondence of February 3, 2022.

We remain open to meeting with you to address the abuses committed against the Haudenosaunee Confederacy Chiefs Council ("HCCC") on or about 1924 with a view to advancing the direction in your mandate letter to **"[W]ork with existing and traditional Indigenous governments and leaders, whose nations and forms of governance were suppressed and ignored historically by the federal government, to restore respectful nation-to-nation relations, in the spirit of self-determination, by renewing and updating treaty relationships where they exist, including pre-confederation treaties."**

As you may be aware we have asked the Haudenosaunee Development Institute ("HDI") to take such steps as it deems necessary to protect our interests in the litigation that has been commenced by the Six Nations Elected Band Administration as against Her Majesty the Queen in Right of Ontario and Canada (Six Nations of the Grand River v. AG CV-18-594281).

We do not believe that participation in the litigation will impair our ability to begin discussions with your Ministry and the Government of Canada to advance our relationship and your mandate letter. We look forward to meeting with you at your earliest convenience to better understand your mandate and how we can jointly begin the work to restore the respectful relationship between our Confederacy and the Crown.

Until we hear from you and confirm your commitment to meet we have asked other HCCC Committees to refrain from asking for meetings with your Ministry so that we can focus on this issue.

In peace and friendship,

A handwritten signature in cursive script that reads "Hohahes, Leroy Hill". The signature is written in black ink and is positioned above the typed name.

Hohahes, Leroy Hill  
Council Secretary  
Haudenosaunee Confederacy Chiefs Council

SIX NATIONS OF THE GRAND  
RIVER BAND OF INDIANS

- and -

THE ATTORNEY GENERAL OF  
CANADA *et al.*

Plaintiff

Defendants  
Court File No.: CV-18-594281

---

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
Proceeding commenced at TORONTO

---

**AFFIDAVIT OF BRIAN DOOLITTLE**

---

**GILBERT'S LLP**  
181 University Avenue, Suite 2200  
Toronto, Ontario M5H 3M7  
2200

Tim Gilbert (LSO# 30665U)  
tim@gilbertslaw.ca

Thomas Dumigan (LSO# 74988P)  
tdumigan@gilbertslaw.ca

Tel: (416) 703-3232  
Fax: (416) 703-7422

Lawyers for the Moving Party, the Haudenosaunee  
Development Institute

# TAB 3

Court File No. CV-18-594281

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**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

**AFFIDAVIT OF RICHARD WAYNE HILL SR.**  
*(Affirmed June 10, 2022)*

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Court File No. CV-18-594281

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**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

**AFFIDAVIT OF RICHARD WAYNE HILL SR.**

*(Affirmed June 10, 2022)*

I, RICHARD WAYNE HILL SR., of the Village of Ohsweken, in the Province of Ontario, MAKE OATH AND SAY:

1. My name is Richard Wayne Hill Sr. I am a member of the Beaver Clan of the Tuscarora Nation of the Haudenosaunee Confederacy (also known as the “Iroquois Confederacy”).

**I. Background and Mandate**

2. I am a historian by practice in the field of Indigenous studies, and my focus is on the history of the Haudenosaunee. I have since about 1970 attended councils and meetings of the Haudenosaunee Chiefs and Clan Mothers. I have worked intimately on matters involving history, culture, and Haudenosaunee law, and have collected and documented a vast amount of both written and oral history that has helped me better understand our history and the



impacts of change upon our people. This, in turn, has helped me as a museum curator, writer, and educator.

3. I hold a master's degree in American Studies with a Minor in Native American Studies from the State University of New York at Buffalo.

4. I am a former assistant professor at the University of Buffalo where I was employed for more than 25 years. I taught courses in Native American history, culture, philosophy, art, and politics.

5. I have lectured or taught courses in Haudenosaunee history and culture at numerous museums, universities, historical agencies, and community centres across the United States of America and Canada, including:

- a. Cornell University, Ithaca, NY;
- b. Harvard University, Cambridge, MA;
- c. McMaster University, Hamilton, ON;
- d. Mohawk College, Hamilton, ON;
- e. Newberry Library, Chicago, IL;
- f. Smithsonian Institution, New York, NY and Washington, DC;
- g. Stanford University, Stanford, CA;
- h. SUNY Buffalo, Buffalo, NY;

- i. University of Toronto, Toronto, ON;
  - j. University of Waterloo, Waterloo, ON; and
  - k. University of Western Ontario, London, ON.
6. I am currently employed at Mohawk College in Hamilton, Ontario as an Indigenous Innovation Specialist, where my role includes curriculum development, advising on Indigenous matters, and research into Indigenous history and culture.
7. My curriculum vitae is attached at **Exhibit “A”**.
8. A copy of a signed Acknowledgement of Expert’s Duty is attached hereto at **Exhibit “B”**.
9. I was asked by counsel for the Haudenosaunee Development Institute to provide evidence about the governance and history of the Haudenosaunee Confederacy, including to
- a. explain the formation of the Haudenosaunee Confederacy,
  - b. explain the structure and governance of the Haudenosaunee Confederacy,
  - c. provide historical context for the treaty relationship between the Haudenosaunee and the British Crown, including as it relates to the Haldimand Proclamation/Treaty of 1784, and
  - d. provide comment on and historical context for the establishment of the Six Nations *Indian Act* “elected council”, and explain the relationship, if any, between the “elected council” and the Haudenosaunee Confederacy.

10. The facts contained in this affidavit are based on my personal knowledge of Haudenosaunee culture, law, and tradition, the oral history of the Haudenosaunee, and the archival information obtained through my career and research.

## II. The Haudenosaunee Confederacy

### *i. Structure of the Haudenosaunee Confederacy*

11. The Haudenosaunee people live on *A'nó:wara tsi kawè:note* (Turtle Island) in extended family units (also referred to as “**Clans**”).

12. All Clans of the Haudenosaunee are governed by a Chief and Clan Mother:

a. The *Royaneh* (or, “**Chiefs**”) are the male leaders of each Clan. The Chiefs represent and speak for their respective Clans at deliberative meetings of the Chiefs of each Nation.

b. Chiefs are selected and supervised by a *Oiá:ner* (in English, “**Clan Mother**”). Clan Mothers are selected by their respective Clans and are responsible for running the day-to-day affairs of the Clan and selecting and overseeing Chiefs. Clan Mothers can also remove a Chief’s authority if he acts improperly or is not living up to his responsibilities. The appointment of both Chiefs and Clan Mothers is pursuant to a process under the laws of the Great Peace (discussed below) known as a “Condolence Ceremony”.

13. Clans are further organized into groups with separate geographic territories (today, these groups are referred to as “**Nations**”). From east to west, the original five Nations of the Haudenosaunee are:

- a. the Mohawk People (referred to as the “People of the Flint” or the “Keepers of the Eastern Door”), who have nine Chiefs of the bear, wolf, and turtle Clans;
  - b. the Oneida People (referred to as the “People of the Standing Stone”), who have nine Chiefs of the bear, wolf, and turtle Clans;
  - c. the Onondaga People (referred to as the “People of the Hills” or the “Keepers of the Central Fire”), who have fourteen Chiefs of the turtle, snipe, bear, hawk, deer, wolf, eel, and beaver Clans;
  - d. the Cayuga People (referred to as the “People of the Swamp”), who have ten Chiefs of the heron, deer, turtle, bear, and snipe Clans; and
  - e. the Seneca People (referred to as the “Keepers of the Western Door”), who have eight Chiefs of the bear, snipe, turtle, wolf, and hawk Clans.
14. The Mohawk, Oneida, Onondaga, Cayuga, and Seneca Peoples are collectively referred to as the “**Five Nations**”.

*ii. The Great Peace: Formation of the Haudenosaunee Confederacy and the Haudenosaunee Laws of Great Peace*

15. The Haudenosaunee people, as they are known today, trace their roots to a peacemaking between Clans to form a Confederacy of Nations, known as the “**Great Peace**”.
16. The Peacemaker was sent by the Creator to spread the *Kariwiiio* (or, “good word”). With the help of Aionwatha (commonly known as Hiawatha), the Peacemaker taught the laws of peace to the people. Travelling from Nation to Nation, the Peacemaker and

Aiionwatha succeeded in persuading the Chiefs of each Nation to join together and form a “Great League of Peace”.

17. The Mohawk, Oneida, Cayuga, Seneca, and Onondaga Peoples accepted the longhouse as a symbol of their unity. The Peacemaker planted a tree in the Onondaga community, naming it the “Great Tree of Peace”. He directed the Chiefs to sit beneath the shade of the tree and watch the fire. He told them that all issues concerning the Confederacy would be discussed and deliberated under this tree. Beneath the tree the Peacemaker asked that all men throw in their weapons to bury any greed, hatred, and jealousy.

18. Finally, the Peacemaker took an arrow from each of the five Nations and bound them together. In this way the nations were united in their powers and the union was complete.

19. One by one, the Peacemaker took strings of *wampum* (a traditional shell bead used by the Haudenosaunee), one for each of the laws of the Great Peace (described below), and described what each signified. With this action, *Wisk Nihohnohwhentsiake* (meaning the “League of the Five Nations”) was formed.

20. The laws of the Great Peace describe, among other things:

- a. the formation of the Haudenosaunee Confederacy;
- b. how peace amongst the Haudenosaunee Confederacy is to be maintained;
- c. how the Clans of each Nation are organized;
- d. how Chiefs and Clan Mothers are installed, and their responsibilities;
- e. the creation and structure of the Grand Council of Chiefs (described below); and

f. the process for how resolutions are made on behalf of the Haudenosaunee Confederacy.

21. The Tuscarora Nation joined the Confederacy in or around 1722 after leaving their traditional territory in North Carolina and Virginia. In doing so, the Tuscarora became the “**Sixth Nation**”. Other Nations have been welcomed into the Confederacy including the Delaware Nation, the Wyandot Nation, and the Tutela Nation.



22. *Wisk Nihohnohwhentsiake* has been known over time in English to mean “Six Nations”, “Five Nations”, “Iroquois League”, and “Iroquois Confederacy”. *Wisk Nihohnohwhentsiake* is referred to today, in English, as the “**Haudenosaunee Confederacy**”.

23. The citizens of the Haudenosaunee Confederacy recognize themselves as *Rotinonhsyon:nih* or *Hodínöhsö:ni:h*, or “**Haudenosaunee**” (meaning “They Made the House” or “People of the Longhouse”), symbolizing all the Nations coming together as one.

24. Citizens of the Haudenosaunee Confederacy (*i.e.* the Haudenosaunee) live in, among other places, Ontario (*e.g.*, the Grand River Valley and Bay of Quinte), Quebec, New York

State, Wisconsin, and Oklahoma. The Haudenosaunee Confederacy's members and citizens number over one hundred thousand people.

*iii. The Council of Chiefs*

25. The Haudenosaunee Confederacy has, and has had since time immemorial (as described above), a governance structure comprised of Chiefs and Clan Mothers.

26. As described above, each Clan has a Chief who is nominated by a Clan Mother. The Chief represents that Clan in the Grand Council (described below). Once confirmed, a Chief sits as a member of the Grand Council for life (unless removed by their Clan Mother for, *e.g.*, not fulfilling responsibilities).

27. The Grand Council is the collective of all Chiefs of the Haudenosaunee Confederacy. It is the same Grand Council that operated for centuries, since prior to European contact in North America, and is the governing authority for the Haudenosaunee people that approved all treaties post-European contact.

28. "Grand Council" also refers to a governmental meeting of Haudenosaunee Chiefs. At the Grand Council, all Chiefs have equal responsibility, including to consider how present-day decisions will impact their descendants (a core value of the Haudenosaunee, known as "considering the coming faces"). The protocol under which these governmental meetings are conducted has remained consistent for centuries.

29. In the late 1700s, during the American Revolutionary War (discussed in greater detail below), the collective of the Haudenosaunee Confederacy remained neutral in supporting either side (*i.e.* the British or the United States). Instead, it was left to each individual to

decide what course of action they wished to take. As a result, individual nations were not aligned with any particular side, and individual Haudenosaunee citizens allied with the treaty partners they saw fit.

30. In the aftermath of the American Revolutionary War, and given the involvement of Haudenosaunee warriors on each of the opposing sides, the Chiefs and Clan Mothers resolved to split the “council fire” (*i.e.* the place where Haudenosaunee Chiefs hold governmental meetings), with half of the council fire going to Ohsweken in Grand River, and the other half to Onondaga Nation in central New York. The Haudenosaunee, however, still considered themselves to be one people. Discussions between the two council fires continued for the benefit of all Haudenosaunee people.

31. The Haudenosaunee Chiefs that meet in Ohsweken are referred to as the Haudenosaunee Confederacy Chiefs Council (the “**HCCC**”). The Chiefs that meet at Onondaga Nation are referred to as the Grand Council. Both Councils have been continuously governing for over 200 years.

32. In 1815, a reconciliation council was held in which all nations of the Confederacy pledged to never take up arms against each other. The two parts of the council fire remain—the HCCC deals with matters involving the Crown whereas the Grand Council deals with matters involving all Haudenosaunee territories.

*iv. Haudenosaunee Governance*

33. The HCCC are empowered by Haudenosaunee Law to make decisions and resolutions concerning the treaty rights and interests of the Haudenosaunee Confederacy and its citizens, with these decisions and resolutions forming part of Haudenosaunee Law.



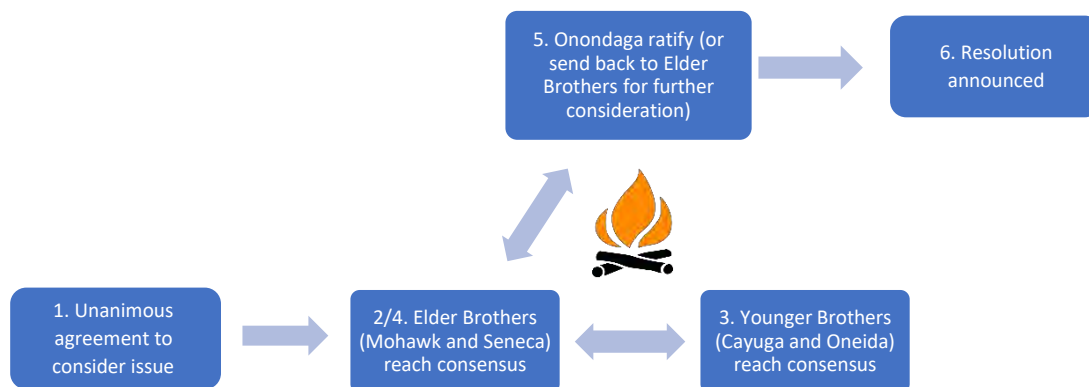
34. Pursuant to Haudenosaunee law, and as described in more detail below, the HCCC can also delegate its authority to negotiate matters concerning Haudenosaunee treaty and land rights and interests to other entities for specific purposes or mandates. The HCCC, however, ultimately approves all final agreements.

35. The HCCC is comprised of three “benches”: the “**Elder Brothers**” (comprised of the Mohawk and Seneca Peoples), the “**Younger Brothers**” (comprised of the Oneida and Cayuga Peoples—the Tuscarora and other Nations speak through the Cayuga People), and the “**Fire Keepers**” (the Onondaga People). Each HCCC meeting must have representation from a minimum of three of the Five Nations for quorum.

36. The Onondaga formally open and close all HCCC meetings. The Onondaga first propose an issue for discussion. Before an issue is debated, the HCCC must unanimously agree to discuss it. Issues are addressed by each bench sequentially before passing to the next.

37. A decision of the HCCC is rendered on the unanimous agreement of all three “benches”. The Elder Brothers consider each issue first and, upon reaching consensus, pass the issue to the Younger Brothers. If the Younger Brothers disagree with the approach or course of action proposed by the Elder Brothers, the matter is passed back to the Elder Brothers for reconsideration. Once the Younger Brothers come to a consensus, the issue is passed to the Elder Brothers who then pass the issue to the Onondaga. If the Onondaga disagree, they pass the issue back to the Elder Brothers to be considered again by the Elder and Younger Brothers. However, if they agree, they confirm the proposal of the Elder and

Younger Brothers, and the decision is announced in open council and becomes law. This process is represented in the diagram below.



38. A decision or resolution of the HCCC is maintained in the record of the Council, by the HCCC secretary. It is my understanding that the HCCC have never shared their records in a Canadian court. One reason for this, among others, is that the Grand Council views their records as constituting Haudenosaunee Confederacy sovereign state matters that are only appropriate for the governing body's eyes.

*v. Delegation by the Chiefs*

39. Since time immemorial, Chiefs of the Haudenosaunee Confederacy (whether HCCC or Grand Council) have delegated ambassadors for specific purposes, including to negotiate on their behalf, and including in respect of treaties. The Chiefs could (and can) appoint any individual or entity to perform a delegated function—there is nothing under Haudenosaunee Law specifying who or what groups may be delegated. Delegation is at the collective discretion of the Chiefs and decided upon in the same manner as decisions and resolutions,

as described above. In other words, the Chiefs reach one mind to a consensus regarding the delegation of authority.

40. For example, seldom would a condoled Chief be present at historical treaty negotiations. Grand Council, throughout history, has been very diligent in keeping condoled Chiefs from being subject to foreign Courts and governments, including in negotiations. Therefore, in the context of legal matters, delegates were appointed by the Confederacy to represent Haudenosaunee treaty and land interests.

41. Oftentimes the term “chief” was applied by the counterparty to Haudenosaunee representatives at treaty negotiations. These representatives, however, were not “Chiefs” as understood under the Great Law of Peace. As an example, Joseph Brant, who was delegated authority to negotiate the Haldimand Proclamation/Treaty on behalf of the Haudenosaunee Confederacy, was not a Chief of the Haudenosaunee, despite being called a “chief”.

42. Since at least the 1900s, both HCCC and Grand Council have delegated authority to various committees and agencies to work on behalf of the Haudenosaunee for various purposes.

### **III. The Haudenosaunee Confederacy's Relationship with the British Crown, and the Haldimand Proclamation/Treaty**

#### *vi. The Haudenosaunee Confederacy's Relationship with the British Crown*

43. The Haudenosaunee Confederacy entered into mutual economic and political agreements with European colonial governments shortly after European colonization of North America.

44. The foundations of all treaty relationships between the Haudenosaunee Confederacy and European and North American governments are the Great Law and the Two Row Wampum treaty made around 1613 between Chiefs of the Haudenosaunee Confederacy and representatives of the Dutch colonial government.

45. The relationship between the Haudenosaunee Confederacy and Great Britain was established at least as early as 1664. Around 1677, the parties began using the metaphor of a "Silver Covenant Chain" to symbolize their treaty relationship, one based on principles of respect, friendship, unity of mind, and peace.

46. Well before 1701, the Haudenosaunee Confederacy established settlements throughout modern-day southern Ontario, including within the Haldimand Tract (described further below). In a manifestation of the Silver Covenant Chain, Chiefs representing the Five Nations of the Confederacy and representatives of the British Crown signed the Nanfan Treaty in 1701, in which the British promised to protect Haudenosaunee hunting rights in perpetuity in this area.

*vii. The American Revolutionary War and Haudenosaunee Allegiance with the British*

47. During the American Revolutionary War, the Grand Council permitted citizens and nations of the Haudenosaunee Confederacy to make their own decisions about its individual participation. The Mohawks allied with the British Crown while the Oneidas and Tuscaroras joined forces with the Americans.

48. Both before and during the Revolutionary War, in keeping with the principles of the Silver Covenant Chain, British military leaders promised the Haudenosaunee that, in the event of a British loss, the Crown would compensate any territorial losses experienced by their Haudenosaunee allies. Ultimately, Haudenosaunee involvement in the Revolutionary War resulted in the abandonment and destruction of most Haudenosaunee villages.

*viii. Haldimand Proclamation/Treaty*

49. The 1783 Treaty of Paris, which officially ended the Revolutionary War, failed to address the compensation promised to the Haudenosaunee by the British Crown. It also purported to forfeit much of the Haudenosaunee land at the time to the newly formed United States of America. In an attempt to satisfy its promise, the British Crown, through General Frederick Haldimand, set out to find territory suitable to compensate the Haudenosaunee for their losses.

50. The work of identifying potentially suitable land was undertaken in part by Joseph Brant, who negotiated with the British Crown on behalf of the Haudenosaunee. Brant's expressed intent was that any land obtained for the Haudenosaunee and revenues generated therefrom would be for the benefit of all Haudenosaunee peoples and would establish a perpetual fund.

51. Eventually, a site along the Grand River was identified as potentially suitable, and was already within a territory familiar to the Haudenosaunee.

52. On October 25, 1784, the lands along the Grand River were declared the property of the “Six Nations” in the following proclamation, now known as the “**Haldimand Proclamation/Treaty**” (a transcription of which is attached at **Exhibit “C”**):

*Whereas His Majesty having been pleased to direct that in Consideration of the early Attachment to his Cause manifested by the Mohawk Indians, & of the loss of their Settlement they thereby sustained that a convenient Tract of Land under His Protection should be chosen as a Safe & Comfortable Retreat for them & others of the Six Nations who have either lost their Settlements within the Territory of the American States, or wish to retire from them to the British—I have, at the earnest Desire of many of these His Majesty’s Faithfull Allies purchased a Tract of Land, from the Indians situated between the Lakes Ontario, Erie and Huron, and I do hereby in His Majesty’s name authorize and permit the said Mohawk Nation, and such other of the Six Nations Indians as wish to settle in that Quarter to take Possession of, & Settle upon the banks of the River commonly called Ours [Ouse] or Grand River, running into Lake Erie, allotting to them for that purpose Six Miles Deep from each Side of the River beginning at Lake Erie, & extending in that Proportion to the Head of the said River, which them & their Posterity are to enjoy for ever.*

53. The British and Haudenosaunee alike understood that the Haldimand Proclamation/Treaty was not a gift but an attempt at compensation for the Haudenosaunee’s support of the British and corresponding losses in the Revolutionary War. It is the citizens of the Haudenosaunee Confederacy—*i.e.* the Haudenosaunee—who are the beneficiaries of and/or counterparty to of the Haldimand Proclamation/Treaty, a fact that the British Crown was well aware of.

**ix. Simcoe Patent**

54. In January 1793, Lieutenant Governor of Upper Canada, Lord John Graves Simcoe, issued a deed to the Grand River tract, in which he removed one-third of the territory and

declared that the Six Nations had no right to convey their lands through lease or sale to anyone but the Crown.

55. Despite the reduction in amount of the land granted under the Simcoe Patent as compared to the Haldimand Proclamation/Treaty, it is understood that the citizens of the Haudenosaunee Confederacy (*i.e.* the Haudenosaunee) are beneficiaries and/or counterparty to the Simcoe Patent.

56. The Chiefs of the Haudenosaunee Confederacy denounced the validity of the Simcoe Deed—a position still held by the Haudenosaunee Confederacy today.

#### **IV. Six Nations of the Grand River Band and Elected Council**

##### ***x. Six Nations of the Grand River Band of Indians***

57. “Six Nations of the Grand River Band of Indians” is not a term I am familiar with. It is not the name that the Six Nations of the Grand River elected council currently goes by, or has ever gone by. I will note that there is a “Six Nations of the Grand River” First Nation, which is registered on the Government of Canada’s band registry list. According to the Government of Canada’s website, as of April, 2022, “Six Nations of the Grand River” has one registered person. A screenshot of the website is attached at **Exhibit “D”**.

58. Neither “Six Nations of the Grand River Band of Indians” or “Six Nations of the Grand River” are synonymous with the Haudenosaunee Confederacy. Neither include nor represent Haudenosaunee citizens who are not registered members of a band. Nor do they include or represent Haudenosaunee citizens who are not registered under the *Indian Act*, including by, for example, disenfranchisement.

*xi. Elected Council is Distinct from the Haudenosaunee Confederacy and HCCC*

59. I have been asked to comment on the Six Nations of the Grand River “Elected Council” (the “**SNGR Elected Council**”).

60. The Haudenosaunee Confederacy and HCCC are separate and distinct from the SNGR Elected Council.

61. I understand the SNGR Elected Council to be a “council of the band” as the term is defined in subsection 2(1) of the *Indian Act*, R.S.C. 1985 c. I-5., although what “band” they are a council of is unclear, per my comments above. I understand the role of the SNGR Elected Council to be restricted to the Six Nations Indian Reserve No. 40 and Glebe Farm Indian Reserve No. 40B (collectively, the “**Six Nations Reserves**”).

62. The SNGR Elected Council was established in 1924. I understand that the SNGR Elected Council is currently comprised of nine “Band Councilors” and a “Chief” (both terms used in the *Indian Act* and unrelated to the Haudenosaunee Confederacy). I do not understand there to be any requirement that the SNGR Elected Council be comprised of representative members from the Mohawk, Oneida, Onondaga, Cayuga, and Seneca Peoples (nor are there such representatives). I also understand that consistently less than about 10% of the eligible voting population casts votes in SNGR Elected Council elections.

63. My understanding is that the SNGR Elected Council governance is related specifically to the Six Nations Reserves. The HCCC’s governance of the Haudenosaunee Confederacy and its citizens is unrelated to (and unconfined by) the Six Nations Reserves, which are creatures of the *Indian Act*.



64. The widespread opinion of the Haudenosaunee is that elected councils are an imposed system of the *Indian Act* for the administration of colonial policies in each community, and that the SNGR Elected Council, in recent years, has appropriated distinct symbols, philosophies, and national character of the Haudenosaunee Confederacy in an attempt to misrepresent themselves to external agencies as the original Haudenosaunee system of governance. The position of the Grand Council and HCCC is that the SNGR Elected Council do not represent the Haudenosaunee Confederacy, its peoples, or its member nations. An article authored by Chief Sidney Hill, *Tododaho* (a Chief of the Haudenosaunee Confederacy appointed by all other Chiefs) expanding on this position is attached at **Exhibit “E”**.

*xii. Formation of the SNGR Elected Council in 1924*

65. In the early 1900s, the HCCC made numerous efforts to address land, jurisdiction, and trust fund issues with the Federal Government. HCCC presented their concerns to the House of Commons and the Supreme Court of Canada. HCCC’s effort were premised on the position that the Haudenosaunee never agreed to be subjects of the Crown.

66. In the face of the HCCC’s repeated efforts to assert sovereignty of the Haudenosaunee Confederacy, on September 17, 1924, the Committee of the Privy Council issued Order in Council P.C. 1629 (“**PC 1629**”). In PC 1629, the Committee describes “recommendations” from the Minister (Superintendent General of Indian Affairs) regarding the existing government of the Six Nations (*i.e.*, HCCC), and imposed the band council system upon the Haudenosaunee people at Grand River. A copy of PC 1629 is attached at **Exhibit “F”**.

67. The Minister’s recommendations include, among other things, that:

- a. “Part II of the *Indian Act* shall apply to the Six Nations Band of Indians”,

- b. “the Six Nations Indian Reserve be divided into Six Sections... each section containing approximately an equal number of electors”, and
  - c. “two councillors be elected to represented each of the said sections.”
68. PC 1629 concludes with the Committee “concur[ring] in the foregoing recommendations and submit[ting] the same for approval.”
69. PC 1629 makes clear that the Minister’s recommendations are based on a report from “Lt. Col. Andrew T. Thompson, K.C., a Commissioner appointed by Your Excellency in Council under date of March 20th, 1923” (the “**Thompson Report**”), a copy of which is attached at **Exhibit “G”**.
70. The Thompson Report was created under authority of a Commission dated March 20, 1923, with instructions to “investigate and inquire generally into the affairs of the Six Nations Indians, including matters relating to education, health, morality, election of chiefs, powers assumed by council, administration of justice, soldiers’ settlement and any other matters affecting the management, life and progress of the said Indians as may be required by the Superintendent General of Indian Affairs.”
71. Recommendations from the Thompson Report include the following:
- a. “The franchise should be given to all male Indians of the Band, twenty-one years of age or over. The consensus of opinion was that for the time being the franchise should not be extended to women, and since education is not yet very much advance on the reserve, in this I concur.”

- b. “As the change proposed is a radical one, time must be allowed for it to function smoothly. No doubt within a few years the proposed new form of government will be so well established that a small Council, say of five members, will be sufficient for the purpose, but for the present I think a larger number advisable.”
  - c. “The suggestion was made that each of the tribes should elect two councillors. As the Delawares are now part of the Six Nations, making in reality seven nations in all, this would give the fourteen suggested. To elect the councillors by tribes would, I think, be inadvisable.”
72. Comments from the Thompson Report, which explain the “justification” for imposition of the band council system, include:
- a. “It follows that a comparatively small number of old women have the selection of those who are entrusted with the transaction of the business of the Six Nations Indians, while the vast majority of the people have nothing what-ever to say in the choice of their public servants.”—*I note that the reference to “old women” is to the Clan Mothers which, as described above, are fundamental to the Haudenosaunee’s governance.*
  - b. “The Six Nations Indians have progressed notably in civilization. They are amongst the most advanced, if not the most advanced, of the Indian tribes, and the Indian Act might very well be amended with respect to them, in consequence.”
  - c. “I would suggest, however, that after the new Council has reached a stage of settled efficiency the Indian Act be changed to enlarge its functions, so that it may more and more approximate to the Council of a white municipality.”

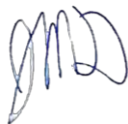
- d. “there are some eight hundred non-Christian Indians on the Six Nations Reserve. These are commonly called “Pagans”, an appellation which they strongly resent. They call themselves “Deists”, and point to the fact that they worship “The Great Spirit”, whose blessings they invoke, and to whom they return thanks. But the views of this minority, on some subjects at least, could not be considered “moral”, from the Christian standpoint, and especially is this the case with regard to marital relations. The influence of so considerable a minority in a comparatively small population is necessarily large, and no doubt contributes not a little to loose living between the sexes ... There is abundant proof that the Council of Chiefs is quite indifferent to this unfortunate state of affairs, and as their influence is great, it makes the work of the missionaries in this regard all the harder, and largely tends to destroy it altogether.”—*this comment makes clear that the Christian faith was a significant factor in the imposition of the band council system.*

73. Pursuant to PC 1629, the first election for the SNGR Elected Council was to be held on October 21, 1924 in Ohsweken. On this date, at the direction of the Superintendent of Indian Affairs, the RCMP occupied and appropriated symbols of the (HCCC) Chiefs’ authority from the Council House, including written records and wampum belts. This act constituted a forceful removal, directed by the Crown, of HCCC from the Council House in Ohsweken.

74. On November 12, 1951, the Committee of the Privy Council issued Order in Council P.C. 6015 (“**PC 6015**”), in which the Governor General in Council imposed additional rules regarding elections, including the division of the Reserve into “electoral sections”, of the

Council of the Six Nations Indian Band. PC 6015 also revoked PC 1629. A copy of PC 6015 is attached as **Exhibit “H”**.

AFFIRMED BEFORE ME at Toronto, in )  
the Province of Ontario, remotely by the )  
affiant stated as being located in the Town )  
of Ohsweken, in Six Nations of the Grand )  
River territory, this 10<sup>th</sup> day of June, 2022, )  
in accordance with O. Reg. 431/20, )  
Administering Oath or Declaration )  
Remotely )



\_\_\_\_\_  
Commissioner for Taking Affidavits  
Jack MacDonald (LSO# 79639L)



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RICHARD WAYNE HILL SR.

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This is Exhibit "A" to the Affidavit of  
Richard Wayne Hill Sr., affirmed this 10<sup>th</sup>  
day of June, 2022

A handwritten signature in blue ink, appearing to be 'RWH', is written above a horizontal line.

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Commissioner for Taking Affidavits

## Richard W. Hill

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**Address:** P.O. Box 59, Grand River Territory, Ohsweken, Ontario N0A 1M0

**Phone and Fax:** 519-445-2900

**Email:** Hayadaha2@aol.com

Citizenship: Beaver Clan of the Tuscarora Nation, Six Nations of the Grand River, Ontario, Canada.

----- **Education** -----

1991: Master of Arts Degree, State University of New York at Buffalo, Major in American Studies & Native American Studies minor.

1974-75: Media Study Center, State University of New York at Buffalo, NY, video production courses.

1968-1971: School of the Art Institute of Chicago, photography major & film minor.

----- **Educational Honors** -----

2017: Distinguished Fellow and Adjunct Faculty, Mohawk College, Hamilton, ON.

2016: Honorary Doctorate of Laws, University of Guelph, Guelph, ON.

2016: Honorary Doctorate of Laws, McMaster University, Hamilton, ON.

----- **Employment History** -----

**Present: Indigenous Initiatives Specialist, Mohawk College, Hamilton Ontario; Cultural Advisor, First Nations Technical Institute, Mohawk Territory at Tyendinaga.**

**2008-2016: Senior Project Coordinator** – Deyohahá:ge: Indigenous Knowledge Centre, an interdisciplinary archive and educational materials development centre, featuring Six Nations history, culture, art, health and languages, located at Six Nations Polytechnic, Ohsweken, ON, which opened on November 30, 2010. Deyohahá:ge conducts research, heritage language preservation; translations of historic documents, teacher training, workshops and lecture series, partnering with a variety of post-secondary educational institutions.

**2002-2012 – Educational Consultant & Lecturer**, Science and Indigenous Knowledge Curriculum; Six Nations Polytechnic, Ohsweken, ON; development of master plan for Indigenous Knowledge Centre; course developer.

**2006-2009: Cultural/Ecological Coordinator**, Joint Stewardship Board to implement agreements between the City of Hamilton and the Haudenosaunee Council of Chiefs for ecological protection and cultural interpretation in the Red Hill Valley, Hamilton, ON; Developed master interpretative plan, land trail signage, medicine plant inventories, and outdoor education strategies.



## Richard W. Hill

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**1992-1995: Assistant Director for Public Programs and Special Assistant to the Director**, National Museum of the American Indian, Smithsonian Institution, Washington, DC. As member of the senior management team, supervised the development of the philosophy, objectives and activities of three facilities; Member of planning team for program development and management of a collection storage/research facility and master planning team for the museum exhibitions on the Mall; Supervised the development of museum training programs for Native Americans and development of outreach programs to Native organizations, tribal museums and Indian education programs; Supervised the consultation process with Native People of North America; Supervised a staff of twenty with an annual operating budget of \$5 million.

**1990-92: Museum Director**, Institute of American Indian Arts, Santa Fe, NM. Supervised the development of museum management and staffing plan, educational and exhibition plan of a \$5 million museum of contemporary Indian arts that opened in June 1992; Coordinated the development of the educational mission of the museum within a federally chartered educational institution; Supervised the installation of computerized collection management system; Supervised the facility renovation, installation of security, conservation, collection management and educational facilities; Supervised the move of the collection, and associated collection inventorying to a new facility; Supervised a staff of twenty with an annual operating budget of \$2 million; Assisted in a Museum Studies Training program that offered an A.F.A. degree program to American Indians and Alaska Natives.

**1998-2003: Director, Haudenosaunee Resource Center**, Tonawanda Seneca Nation, Basom, NY. Supervise and directed several major projects that included: Land Rights Research, Treaty and Historical Research, Repatriation, Knowledge Sharing (teacher training and curriculum development), Haudenosaunee Language Retention, Whole Health Initiatives, Economic Development Planning, Communications, Nation Building, and Cultural Resource Protection; Done in conjunction with the Haudenosaunee Trade and Commerce Committee of the Grand Council of the Haudenosaunee, and coordinated with the efforts of the Tuscarora, Tonawanda Seneca, Cayuga, Onondaga Nations, as well as the Mohawk Nation Council of Chiefs and the traditional leadership of the Oneida Nation in New York.

**1984-86: Program Manager**, Indian Art Centre, Department of Indian and Northern Affairs, Canada, Ottawa, Ontario. Responsible for the development of federal policy and programs for Aboriginal artists; Supervised development of promotional exhibitions and publications of Indian art; Established contracts with Native Artists advisory committee; Edited national newsletter; Supervised the compilation of a national Indian artist biographical file; Supervised the acquisition, management and use of national collection of contemporary Native art.

**1977-81: Museum Director**, Native American Center for the Living Arts, Niagara Falls, NY. Project Coordinator, Economic Development Administration-funded construction of \$5 million fine art center; Planned, designed and installed opening exhibitions; Developed publications program; Supervised staff development and training program; Supervised program planning in library, audio-visual services, and educational programs; Developed collection management system and supervised to documentation of 5,000 object collection; Supervised the move of the collection into the new facility.

**1971-2017: Lecturer & Assistant Professor**, Native American Studies, State University of New York at Buffalo - Taught courses and graduate seminars on Haudenosaunee history at various institutions, including the Buffalo North American Indian Cultural Center, Buffalo, NY; Buffalo Museum of Science, Buffalo, NY; Hartford School of Art, Hartford, CT; James Bay Art Program, James Bay, Ontario; Institute

## Richard W. Hill

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of American Indian Arts, Santa Fe, NM; First Nations Technical Institute, Tyendinaga, ON; Mohawk College, Hamilton, ON; McMaster University, Hamilton, ON and Six Nations Polytechnic, Ohsweken, ON.

**1973-77: Research Assistant**, Buffalo and Erie County Historical Society, Buffalo, NY. Exhibition planning, design and installation on Haudenosaunee History; Established Iroquois Advisory Committee; Negotiated repatriation of human remains and sacred objects; Established Native American training program; Developed educational materials; Conducted group tours; Assisted in the relocation of the collection to a new storage facility.

### Courses Taught

State University of New York at Buffalo, NY:

- AMS 100 Indian Images on Film
- AMS 232 Survey of Native American History
- AMS 281 American Indian and the Colonist
- AMS 306 Native American Aesthetics
- AMS 179 Intro to Native American History
- AMS 272 Native American Literature
- AMS 167 Cross-Cultural Topics

State Teacher's College, Buffalo, NY:

- HIS350 – People of the Longhouse
- Native American History, 1975

McMaster University, Hamilton, ON:

- INDIG ST 1A03 Introduction to Indigenous Studies
- INDIG ST 2B03 History of Indigenous Peoples' Sovereignty
- INDIG ST 2D03 Traditional Indigenous Ecological Knowledge
- INDIG ST 3G03 Indigenous Creative Arts And Drama: Selected Topics
- INDIG ST 3K03 Indigenous Human Rights
- INDIG ST 3T03 Haudenosaunee Oral Traditions, Narrative And Culture

Mohawk College, Hamilton, ON:

- *Native American Literature*, Tekarihwake Program in the Language Studies Department.

Institute of American Indian Arts, Santa Fe, NM:

- *Indian Image on Film*

FNTI, Tyendinaga Mohawk Territory:

## Richard W. Hill

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- *Enionkwatakaritake - Indigenous Community Health Approaches Program*, Post-Graduate Certificate in Health Science from St. Lawrence College.
- *Environmental Technician Program*

Six Nations Polytechnic, Ohsweken, ON:

- *Introduction to Indigenous Studies*, Native University Program
- *In the Spirit of the Two Row Wampum*, in conjunction with Practical Nursing with Aboriginal Communities
- *Diversity in Canada*, Cultural History in conjunction with the Aboriginal Social Work Program

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### ----- *Community Service* -----

**2022 – Academic/Historic Advisor** – Nanfan Treaty Discussion Group; HCCC Research Ethics Group; Haudenosaunee Nationals Lacrosse Program.

**2021 – Six Nations Community Justice Consultant** – to development training models and handbook in community-based restorative justice.

**2021 – Educational Consultant, Six Nations Lifelong Learning Task Force** – to develop feasibility study for secondary school at Six Nations of the Grand River Territory.

**2020 – Ogwadenedeo, Six Nations Child Welfare Designation** – to develop training modules and training handbook for cultural based dispute resolution techniques.

**2012-17: Recitation of the Great Law of Peace & Decolonization Workshops, Haudenosaunee Confederacy Council of Chiefs** – Member of planning and implementation team to deliver traditional teachings at communities at Oneida, Onondaga, Akwesasne, Grand River Territories, and Tonawanda Seneca Nations.

**2014-present: Centre for Native People and the Environment Advisory Board**, State University of New York College of Environmental Science and Forestry, Syracuse, NY.

**2014 – Consulting with Healthy Roots: Homegrown Goodness initiative** of the Two Row Times, Six Nations Greenhouse and community health agencies; provided background information on Haudenosaunee nutrition; assisted in planting Three Sisters demonstration garden; lectured at community events; and consulted on a school nutrition program and gave a lecture on Haudenosaunee nutrition at a community consultation event. Served as participant in 2016.

**2012-2014 - Member of 1812 Legacy Committee** planning of an award winning a public art commemorative monument at Queenston Heights, titled *Landscape of Nations*. Six Nations artist Raymond Skye, and Toronto landscape architect Tom Ridout have been selected.

**2012-2013 - Member of the Community Advisory Panel**, Stoney Creek Battle Site commemoration that selected Six Nations artist Dave General as the winning entry.

## Richard W. Hill

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**2010-2014: Chairperson, Six Nations Legacy Consortium** to increase public awareness of the contributions of the Haudenosaunee in history, art and culture; provide increased media exposure to such and produce educational materials to advance public understanding. Collaborated with many agencies such as WNED -PBS, TV Ontario, Parks Canada, National Parks Service, Fort York, Niagara 1812 Legacy Council, Niagara Parks Commission, Heritage Canada, and Historica Canada (to produce nationally televised heritage minute on Battle of Queenston Heights, and associated curricula material)

**2012 - Planning Team**, Culturally-enriched curriculum planning, GREAT, Ohsweken, ON 2012; assist in the delivery of Leadership Programs, 2015-16.

**2010 – Haudenosaunee Peacebuilding Project Planning Committee**, to develop a community-based peacebuilding capacity development strategy for the Six Nations of the Grand River Territory.

**1998-2009: Chairperson of the Haudenosaunee Standing Committee on Burial Rules and Regulations**, to research, coordinate and execute repatriation claims of the Haudenosaunee, under the direction of representatives of the Tuscarora, Tonawanda Seneca, Cayuga, Onondaga Nations and the Mohawk Nation Council of Chiefs; Coordinate Haudenosaunee requests for repatriation under Native American Graves Protection and Repatriation Act; Cultural resource protection planning under the National Historic Preservation Act, Section 106, with consultation with various state and federal agencies including the U.S. Corps of Engineers, U.S. Army, National Guard and National Parks Service. Recovered and repatriated several hundred wampum items, hundreds of ceremonial objects, over one thousand human remains, and various burial objects.

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### ----- *Community Workshops* -----

- Presenter, *DISCOVERING YOUR POTENTIAL LEADERSHIP PROGRAM* Grand River Employment and Training, Ohsweken, ON, 2015.
- Presenter, *Six Nations Women of the Grand River Program*, GREAT, Ohsweken, ON, Fall, 2014.
- Presenter, *Community Leadership Program*, Grand River Employment and Training, Ohsweken, ON, 2014.
- Presenter, *Six Nations Cultural Experience Initiative Conference*, to develop cultural tourism for Six Nations on the Grand, ON, 2013-2014.
- Presenter, *Haudenosaunee Values*, District-wide Professional Development workshop, Woodland Cultural Centre, Brantford, ON, 2013.
- Instructor, *Meaning of Wampum Belts* workshop, Six Nations Polytechnic, Ohsweken, ON, 2011.
- Instructor, *Cultural Literacy and Oral Tradition in the Classroom*, Teacher training, Syracuse City School District, Syracuse, NY, 2003.
- Instructor, *Cultural Awareness and Lesson Planning* workshop for teachers, Tuscarora Indian School, Tuscarora Nation, via Sanborn, NY. 2001-2003.
- Instructor, *Exhibitions Planning*, Northeast Native American Museums Conference, sponsored by the Upstate History Alliance at Kanatsiohareke, Fonda, NY, 2003.
- Instructor, *Museum Exhibition Training Workshop*, Cultural Resources Center, Smithsonian Institution, Suitland, Maryland, 2000.
- Instructor, *Tribal Museum Training Program*, ATLATL, Phoenix, AZ, 2000.
- Presenter, *Museum Studies*, George Washington University, Washington, DC.
- Presenter, *Museum Studies*, Institute of American Indian Arts, Santa Fe, NM.

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- Instructor, *Native Fine Arts Program*, James Bay Education Centre, Moosonee, ON, 1990

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### ----- Webinars Developed and Delivered -----

**2016 – Conversations in Cultural Fluency** – streamed lecture series on a variety of topics in Haudenosaunee history and culture, including the Creation Story, Ecological Knowledge, Agricultural Heritage, Great Law of Peace, and Treaty History. Six Nations Polytechnic, Ohsweken, ON.

**2014: Educational dysfunction from an Indigenous perspective**, Ontario Native Literacy Coalition.

**2012-13: Engaging With Indian Communities**, a series of webinars for the Centre of Economic Excellence, Ohsweken, ON

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### ----- Museum Projects -----

**1978 – Present: Museum Consultant** on museum management, facility development, exhibition script development, educational program development, publications and multimedia presentations for variety of agencies including:

- Script Writer, *Skannah Center of Peace*, research and write exhibition script for a new interpretative centre based upon the Great law of Peace, Onondaga County Parks & Onondaga Historical Association, Syracuse, NY, 2014-15.
- Guest Curator, *War Clubs and Wampum Belts: Hodinohson:ni Experiences of the War of 1812*, exhibition at Woodland Cultural Centre, Brantford, ON, 2012.
- Script Writer, *Lacrosse Exhibition*, Akwesasne Museum, Hogansburg, NY to assist in the development of an exhibition on the history and meaning of lacrosse, write interpretative essays and conduct exhibition planning workshops, 2010-11.
- Script Writer, *Ganondagan State Historic Site*, Victor, NY to develop exhibition conceptual plan and write exhibition script for new Seneca Art & Culture Center, 2009-10.
- Development Team, *Comanche National Museum Project*, Lawton, Oklahoma to assist in the conceptual and programmatic development of a tribal museum, 2004-7.
- Development Team, *Choctaw Museum*, Choctaw, Mississippi to assist in the development of a comprehensive museum management strategy and operational handbook, 2003.
- Script Writer, *Fruitlands Museum*, Harvard, MA to survey Native American collections, develop exhibition concepts, and write exhibition script.
- Co-Curator, with Tom Hill and Peter Jemison, retrospective exhibition of works by Stan Hill, Mohawk sculptor, *Fenimore Art Gallery*, Cooperstown, NY and Woodland Indian Museum, Brantford, Ontario. 2001-2002.
- Co-Curator and Script Writer, *Spirit Capture - Photographs from the National Museum of the American Indian*, National Museum, New York, NY, 2001.
- Co-Curator, *Who Stole the Teepee*, ATLATL - NMAI, traveling Native American art exhibition, National Museum of the American Indian, Heye Center, New York City. A special National Endowment of the Arts millennium project, 2000-01.
- Co-Curator, *Indian Time, Art of the New Millennium*, contemporary Native art group show, Institute of American Indian Arts Museum, Santa Fe, NM, 2000-01.
- Cultural Consultant, *Orientation Theatre* of the National Museum of the American Indian, Washington, DC to work with a team of designers and theatrical specialists (Hilferty and

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Associates, Santa Fe, NM and Batwin and Robin Productions, New York, NY) to conceive and develop the multi-media theatre-in-the-round to welcome visitors to the new museum on the mall; and write the narrative script for the audio-visual presentation for that theatre. 1998-2000.

- Co-Curator, *Savage Truths - Realities of Indian Life*, a contemporary art installation of leading Native American artists from the U.S. and Canada, Institute of American Indian Arts Museum, Santa Fe, NM, Summer 1998.
- Co-Curator, *Gifts of the Spirit - Works by Nineteenth-Century & Contemporary Native American Artists*, traveling exhibition produced by Peabody-Essex Museum, Salem, MA, 1996 -98.
- Curator, *Tuscarora Story in Stories of the People*, Smithsonian Institution 150<sup>th</sup> Anniversary exhibition featuring six different Native American components, produced by the National Museum of the American Indian, installed at the Arts and Industries Building, Smithsonian Institution, Washington, DC. Summer 1997.
- Curator/Content Developer of the premiere exhibitions of *the George Heye Centre*, NYC; National Museum of the American Indian, Smithsonian Institution, 1994-5, including: *Creation's Journey - Native American Identity and Belief* - exhibition on treasures from the NMAI collection; *This Path We Travel* - contemporary Indian art collaborative installation; *All Roads Are Good* - exhibition on Native perspectives on the collection.
- Mall Museum Exhibition Master Planning Team, National Museum of the American Indian, Smithsonian Institution, Washington, D.C. to serve as content developer for the suite of premiere exhibitions, 1994-95.
- Consultant and Script Writer, *Aanischaaukamikw Cree Cultural Centre*, Ouje-Bougoumou, Quebec, to assist in developing concepts and storylines for the new centre, working with a team of regional cultural coordinators.
- Curator, *Contemporary Native Art*, Nippon Club, New York, NY, 1983.
- Curator, *Six Nations Seven, exhibition of Contemporary Haudenosaunee Art, Joe and Emily Lowe Art Gallery, Syracuse, NY, 1983.*
- Exhibition research, *Seneca Indian life in the last quarter of the eighteenth century*, for an exhibition at the National Museum of American History, Smithsonian Institution, Washington, D.C. to select objects and write exhibition script as part of large exhibition on life in American from 1875-1900.

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### Public History Projects

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**2022 – Essayist for upcoming book on Haudenosaunee settlement of the North Shore of Lake Ontario, working with professional archaeologist, edit by Ron Williamson.**

**2022 – Essayist and member of editorial team for upcoming book on the History of the Mohawk Institute, Canada's oldest Residential School.**

**2021-22 – Member for research team to recover, retranslate and record oral history and storytelling collected by Frederick Waugh 1900-1290.**

**2022 – Member of the Deskaheh Memorial Exhibition and Public Programming team to present the history of Cayuga Chief Levi General and his attempt to have the League of Nations address long-standing land and trust fund matter at Grand River.**

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**2016 – Key Note Speaker**, unveiling of the Landscape of Nations memorial, Queenston Heights, ON, to commemorate the role of Indigenous nations in the War of 1812.

**2015 – Co-developer and Lecturer** at the *Remembering the Pledge of the Crown Commemoration* of the 1815 Peace Council held at Dundurn Castle to end the War of 1812, with the City of Hamilton and Six Nations Tourism. Presenters included Lt. Governor Judith Guichon, Hamilton Mayor Fred Eisenberger, and Alan Corbiere (Anishinabe historian). A replica of the wampum belt that was given at the original event was gifted to representatives of the Native Nations that attended the original council

**2014 – Co-developer and Lecturer** at the 250<sup>th</sup> anniversary commemoration of the 1764 Treaty of Niagara held at Fort Niagara and Fort George; attended by the Lt. Governor Conley, and

**2014 – Juror and Historical Advisor** to “A Place of Many Grasses” a memorial dedicated to Tecumseh designed by Gordon Reeve, Thamesville, ON; wrote a dedication that is engraved in one of the interpretive markers at that site.

**2014 – Coordinator** of the commemoration of the Treaty of Fort Niagara of 1764 held at Fort Niagara, NY and Fort George, Niagara-on-the Lake, ON.

**2013-14 – Lecturer and collaborator** on Six Nations on the War of 1812 as a prelude to the site-specific performance, *The Honouring* by Santee Smith Kahawi Dance Theatre, an outdoor, multi-media dance performance; Fort York, Toronto; Woodland Culture Centre, Brantford; Fort Erie; and Fort Niagara, NY.

**July 2013 – Lecturer** at the 1813 Battle of Beaver Dams Commemoration, Thorold; research and writing of historic plaque to honor the role of the Six Nations in that key battle.

**July 23/30, 2013 – Educator** at Interpretive workshop at the site of the historic Indian Council House, Niagara on the Lake George 1797-1813; in conjunction with Fort George and Mohawk College.

**July 27, 2013 – Lecturer** on Oral Tradition of the Two Row Wampum as part of the kick-off event for the Two Row Wampum Renewal Campaign, commemorating the origins of the Two Row wampum and the first treaty with the Dutch in 1613 at Sage College, Troy, NY.

**2012-2013 – Research and Author of** historical background on the Six Nations involvement in the War of 1812 for the Six Nations Legacy Consortium website, including an illustrated historical time line; vignettes of history; and historical resources; collaborated with Six Nations teachers to produce a curriculum guide on the War of 1812.

**October 25, 2012 – Lecturer** on Six Nations involvement in the War of 1812 and displayed two actual wampum belts associated with that war at a special commemoration at Rideau Hall, with His Excellency the Right Honourable David Johnston, Governor General and Commander-in-Chief of Canada; Right Honourable Stephen Harper, Prime Minister of Canada; Minister of Aboriginal Affairs; and a Senior Military Official, who made a Presentation of a Commemorative War of 1812 Medal and Banner to forty-

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seven First Nations and Métis Communities at the same event. AFN Commemorative event, Fort York, Toronto – 400 people attended and it was televised.

**October 13, 2012 – Speaker** at the Opening Ceremonies of the War of 1812 commemoration of the Battle of Queenston Heights, along with Honourable Rob Nicholson, P.C., Q.C., Member of Parliament for Niagara Falls, Minister of Justice and Attorney General of Canada, Niagara Falls MPP Kim Craiton, Niagara Parks Commission Chair Janice Thomson, Parks Canada CEO Alan Latourelle, Ontario’s Minister of Culture, Sport and Tourism Michael Chan, and Ontario’s Lieutenant Governor David C. Onley.

**2013-14 – Educator at** Outdoor Education Summer Camp on the history and architecture of the Indian Council House that was constructed near Fort George, in conjunction with the pathfinder Program, Mohawk College, Hamilton, NY.

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### *Research Projects*

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**2014-15 – Revitalizing Haudenosaunee Culture**, a collaborative project with the American Philosophical Society and Dr. Keat Murraym and the LaDonna Harris Native American Studies Institute at the California University of Pennsylvania, to transcribe and produce a searchable data base historical texts of Haudenosaunee names collected by Mohawk linguist Charles Cooke and oral traditions originally recorded by ethnologist Frederick Wilkerson Waugh early in the 20<sup>th</sup> century.

<http://www.calu.edu/news/cal-u-review/archive/fall-2014/revitalizing-culture.htm>

**2014-15: Bundle Arrows Initiative**, a collaborative project of several Post-Secondary Regional Institutions, to define more effective ways of ensuring successful completion of college and university studies for Aboriginal students; presented on Indigenous leadership; produced report on the use of Aboriginal elders on campus.

**2014-Present: Two Row Wampum Research Project**, a collaboration with McMaster University to develop new research paradigms for improved research with Western and Indigenous scholars; conduct monthly seminars on research topics.

**2013-Present: On the Wampum Trail**, a collaborative research project with Dr. Marge Bruchac, University of Pennsylvania, PA to document the manufacture and meaning of wampum belts in various museum collections. <https://wampumtrail.wordpress.com/tag/rick-hill/>

**2014 – Background research** and review of Six Nations in WWI interpretive essays, Great War Centenary Association, <http://www.doingourbit.ca/six-nations-support-war>

**2013-2015: Great Law of Peace Research**, to assist the team of community elders and communities scholars in the recitation of the Great Law; provide background research comparing written versions of the Great Law; produced power point and research manuscript on the meaning of the wampum belts associated with the Great Law.



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**2013-14: Hewitt Translation Project**, to re-elicite historic documents in the Mohawk, Cayuga and Onondaga languages working with first language speakers and teachers of the heritage languages; produced a report on the culture of Condolence based upon these documents, their contemporary translation, and current cultural practices.

**2000-2014: Wampum Belts of the Haudenosaunee**, a research project to compile a chronical outline of the use and meaning of wampum among the Haudenosaunee, French, Dutch, English, American and Canadian allies; produced six illustrated volumes of historical references to wampum, native interpretations, illustrations and photographs of the wampum belts and strings.

**2013-2014: Conversations of the Creation Story**, a research project and report to more clearly define a cosmography of the universe as understood through the various Haudenosaunee Creation stories; and to research a more detailed analysis of the Mohawk language used in the 19<sup>th</sup> century recordings of the Creation Story at grand River; a collaboration with David Maracle, Frank Miller and Chris Montour.

**2012-13: Haudenosaunee Design Guide**, a research project to identify the changing art styles, designs, patterns and materials employed by Haudenosaunee artists, including ceramics, shell, wood, silver, beadwork, featherwork, clothing and household utensils; produced an illustrated research report on the finding.

**2000-2012: Outline History of Haudenosaunee History**, a research project to compile historic quotes and historic references to the main events in Haudenosaunee history; producing six volumes of outlines, partially illustrated.

**2009 – Haudenosaunee Outdoor Education Report, Joint Stewardship Board** and conduct roundtable discussions on implementing such a strategy.

**2004-06: Cultural Consultant, Tuscarora Nation Oral History Project**, Tuscarora Nation Environment Program, to record personal stories and assess the impact of the continuing operation of the Niagara Power Project on the culture, economy and social fabric of the Tuscarora Nation, and assess the significance of traditional cultural properties in Western New York, under a federal re-licensing program.

**2003-2005: Cultural Consultant, Seneca Nation of Indians Early Childhood Seneca Language Proficiency Program**, Language research grant, funded by the U.S. Department of Education. Along with Barry White and Lori Quigley, both of Buffalo State College, developed teaching modules for increasing language teacher effectiveness and parental involvement in the increased use of the Seneca language; Conducted monthly training sessions on cultural content to the Seneca language for teachers and parents at Cattaraugus and Allegany communities; Assisted in the development of language curriculum and language proficiency tests.

**2003-4: Researcher/Writer, Report of Education of First Nations, “Educating First Nations Citizens”** for “The New Agenda: A Manifesto For Education in Ontario,” part of a special policy analysis and proposal for change by the Union of Ontario Chiefs, Brantford, Ontario.

**2002-03: Research and writing** on Report on the State of Haudenosaunee Languages for the Haudenosaunee Resource Center.

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**2001-03: Research and writing** a series of research reports on Sovereignty, Law, Taxation and Treaties for the Haudenosaunee Resource Center.

**2000-02: Cultural Consultant**, *Genesee Valley Cultural Affiliation Project* to identify the culture affiliation to several dozen archaeological village sites within the Genesee Valley in Upstate New York, part of a research team of archaeologists, educators and Seneca Nation representatives. Sponsored by the National Parks Service at the Rochester Museum and Science Center, Rochester, NY.

**2000: Research and editing** a report on Sovereignty Conference for the Native American-SUNY Western Consortium, State University of New York at Fredonia, Fredonia, NY

**2000: Curriculum Developer Consultant**, Native American history in western New York, Buffalo Public Schools, Buffalo, NY.

**1999-2002: Cultural Consultant**, *Gowanda Central School District*, Gowanda New York, to develop and implement a Social Studies training courses for teachers who serve the Seneca Nation of Indian students in three districts in Western New York. Along with Barry White and Andrea Thomas, developed sample lesson plans, teacher resource manual, and conducted summer training program through distant learning program that reached over 200 teachers.

**1990-91: Research and writing** manuscript for publication on *Native American Housing Design Guide*, Council of American Indian Architects and Engineers, Albuquerque, NM.

**1980-82 – Consultant, writer and designer**, *Gannagaro State Historic Site Interpretive Planning Project*, funded by the National Endowment for the Humanities Museums and Historical Organizations Program for the Division of Historic Preservation, New York State Parks and Recreation, Albany, NY. The planning group's members were: George Abrams (Anthropologist), Robert Dean (Archaeologist), Rick Hill (Artist), Oren Lyons (Museologist), John Mohawk (Journalist), Corbett Sundown (Seneca Chief), Dennis Sun Rhodes (Architect), Huron Miller (Oral Historian) and Carson Waterman (Artist). The planning lead to the design of three interpretative land trails, trails signage, educational brochures, and book title *Art of Ganondagan*.

----- **Curriculum Development** -----

**2012 - Instructor**, *Teaching Haudenosaunee Science*, Six Nations schools professional development day, J.C. Hill Elementary School Ohsweken, ON.

**2012-2014 - Instructor**, *Teaching About the War of 1812*, special project to develop curriculum for all grade levels at Six Nations; workshop presenter for teachers from other district across Ontario.

**2011-2012 - Instructor**, *Bi-Cultural Science* for Six Nations Teachers to develop new curriculum based upon Indigenous science; wrote a teachers training manual for teaching Indigenous science, Six Nations Polytechnic.

**2012 - Presenter**, *War of 1812 Teacher Training Workshop*, WNED-TV, Brock University, St. Catharine's, ON.

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**2006-13: Consultant and Lecturer**, First Nations Technical Institute, Tyendinaga, Ontario, to develop cultural standards; Provide staff training; Advise on programmatic development; Assisted in the accreditation process with the World Indigenous Nations Higher Education Consortium; developed an Indigenous Environmental Technicians course; Developed a Haudenosaunee Leadership Course; Member of the curriculum development team for the development and delivery of twelve cultural-based courses for First Nations health care professionals in a graduate certificate program, *Enionkwatakaritake - Indigenous Community Health Approaches Program*, in partnership with St. Lawrence College of Applied Arts and Technology.

**2007-2008 – Curriculum developer**, *Haudenosaunee Leadership Course*, a ten week intensive training, FNTI, Tyendinaga Mohawk Territory.

**2004-06: Consultant and Lecturer**, *Teaching American History Through Haudenosaunee Eyes*, curriculum development program of Salmon River Central School, Akwesasne Museum and St. Lawrence University, 2004-2006.

**2002-04: Community Advisor**, Haudenosaunee University planning group to develop the conceptual plan for a culturally-based institution for higher education for the Haudenosaunee, with suggested curricula.

**1999-2002: Cultural consultant, Gowanda Central School District**, Gowanda New York, to develop and implement a Social Studies training courses for teachers who serve the Seneca Nation of Indian students in three districts in western New York. Along with Barry White and Andrea Thomas, developed sample lesson plans, teacher resource manual, and conducted summer training program through distant learning program that reached over 200 teachers.

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### **Art and Curatorial Projects**

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2004 - Guest Curator, *NATIVITY - Art of Alan Michelson*, Woodland Indian Museum, Brantford, Ontario, curator for one-man exhibition as part of the Planet Indigenous celebration.

2003-4 - Exhibition Planning Consultant, *Denver Art Museum*, Denver, CO to assist exhibition development team in the creation of new strategic plan for American Indian art gallery, and provide consultation with exhibit designers on the final design of the reinstallation of that gallery.

2002 - Advisory Panel Member and Essayist for *Uncommon Legacies: Native American Art from the Peabody Essex Museum - A Resource for Educators*, American Federation of Arts, New York.

2010 – 2012 - Advisory Committee, Native American Exhibition Re-installation, New York State Museum, Albany, NY.

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### **Published Works**

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*Making a New World*, Haudenosaunee Creation Story for Children, Six Nations Polytechnic, Ohsweken, ON, 2013.

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*War Clubs and Wampum Belts: Hodinohson:ni Experiences of the War of 1812*, exhibition catalogue for the Woodland Cultural Centre, Brantford, ON, 2012.

*Haudenosaunee Press Guide*, Haudenosaunee Resource Center, Akron, NY, 2000.

*Treasures of the National Museum of the American Indian: Smithsonian Institution*, four editions, co-authored with W. Richard West, and Clara Sue Kidwell, Abbeville Press, 1996.

*Creation's Journey: Native American Identity and Belief*, co-authored with Tom Hill, four editions, Smithsonian Institution Press, Washington, DC, 1994.

*Creativity is Our Tradition - Three Decades of Contemporary Indian Art*, at the Institute of American Indian Arts, with essays by Nancy Marie Mitchell, and Lloyd New, Institute of American Indian Arts Press, Institute of American Indian and Alaska Native Culture and Arts Development, Santa Fe, NM, 1992.

*After Five and On Weekends, 1991 Faculty Art Exhibition Catalogue*, Institute of American Indian Arts, Santa Fe, NM, 1991.

*Radical and Renegades – American Indian Protest Art*, Institute of American Indian Arts, Santa Fe, NM, 1990.

*Skywalkers - A History of Indian Ironworkers*, with contributions by Robert Dean, Woodland Indian Museum, Brantford, Ontario. 1987.

*Art From Ganondagan*, New York State Office of Parks, Recreation and Historic preservation, 1986.

*Legends of the Iroquois, as told through the carvings of Stanley Hill*, published by the artist, 1984.

### Published Essays

- Feature Writer on four part series on *Haudenosaunee Diversity* and two part series on *Haudenosaunee history of food and planting*, *Two Row Times*, Ohsweken, ON, 2015.
- Occasional Columnist, *Turtle Island News*, commenting on Six Nations history, culture, law and traditions, Six Nations, Ohsweken, ON, 2011-2014, including "What makes a 'real' Haudenosaunee?"
- "Linking Arms and Brightening the Chain: Building Relations through Treaties," essay in Treaty exhibition catalogue, Suzan Shown Harjo, ed. National Museum of the American Indian, 2014.
- "Red Cloud the Red Skin: Reflections on William Blair Bruce's Indigenous Encounter, essay in exhibition catalogue, Hamilton Art Gallery, Hamilton, ON, 2014.
- "The Restorative Aesthetic of Greg Staats," essay in exhibition publication, McMaster Museum of Art and Grenfell Campus Art Gallery, Memorial University, Newfoundland, 2011-12.
- "Linking Arms: The Haudenosaunee Context of the Covenant Chain," in *Mamow Be-mo-tay-tah: Let Us Walk Together*, Canadian Ecumenical Anti-Racism Network, Canadian Council of Churches, Toronto, 2009.

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- “Rotihnahon:tsi and Rotinonhson:ni: Historic Relationship between African Americans and the Confederacy of the Six Nations,” in *indivisible – African-Native American Lives in the Americas*, Gabrielle Tayac, ed, Smithsonian Institution, 2009.
- “The Institute of American Indian Arts and Contemporary Native Art,” in *Fritz Scholder: Indian Not Indian*, Lowry Stokes Sims, ed. National Museum of the American Indian, Prestel, 2008.
- “Making a Final Resting Place Final – A History of Repatriation Experiences of the Haudenosaunee,” in *Cross-Cultural Collaboration – Native Peoples and Archaeology in the Northeastern United States*, Jordan Kerber, ed. University of Nebraska, 2006.
- “NATivity – The Art of Alan Michelson” exhibition catalogue essay, Woodland Cultural Centre, Brantford, ON, 2005.
- “Roadmap for Native Museum Exhibition Planning” in Karen Cooper and Nicolasa Sandoval, eds. *Living Homes for Cultural Expression*, National Museum of the American Indian, Smithsonian Institution, Washington, DC and New York, NY. Washington, DC: Smithsonian Institution, 2006.
- “In Search of an Indigenous Place.” *The Native Universe and the Museums in the Twenty-First Century*. National Museum of the American Indian, Smithsonian Institution. Washington, DC and New York, NY. Washington, DC: Smithsonian Institution, 2005.
- “Educating First Nations Citizens” for *The New Agenda: A Manifesto For Education in Ontario*, part of a special policy analysis and proposal for change by the Union of Ontario Chiefs, Brantford, Ontario, 2004
- “The Legacy of the Fur Trade,” *Aboriginal People and the Fur Trade: Proceedings of the 8<sup>th</sup> North American Fur Trade Conference*, Louise Johnston, editor, Native North American Traveling College, Akwesasne, Cornwall, Ontario, 2002.
- “Art of the Northeast Woodland and Great Lakes” in *Uncommon Legacies - Native American Art from the Peabody Essex Museum*, American Federation of Arts, New York, NY, 2002.
- “Regenerating Identity: Repatriation and the Indian Frame of Mind,” in *The Future of the Past: Archaeologists, Native Americans, and Repatriation*, Tamara Bray, ed. Garland Publishing, NY, 2001.
- *Who Stole the Tee Pee?*, curatorial conversations with Rick Hill and Truman Lowe, Fred Nahwooksy and Richard Hill, eds. , ATLATL, Phoenix, AZ, 2000.
- Main essay, *10<sup>th</sup> Anniversary Exhibition*, The Native Indian/Inuit Photographer’s Association, Hamilton, Ontario, 2000.
- “The Museum Indian: Still Frozen in Time and Mind,” *Museum News*, American Association of Museums, Washington, DC. May/June 2000.
- “The Indian in the Cabinet of Curiosity” in *Changing Presentation of the American Indian, Museum and Native Cultures*, University of Washington Press, 2000.
- “Developed Identities - Seeing the Stereotypes and Beyond,” in *Spirit Capture - Photographs from the National Museum of the American Indian*, Smithsonian Institute Press, Washington, DC. 1998.
- “The Fine Art of Defining the Haudenosaunee,” in *Iroquois/Irokesen Art*, Christian Feest, ed., European Review of Native American Studies, Germany, 1998.
- “Savage Truths: Realities of Indian Life,” exhibition essay, Institute of American Indian Arts Museum, June 14-October 14,1998
- Co-Editor and essayist, *Creation’s Journey - Native American Identity and Belief*, National Museum of the American Indian, Smithsonian Institution Press, Washington, DC, 1997.
- “Tuscarora: Keeping the Circle of Tradition Strong,” in *Stories of the People: Native American Voices*, Smithsonian Institution, 1996.

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- "Patterns of Expression - Beadwork in the Lives of the Iroquois," in *Gifts of the Spirit - Works by Nineteenth-Century & Contemporary Native American Artists*, Peabody-Essex Museum, Salem, MA. Fall 1996.
- "Reflections of a Native Repatriator." in *Mending the Circle - A Native American Repatriation Guide*, American Indian Ritual Object Repatriation Foundation, New York, NY, 1996.
- "Light in the Forest," introductory essay in *POWWOW... Images Along The Red Road, Photographs by Ben Marra*, published by Harry N. Abrams, Inc.,
- "Beyond Stereotypes," *Portraits of Native America*, Kodansha, Tokyo, Japan, 1994.
- "The Old and the New: Different Forms of the Same Message," *Native American Expressive Culture*, Akwe:kon Press and the National Museum of the American Indian, 1994.
- "Indian Insights Into Indian Worlds," *Native People Magazine*, Phoenix, AZ, Fall 1992.
- "Three Voices for Repatriation," *Museum News*, Vol. 71, No. 5, American Association of Museums, Washington, DC, September/October 1992.
- "Neo-Native Art, New Approaches to Traditional Thinking," Exhibition catalog essay, *Revisions, Contemporary Indian Artists*, Walter Phillips Gallery, The Banff Centre for the Arts, Banff, Alberta, 1992.
- "The Non-Vanishing American Indian: Are the modern images any closer to the truth?" *Quill, The Magazine for Journalists*, Vol. 80, No. 4, Greencastle, IN, May 1992.
- "Disenchanting Reality: Indian Stereotypes in the Art World," *Northwest Ethnic News*, Vol. IX, No 3, Ethnic Heritage Council, Seattle, WA, March 1992.
- "No Tourists Allowed: Only Indians with Cameras, Please!" catalog essay in *No Borders: Works by Four North American Native Photographers*, Native Indian/Inuit Photographers Association, Hamilton, Ontario, 1991.
- "It Is A Good Day to Make Art! American Indian Protest Art," *70th Indian Market Program Book*, The Southwestern Association on Indian Affairs, Santa Fe, NM, Aug 1991.
- "Oral Memory of the Haudenosaunee: Two Views of the Two Row Wampum," *Northeast Indian Quarterly*, Cornell University, Ithaca, NY, Spring 1990.
- "The Rise of Neo-Native Expression," essay in *Our Land Ourselves: American Indian Contemporary Artists*, an exhibition organized by the University Art Gallery, University at Albany, State University of New York, University Art Gallery, SUNY Albany, 1990.
- "Photography's Next Era," essay and photographs, *Center Quarterly, A Journal of Photography and Related Arts*, CQ #42, Vol. 11, No. 2, Center for Photography, Woodstock, NY, 1990.
- "A Day in the Life of an Ironworker," short story in *New Voices From the Longhouse*, Greenfield Review Press, Greenfield Center, NY, 1989.
- "Science, Profits, and the Sacred: Despoiling Indian Graves," *Christianity and Crisis*, Vol. 48, No. 17, November 21, 1988.
- "Sacred Trust: Cultural Obligation of Museums to Native People," *MUSE*, Canadian Museum Association, Ottawa, Ontario, Autumn 1988.
- "Animal Symbols in the Art of the Hudenosaunee," *The Outdoor Communicator*, The Journal of the New York State Outdoor Education Association, Vol. XIX, No. 1, Racquette Lake, NY, Spring/Summer 1987.
- "Through the Lens Darkly," in *Visions from Contemporary Native Photographers*, Native Indian/Inuit Photographers Association, Hamilton, ON, 1985.
- "Reclaiming Cultural Artifacts," *Museum News*, American Association of Museums, 1977.

**1998-1999 – Editor, Haudenosaunee Runner**, quarterly newsletter, Onondaga Nation, NY.

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**1995-2000 – Monthly Columnist, *Niagara Gazette***, commenting on Native issues, history and culture, Niagara Falls, NY.

**1987-1989 - Art Editor and Columnist, *Daybreak – American Indian Worldviews***, a quarterly news tabloid, published by Five Rings Corporation. *Daybreak* won several design and editorial awards from the Native American Press Association, including General Excellence, Best News Reporting, Best Feature Story, and Best Design. Features included:

- “Gambling on a Future,” Spring, 1989
- “Bearing Se Native Arts,” Winter 1989
- “Pollution and Prophecy – An Ecomyopia Special Report,” co-authored with John Mohawk, Autumn 1988
- “Native Arts Guide,” Autumn 1988
- “Mining the Dead,” Summer 1988
- “Rediscovering a North American Past,” Summer 1988
- “Museum Tour of the Southwest - Travels in Indian Country,” Spring 1988
- Cover story: “Indian Art-Swimming in the Mainstream,” Spring 1988
- “Hidden Treasures of the Eastern Woodland – Travels in Indian Country,” Autumn 1987

**1990-1991 – Columnist, *Art Winds***, Institute of American Indian Arts, Santa Fe, NM:

- “Rethinking the Image of Indians,” co-authored with Cliff Laframboise, Winter 1992
- “The Nude Human Figure in American Indian Art,” Summer 1991
- “Radicals and Renegades – American Indian Protest Art,” Fall 1990

**1985 - Editor: *Indian Art Sketch Book/Cahier D’art Indien***, a special publication on contemporary Native Art, Indian art Centre, Indian and Northern Affairs Canada

**1978-1980 - Editorial Board Member and Columnist: *Turtle – Native American Centre for the Living Arts Quarterly***, and author of the following:

- Hodenosaunee Beadwork, Winter 1980
- Art of the Hodenosaunee, Spring 1979

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### Media Projects

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**2012-present:** Interviewed for a variety of television and museum productions, including TVOntario, PBS, CBC, CTV, History Chanel, Art Gallery of Ontario, War Museum and Canadian Museum of History, Ottawa.

**2014 – Panelist, *Constantly thinking about this: a reflection of Haudenosaunee worldview, mnemonic continuum, and the retention of knowledge***, with Jolene Rickard and Greg Staats, Art Gallery of Ontario, Oct 2014.

<http://www.ago.net/haudenosaunee-worldview>

**2013 – Interview, *What is Indigenous Knowledge?*** Different Knowing Project, Daniel Coleman, McMaster University, <https://www.youtube.com/watch?v=AZ6gvd-HaP8> and <http://nationtalk.ca/story/featured-video-of-the-day-rick-hill-what-is-indigenous-knowledge>

## Richard W. Hill

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**2012 - Consultant**, historic minute on Battle of Queenston Heights produced by Dominion-Historica, aired national during the commemorative period 2012-2015; consultant on a teaching guide to be used in conjunction with the production.

**2012 – Conducted research** for data base on Six Nations Veterans of the War of 1812 that was part of an interactive touch screen installation as a part of an exhibition at the Woodland Cultural Centre, Brantford, ON.

**2011 – Looking Back Lecture Series and Video posts**, presentation on Haudenosaunee gardening traditions. Six Nations Farmer’s Market,  
[http://www.sixnationsfarmersmarket.com/looking\\_back\\_videos.php](http://www.sixnationsfarmersmarket.com/looking_back_videos.php)

**2011-12 – Consultant**, “The Ruptured Sky: The War of 1812,” a digital literacy title that explores the War of 1812 from a First Nations perspective, published by Pearson Canada.

**1998-2000 – Concept and Content Consultant**, Preparation Theater, National Museum of the American Indian, Mall Museum planning. Worked with a team of audio-visual specialists and exhibition designers to conceive and develop plan for multi-media theater to welcome visitors to the new museum; with Hilferty and Associates, Santa Fe, NM and Batwin and Robin Productions, New York, NY.

**Historian Interview, A Warrior in Two Camps**, PBS documentary of the life of Ely S. Parker, with additional materials on their website <http://www.pbs.org/warrior/content/historian/hill.html>

**1998 - Cultural Advisor**, “The Great Peace - The Gathering of Good Minds CD-ROM,” Working World Training Centre, Inc., Brantford, Ontario, an interactive educational product and teacher’s guide on Haudenosaunee history, governance and art, produced by Raymond Skye and Jeff Burnham.

**1997-2000: Coordinator and Researcher**, “Iroquois Electronic Library,” a data base of information on Haudenosaunee history, culture and arts. Sponsored by the Native American-SUNY Consortium, SUNY Fredonia, Fredonia, NY.

**1995 - Cultural Consultant**, “Indian in the Cupboard,” CD-ROM, Viacom Newmedia, Los Angeles, CA. This is an interactive, multimedia educational product on Haudenosaunee history and culture produced in conjunction with the film of the same name.

**1994-95 - Consulting Producer**, *Broken Chain* a made-for-television feature length movie about Joseph Brant during the American Revolutionary War, produced by Von Zernick-Sterner Films for TNT, Atlanta, GA.

**1992 – Producer**, Interactive, multi-media video project on the history of the Institute of American Indian Arts, Santa Fe, NM.

----- **Lectures** -----

The lectures have not been updated.



## Richard W. Hill

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- Lectures presented on Native history, stereotyping, museums studies, education and art have included:
  - Idyllwild Art School, Idyllwild, CA
  - The Association of American Cultures, San Jose, CA
  - Dalhousie University Arts Centre, Halifax, Nova Scotia
  - St. Paul's College, University of Waterloo, Waterloo, Ontario
  - Wells College, Aurora, NY
  - State University of New York at Cortland, Cortland, NY
  - Everson Museum of Art, Syracuse, NY
  - Buffalo and Erie County Historical Society, Buffalo, NY
  - New York Folklore Society Conference, Rochester, NY
  - New York Archaeological Association, Bard College, NY
  - George Eastman House, Rochester, NY
  - Native Studies Program, Trent University, Peterborough, Ontario
  - New York History Conference, Wells College, Aurora, NY
  - Native American Professional Development Program, Native Outreach, SUNY College at Fredonia, Fredonia, NY
  - Harvard University Museum, MA
  - Denver Art Museum, Denver, CO
  - Stanford University, CA
  - Center for Contemporary Arts, Santa Fe, NM
  - Hamilton Art Gallery, Hamilton, NY
  - National Gallery of Art, Washington, DC
  - McMaster University, Hamilton, ON

### 2022 Lectures

- Key Note Speaker on Treaties, Laurier University, Brantford, ON
- Keynote speaker, Youth and Elders Conference, Trent University
- Keynote speaker on Treaties and Wampum, York University
- Lecture on Function of Wampum, OISE, Toronto.
- Lecture on art and the National Gallery of Art, Ottawa, ON
- Lecture on treaties, Ryerson University

### 2015 Lectures

- Lecture, *Lessons of Life from the Great Law of Peace*, McMaster Laureates of Peace lecture series, McMaster University, Hamilton, ON, Feb 2015.
- Panelist, *Decolonizing the Academy: Creating spaces for indigenous knowledge*, McMaster Seminar on Higher Education: Practice, Policy and Public Life, with Rick Monture, Noella Steinhauer, and Hayden King. <http://fwi.mcmaster.ca/story/breaking-down-barriers-to-indigenous-education/#sthash.V1O4QOvF.dpuf>.
- Lecturer, *Haudenosaunee 2040: Patriots or Sellouts?* and *Good Nutrition and Goodmindedness*, Storytellers Conference, SUNY at Buffalo, April 2015

## Richard W. Hill

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- Skype Lecturer, *Interpreting the Two Row Wampum*, Indigenous Ingenuities course, American Indian Program, Cornell University, 2015.

### 2014 Lectures

- Skype Lecturer, *Crafting Identity: the Iroquois Nationals Lacrosse program, cultural identity and political action*, Trans-National lacrosse Conference, Halifax, NS, October 2014.
- Lecturer, *Haudenosaunee Education: Experiences and Best Practices – Rick Hill, Researcher*, Six Nations Polytechnic, School of Teacher Training, Charles Sturt University, Burlington, ON, 2014.
- Lecturer, *Fort Niagara Treaty of 1764 – Wampum at the Crooked Place*, Assembly of First Nations National Conference, Halifax, NS 2014.
- Luncheon Lecture, *Cultural Teaching*, Indigenous Youth Engagement Forum, Chiefs of Ontario, Six Nations Polytechnic, January 2014.
- Lecture, *Covenant Chain*, 250th anniversary of the Treaty of Niagara, Fort Niagara, Youngstown, NY, August 2014.
- Keynote Speaker, *Intent of Traditional Haudenosaunee Art*, 2<sup>nd</sup> GRASAC Research Conference, Great Lakes Research Alliance for the Study of Aboriginal Arts and Cultures (GRASAC), Woodland Cultural Centre, Brantford, ON, June 2014. *Keynote address, Haudenosaunee Beadwork*, Annual Iroquois Beadwork Conference, Six Nations Polytechnic, Ohsweken, ON.
- Lecturer, *Teaching for Both Sides of Our Brain*, with Rebecca Jamieson, President and CEO, Six Nations Polytechnic, Ontario College of Teachers Conference, Toronto, ON, Nov 7, 2014
- Lecturer, *Who Owns Wampum?* Cultural and Heritage Institute, Centennial College, Toronto, ON, April 2014.
- Lecturer, *Haudenosaunee Nutrition, “Kahwá:tsire - Empowering New Narratives, Restoring Realities,”* 10th Annual Indigenous and American Studies Storytellers Conference, University of New York at Buffalo, Buffalo, NY, April 2014.
- Lecturer, *Turning Failure into Success: Re-examining the Roots of Educational Dysfunction*, Ontario Native Literacy Coalition Training, Ohsweken, ON, 2014.
- Lecturer, *1814 Time of Decision – Six Nations in the War of 1812, “The Niagara 1814 Campaign Symposium,”* Old Fort Erie, Fort Erie, ON, 2014.
- Lecturer, *The River Between Us – Cultural History of the Niagara River, Keynote Address*, Ontario Archaeological Society Annual Symposium, Niagara Falls, ON, October, 2013.
- Lecturer, *Wampum Iconography, “Wampum: Language and Symbol, Conversations About Indigenous Visual Culture”*, Indigenous Visual Culture Program, Ontario College of Art and Design, Toronto, ON, 2014.

### 2013 Lectures

- Lecture on war of 1812, Ontario Library Association Conference, Toronto, Jan 2013.
- Lecturer, 1812 Lecture, Hamilton Peace Group, McMaster University, Feb 7, 2013.
- Lecturer, 1812 Lecture, Haldimand Heritage Conference, Feb 12, 2013.
- Lecturer, *Double Wampum-Double Talk: The Johnson Sisters and Wampum Dispossession*, A Celebration of the Life and Legacy of E. Pauline Johnson, McMaster University, Hamilton, ON, March 2013.

## Richard W. Hill

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- Panelist, *Wampum: Language and Symbol Conference*, Indigenous Visual Culture Program, OCADU, Toronto, ON. 2013. <http://www.ammsa.com/publications/windspeaker/wampum-holds-power-earliest-agreements>
- Lecturer, *Wampum of the Tuscarora Nation*, Tuscarora History Conference, , “Nooherooka 300 and Beyond,” 300th commemoration of the battle at Fort Neyuheruke, University of Eastern Carolina, North Carolina, March 21, 2013.
- Co-presenter, *Women in the War of 1812 lecture*, with Dr. Sue Hill, Ontario Women’s History Conference, Toronto, April 2013, March 2013.
- Panelist, *Knowledge Mobilization*, Scholarship and Community Engagement panel, McMaster University, Hamilton, ON, 2013
- Lecturer, *Indigenous Ecological Knowledge*, Webinar, Aboriginal Centre of Excellence, Ohsweken, ON, September 2013.
- Lecturer, *Haudenosaunee Beadwork*, Annual Iroquois Beadwork Conference, Loyalist College, Belleville, ON, 2013.
- Lecturer, *Indigenous Medicine Plants*, Laurier University, Brantford, ON, 2012-13.
- Lecturer, *Six Nations in the War of 1812: Protocols for Waging War and Making Peace*, St. Catharines Public Library, St. Catharines, ON, 2013.
- Lecturer, *Two Row Wampum*, Queen’s University, Kingston, ON, 2013.
- Lecturer, *Wampum Belts*, Laurier Brantford Idle No More lecture, March 2013
- Lecturer, *Two Row Wampum*, Cornell University, Ithaca, NY, 2013.
- Lecturer, *Two Row Wampum*, kick- off event for the Two Row Wampum Renewal Festival, Russell Sage College, Troy, NY, 2013.
- Lecturer, *Haudenosaunee and Beaver Dams*, Beaver Dams Commemoration, Thorold, ON, June 2013.
- Keynote Address, *A Tradition of Reconciliation*, “The Meeting Place – Truth and Reconciliation Conference, Toronto, ON, 2013.
- Lecturer, *Haudenosaunee Agricultural Traditions*, Ontario Organic Farmer’s Association Conference, Guelph, ON, 2013
- Lecturer, *Hodinohson:ni knowledge and wisdom*, *Social Justice Speaker Series*, Centre for Community Research Learning and Action, Laurier University, Waterloo, ON, September 2013.
- Lecturer, *Rekindling Tecumseh’s Vision Conference*, Walpole Island, ON, 2013
- Keynote speaker, *Champions For Change Education Conference*, Six Nations Polytechnic, 2013.
- Lecturer, *Haudenosaunee Beadwork*, Annual Iroquois Beadwork Conference, Loyalist College, Belleville, ON, 2013
- Lecturer, *Indigenous Knowledge*, Nuclear Waste Industry board, Toronto, June 2013.
- Lecturer, *Life of Pauline Johnson*, Chiefswood National Historic Site, Ohsweken, ON, 2013.
- Keynote Address, *Cultural History of the Niagara Region*, Ontario Archeology Association Annual Conference, Niagara Falls, ON 2013
- Lecturer, two lectures, *Indigenous Law & Indigenous Justice*, Conference for professionals in the Legal System that impacts on Six Nations of the Grand River, Six Nations Polytechnic, November 2013.
- Keynote Address, *Round vs. Square Dance: Can Schools Survive Indigenous Ways of Knowing*, “Champions For Change Education Conference” Six Nations Polytechnic, November 2013.
- Keynote Address, *Wampum and Treaty Making Protocols*, Canandaigua Treaty Commemoration, Canandaigua, NY, November 2013.

## Richard W. Hill

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- Presenter, *Six Nations Cultural Experience Initiative Conference*, to develop cultural tourism for Six Nations on the Grand, ON, 2013.
- Keynote address, *What is Wampum?* Listening to the Wampum Symposium, Syracuse University and Skä•noñh – Great Law of Peace Center, Syracuse, NY, November 2013.
- Presenter, *Haudenosaunee Values*, District-wide Professional Development workshop, Woodland Cultural Centre, Brantford, ON, 2013.  
<http://torontoist.com/2013/04/natives-and-the-war-of-1812/>
- Lecturer, *Natives and the War of 1812*, Heritage Toronto 1812 lecture series, 2013
- Lecturer, *Haudenosaunee Creation Story*, Six Nations language Conference, April 2013.
- Panelist, “Decolonizing the Academy: Creating spaces for Indigenous Knowledge,” McMaster Seminar on Higher Education: Practice, Policy and Public Life, McMaster University, 2013.
- Lecturer, *Indigenous Education Issues*, Laurie University, Waterloo, ON, 2012-13.
- Lecturer, Three on-line webinar lectures on economic development; Indigenous knowledge and development; and working with Indigenous partners for Centre of Excellence, Ohsweken, ON, summer 2013.

### 2012 Lectures

- Presenter, *War of 1812 Teacher Training Workshop*, WNED-TV, Brock University, St. Catharines, ON, 2012
- Lecturer, *The Great Whirlwind - Haudenosaunee in War of 1812*, “The 1812 Whirlwind Conference” Six Nations Polytechnic, November 2012.
- Lecturer, *The Great Whirlwind: The Impact of the War of 1812 on the Haudenosaunee (Six Nations)*, Border Troubles and Indio-Anglo Conflicts in the war of 1812 Conference, Newberry Library, Chicago, IL, April 2012.
- Lecture, *Dish With One Spoon*, Idle No More Teach In, OISE, University of Toronto, Toronto, ON, 2012.
- Keynote speaker, *Indigenous Education Summit*, Niagara-on-the Lake, ON, 2012
- Lecturer, *Untold Stories of the War of 1812*, Grand River Heritage Conference, St. George, ON, 2012.
- Lecturer, *Honoring the Warriors Event*, Assembly of First Nations, Fort York, 2012
- Keynote address, Ontario Power Generation Board of Directors Annual Meeting, Niagara Falls, ON, 2012
- Lecturer, *War of 1812*, Lifelong Learning Centre, University of Toronto, 2012
- Lecturer, *Haudenosaunee in War of 1812*, Iroquois Conference, Cortland, NY, 2012
- Lecturer, *Wampum, War of 1812 & Current Issues*, University of Western Ontario, London, ON, 2012-13.
- Lecturer, *Wampum Belts of the War of 1812 presentation* to His Excellency the Right Honourable David Johnston, Governor General and Commander-in-Chief of Canada and the Right Honourable Stephen Harper, Prime Minister of Canada, at the War of 1812 National Recognition Ceremony for 48 First Nations and Métis communities, Rideau Hall, Ottawa, ON, 2012.
- Lecturer, *Haudenosaunee in the War of 1812*, Border Crossing Conference, hosted by the University at Buffalo in association with The Consulate General of Canada (Buffalo) and the Consulate General of the United States (Toronto), Niagara Falls and SUNY at Buffalo, 2012 & 2013.
- Lecturer, *Grand River Valley Participation in the War of 1812*, Brant Historical Society, September 2012.
- Lecturer, *Feature Presenter*, 200th anniversary of the Battle of Queenston Heights, 2012.

## Richard W. Hill

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- Lecturer, *Haudenosaunee in the War of 1812*, Newberry Library, Chicago, IL, 2012.
- Lecturer, "Protocols of Peace: Native Condolence and the Good Mind, George Gustiv Heye Center, National Museum of the American Indian, New York, NY, March 2012.
- Instructor, *Science and Indigenous Knowledge* lectures and teacher training, J.C. Hill School, Ohsweken, ON, Dec 4, 2012.

### Previous Lectures

- Instructor, *Meaning of Wampum Belts* workshop, Six Nations Polytechnic, Ohsweken, ON, 2011.
- Artist Lecture, *The Boilermakers and Ironworkers Union* exhibition, Mayworks Festival of Working People in the Arts, Beaver Hall Gallery, Toronto, ON, 2011
- Lecturer, Cayuga Language Conference, February 2011.
- Lecturer, Tribal Museum Planning/ Native American Artists Gathering, Comanche Museum Project, Lawton, OK, January 2006.
- Instructor, *Cultural Literacy and Oral Tradition in the Classroom*, Teacher training, Syracuse City School District, Syracuse, NY, 2003.
- Lecturer, *District Supervisors Summit*, cultural awareness for supervisors of school districts serving Native American communities of western New York, sponsored by Erie 1 BOCES BETAC, Buffalo, NY., February 2003.
- Presenter/Moderator, "Polishing the Chain," a series of conferences on facilitating more effective services to Native American students within the State University of New York system, Native American-SUNY Consortium, SUNY Fredonia, Fredonia, NY, 2004-06.
- Lecturer, Tribal Museum Planning, Comanche Museum Project, Lawton, OK, June 2004.
- Instructor, *Cultural Awareness and Lesson Planning* workshop for teachers, Tuscarora Indian School, Tuscarora Nation, via Sanborn, NY. 2001-2003.
- Instructor, *Exhibitions Planning*, Northeast Native American Museums, 2003.
- Presenter, District Supervisors Summit, cultural awareness for supervisors of school districts serving Native American communities of western New York, sponsored by Erie 1 BOCES BETAC, Buffalo, NY. February 2003.
- Lecturer, *Exhibitions Planning*, Northeast Native American Museums Conference, sponsored by the Upstate History Alliance at Kanatsiohareke, Fonda, NY, Oct. 2003.
- Presenter, *First Nations Language Survival Institute*, Beaver Hollow Conference Center, Java Center, NY, sponsored by Erie 1 BOCES BETAC, Buffalo, NY. March 22, 2003.
- Instructor, *Cultural Literacy and Oral Tradition in the Classroom*, workshop, Teacher training, Syracuse City School District, Syracuse, NY. June 16-17, 2003.
- Instructor, *Cultural Awareness and Lesson Planning* workshop for teachers, Tuscarora Indian School, Tuscarora Nation, via Sanborn, NY. 2001-2003.
- Instructor, *Museum Exhibition Training Workshop*, Cultural Resources Center, Smithsonian Institution, Suitland, Maryland, 2000.
- Instructor, *Tribal Museum Training Program*, ATLATL, Phoenix, AZ, 2000.
- Presenter, *Museum Studies*, George Washington University, Washington, DC, 1993.
- Lecturer, *Contemporary Native Art*, 7<sup>th</sup> Annual Oscar Howe Memorial Lecture, University of South Dakota, 1995.
- Presenter, *Museum Studies*, Institute of American Indian Arts, Santa Fe, NM.1992
- Instructor, *Native Fine Arts Program*, James Bay Education Centre, Moosonee, ON, 1990.

# EXHIBIT B

This is Exhibit "B" to the Affidavit of  
Richard Wayne Hill Sr., affirmed this 10<sup>th</sup>  
day of June, 2022

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

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Commissioner for Taking Affidavits

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**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

**ACKNOWLEDGEMENT OF EXPERT'S DUTY**

1. My name is Richard Hill, Sr. I live at Ohsweken, in the Province of Ontario.
2. I have been engaged by Gilbert's LLP to provide evidence in relation to the above-noted court proceeding.
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:
  - a. to provide opinion evidence that is fair, objective and non-partisan;
  - b. to provide opinion evidence that is related only to matters that are within my area of expertise; and
  - c. to provide such additional assistance as the court may reasonably require, to determine a matter in issue.



4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date: June 10, 2022

A handwritten signature in black ink, appearing to read "Richard W. Hill Sr.", written in a cursive style.

*Signature*

# EXHIBIT C

This is Exhibit "C" to the Affidavit of  
Richard Wayne Hill Sr., affirmed this 10<sup>th</sup>  
day of June, 2022

A handwritten signature in blue ink, appearing to be 'MJD', is written above a horizontal line.

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Commissioner for Taking Affidavits

CANADA.

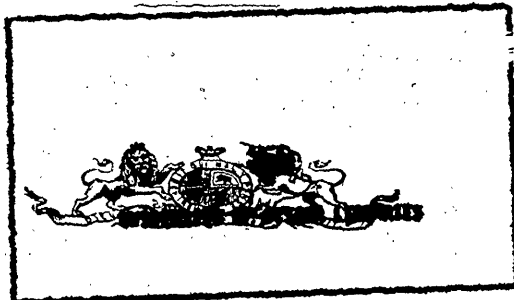
INDIAN TREATIES

AND

SURRENDERS.

FROM 1680 TO 1890.—IN TWO VOLUMES.

VOL. I.



OTTAWA:  
PRINTED BY BROWN CHAMBERLIN, PRINTER TO THE QUEEN'S MOST  
EXCELLENT MAJESTY.

1891.

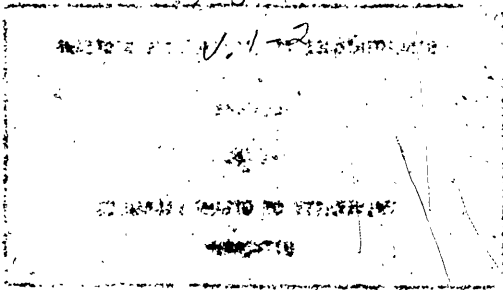


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DAVID JOHN X	[L.S.]
SENECA JOHNSON X	[L.S.]
WILLIAM BUCK X	[L.S.]
ABRAM MARACLE X	[L.S.]
JOHN GENERAL, SR., X	[L.S.]
WM. GREEN,	[L.S.]
WM. LONGFISH X	[L.S.]
JOHN FISHCARRIER X	[L.S.]
JACOB GENERAL X	[L.S.]
N. H. BURNING,	[L.S.]
JOSH. MONTURE X	[L.S.]
GEO. MONTURE X	[L.S.]
JACOB SILVERSMITH X	[L.S.]
JOHN HILL	[L.S.]
JAMES MONTURE X	[L.S.]
WM. JACOBS X	[L.S.]
ELIJAH JOHNSON X	[L.S.]
JOHN CARPENTER,	[L.S.]
JOHN BUCK X	[L.S.]
GEO. BUCK X	[L.S.]
JACOB JIMISON	[L.S.]

And we hereby certify that the above release or surrender has been assented to and executed by the Chiefs of the Six-Nations Indians.

S. I. JONES,

*Judge of the County Court aforesaid.*

J. T. GILKISON,

*Visiting Superintendent and Commissioner.*

PROVINCIAL REGISTRAR'S OFFICE,

OTTAWA, 12th January, 1866.

I hereby certify that this surrender has been duly entered on the records of this Department in Lib. C. S. of Surrenders to the Crown, Folio 265.

GEO. H. LANE,

*Deputy Provincial Registrar.*

No. 106.

FREDERICK HALDIMAND, Captain General and Governor in Chief of the Province of Quebec and Territories depending thereon, &c., &c., &c., General and Commander in Chief of His Majesty's Forces in said Province and the Frontiers thereof, &c., &c., &c.

Whereas His Majesty having been pleased to direct that in consideration of the early attachment to His cause manifested by the Mohawk Indians and of the loss of their settlement which they thereby sustained that a convenient tract of land under His protection should be chosen as a safe and comfortable retreat for them and others of the Six Nations who have either lost their settlements within the Territory of the American States or wish to retire from them to the British. I have at the earnest desire of many of these His Majesty's faithful allies purchased a tract of land from the Indians situated between the Lakes Ontario, Erie and Huron, and I do hereby in His Majesty's name authorize and permit the said Mohawk Nation and such others of the Six Nation Indians as wish to settle in that quarter to take possession of and settle upon the banks of the river commonly called Ouse or Grand River, running into Lake Erie, allotting to them for that purpose six miles deep from each side of the river, beginning at Lake Erie and extending in that proportion to the head of the said river, which them and their posterity are to enjoy for ever.

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Given under my hand and seal at arms at the Castle of St. Lewis, at Quebec, this twenty-fifth day of October, one thousand seven hundred and eighty-four, and in the twenty-fifth year of the reign of Our Sovereign Lord George the Third by the Grace of God of Great Britain, France and Ireland, King, Defender of the Faith and so forth.

FREDERICK HALDIMAND.

By His Excellency's command.

R. MATHEWS.

Registered 20th March, 1795. }  
 WM. JARVIS.

PROVINCIAL REGISTRAR'S OFFICE,  
 QUEBEC, 23rd June, 1862.

I hereby certify the within to be a true and faithful copy of the record, of the original grant, as entered in Lib. A., Folio 8 (manuscript.)

WM. KENT,  
 Deputy Provincial Registrar.

No. 107.

WHEREAS, the Chippewa Indians of Sarnia in General Council assembled upon their reserve on Wednesday, the twelfth day of December, in the year of Our Lord one thousand eight hundred and sixty-six, at which were present about one hundred of our Chiefs, Principal Men and Warriors, did covenant and agree with William Spragge, Esquire, Deputy Superintendent of Indian Affairs, for the Province of Canada, and Robert Mackenzie, Esquire, our Visiting Superintendent to surrender and yield up to Our Sovereign Lady the Queen to be sold for the benefit of our people so much of our said reserve containing about seven hundred and fifty acres, and situate immediately adjoining the Town of Sarnia as lies between the present southerly limit of the said town and the track and land set apart for the Great Western Railway, subject nevertheless upon the said lands being sub-divided into town lots to a grant being made by the Crown respectively to Chiefs Joshua Wawanosh of a town lot upon which his dwelling house now stands, to David Wawanosh of a town lot upon which his dwelling house now stands, and to William Wawanosh of a town lot upon which his dwelling house now stands, and likewise of a town lot upon which his barn now stands, and to compensation being made to them through the officers of Indian Affairs for the loss of improved lands to be given up by them for sale, situate upon the lands comprehended by this surrender, and in consideration likewise of there being relinquished, and which has been destroyed, a certain quit-claim deed executed by the Chippewas of Sarnia comprehending two hundred acres of land forming the north westerly part of the said reserve. Know therefore all men by these presents that we, Joshua Wawanosh, David Wawanosh, William Wawanosh, George Aishquagonaby, Thomas Nahyahaquodt, Jacob Pethadick, Antoine Rodd, Francis Laviar, Nicholas Plain, John Johnston, William Wabuck, Isaac Shahwaknoo and David Sappah, the Chiefs, Principal Men and Warriors of the Sarnia Indians, do hereby by and with the consent of our people and on their behalf hereby convey surrender and yield up to Our Sovereign Lady the Queen Her heirs and successors absolutely and for ever so much of the said Sarnia Reserve comprising about seven hundred and fifty acres, as lies as aforesaid between the southerly limit of the Town of Sarnia and the track, and land appropriated and used by the Great Western Railway, subject to the conditions aforesaid, and likewise that the interest to be derived from the proceeds of the said lands when sold, shall be divided and paid over to our people at semi-annual periods at the same time as it is the custom to pay our annuities and interest monies.



# EXHIBIT D

This is Exhibit "D" to the Affidavit of  
Richard Wayne Hill Sr., affirmed this 10<sup>th</sup>  
day of June, 2022

A handwritten signature in blue ink, appearing to be 'RWH', is centered below the text.

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Commissioner for Taking Affidavits



## Registered Population

**Official Name** Six Nations of the Grand River**Number** 121

Registered Population as of May, 2022

Residency	# of People
Registered Males On Own Reserve	0
Registered Females On Own Reserve	0
Registered Males On Other Reserves	0
Registered Females On Other Reserves	0
Registered Males On Own Crown Land	0
Registered Females On Own Crown Land	0
Registered Males On Other Band Crown Land	0
Registered Females On Other Band Crown Land	0
Registered Males On No Band Crown Land	0
Registered Females On No Band Crown Land	0
Registered Males Off Reserve	1
Registered Females Off Reserve	0
<b>Total Registered Population</b>	<b>1</b>

**Date modified:**

2021-12-07

# EXHIBIT E

This is Exhibit "E" to the Affidavit of  
Richard Wayne Hill Sr., affirmed this 10<sup>th</sup>  
day of June, 2022

A handwritten signature in blue ink, appearing to be "RWH", is written below the text.

---

Commissioner for Taking Affidavits



# HAUDENOSAUNEE

MOHAWK - ONEIDA - ONONDAGA - CAYUGA - SENECA - TUSCARORA

ONONDAGA NATION - VIA BOX 319-B NEDROW NEW YORK 13120

## HAUDENOSAUNEE GRAND COUNCIL REITERATES POSITION ON ELECTED COUNCILS

For Immediate Release  
Onondaga, May 16<sup>th</sup> 2013

Greetings from the Chiefs, Clanmothers, Faithkeepers, and people of the Haudenosaunee Six Nations Confederacy – People of the Longhouse.

The Grand Council of Chiefs would like to take this time to remind its citizens of the Haudenosaunee position on imposed elected Band and Tribal councils and our proposed remedy to standardize governance within the domain of the Haudenosaunee Confederacy.

From the moment elected councils were imposed in our communities, its primary intent was to abolish the strength and national character of our traditional governments and to assist in the enfranchisement and assimilation of the Haudenosaunee into the national fabric of both Canada and the United States. It has since been the position of the Haudenosaunee that elected councils imposed by either Canada or the United States, exist outside the Circle Wampum. No one person or nation can bring into the Circle another form of governance without the full expressed acceptance of the Grand Council

The Circle Wampum makes the line between traditional councils and elected councils clear and distinct; the traditional councils are the original governments of the Haudenosaunee communities/nations handling national affairs, while the elected councils are imposed systems of the Indian Act in Canada and Federal Indian Law in the United States for the administration of colonial policies in each community. Within recent years however, these elected councils have begun commandeering the distinct symbols, philosophies, and national character of the Haudenosaunee Confederacy – thus misrepresenting themselves to external agencies and the limiting the significance of the Haudenosaunee as an original Indigenous system of governance.

Whether it is reference to the Two Row Wampum, treaties, nation-to-nation relationships, or the subtle implication that these elected councils are somehow synonymous with the Haudenosaunee Confederacy or the Traditional Councils; this ambiguity has now perpetuated a false impression and confusion both externally and internally that elected councils are actually a part of the Haudenosaunee Confederacy.

Most recently, these elected councils have endeavoured into the international arena, a domain populated by nations and states, through a formal entity called the Iroquois Caucus, National Congress of American Indians (NCAI), and The United Southern and Eastern Tribes (USET). Since 1977, the Haudenosaunee have pioneered the indigenous presence at the United Nations and other international venues, leading towards the UN Declaration on the Rights of Indigenous Peoples; a presence the Iroquois Caucus, NCAI, and USET endeavours to supplant by perpetuating itself as the legitimate voice of our communities internationally and will act in the interest of their colonial masters Canada and the United States.

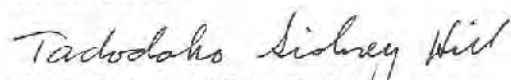
The Grand Council of Chiefs feels that it can no longer remain acquiescent on this matter and must insist that the appropriation of the Haudenosaunee national character cease. Furthermore, the Grand Council of Chiefs must relay to its neighbours that the Iroquois Caucus and its tributary elected councils, along with both the NCAI and USET, do not represent the Haudenosaunee or its member nations. While the Grand Council of Chiefs feels that it must be firm on this matter, our council reminds elected councils of the Haudenosaunee remedy to standardize governance in our communities under the Kaianere'kó:wa (Great Law of Peace).

In 1991, the Haudenosaunee Chiefs outlined its prerequisites to begin meaningful dialogue on how we can all live by the principles and laws of the Kaianere'kó:wa, within the Longhouse of the Haudenosaunee Confederacy. At that time, Haudenosaunee Chiefs asked the elected councils to respect and recognize its authority over eight political areas it historically claims jurisdiction over. While we understand that at this time Canada and the United States only recognize the legitimacy of elected councils, we feel this will never change so long as our own people wilfully accept this colonial imposition. The Grand Council of Chiefs remains steadfast to this necessary show of good faith and is prepared to begin the necessary work to help decolonize the political structures in each of our communities.

This issue is challenging in many ways because of the personal impact this has on individuals who have a heartfelt connection to the Haudenosaunee and wish to express it in ways that they think is helpful. What is not realized is that by representing the Haudenosaunee within colonial constructs it furthers the colonial agenda of Canada and United States. The elective systems are foreign entities that are colonizing the culture by misappropriation. Placing our teachings, laws, and symbols within the colonial construct of the elective band council system is morphing decolonization into a meaningless apparition of cultural revitalization and transformation.

The Kaianere'kó:wa is based upon inclusivity, peaceful coexistence, and strength through unity – bound by laws that ensure a democratic and consensual decision-making process . The Grand Council of Chiefs makes no judgments of the moral character or sincerity of those individuals who currently serve as elected councillors, but we do encourage them to bring their gifts, skills, and dedication back into the canoe and take shelter beneath the Great Tree of Peace. Bound together by the good tidings of peace and power, we can be stronger than ever.

Da•ne'thoh,

  
Chief Sidney Hill, Tadodaho

# **EXHIBIT F**



This is Exhibit "F" to the Affidavit of  
Richard Wayne Hill Sr., affirmed this 10<sup>th</sup>  
day of June, 2022

A handwritten signature in blue ink, appearing to be 'MJD', is written above a horizontal line.

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Commissioner for Taking Affidavits



Revoked by P.C. 6015, 12-11-51

The Committee of the Privy Council have had before them a memorandum, dated 15th September, 1924, from the Superintendent General of Indian Affairs, submitting that he has received a report from Lt. Col. Andrew T. Thompson, K.C., a Commissioner appointed by Your Excellency in Council under date of March 20th, 1923, "to investigate and inquire generally into the affairs "of the Six Nations Indians, including matters relating "to education, health, morality, election of chiefs, "powers assumed by council, administration of justice, "soldiers settlement and any other matters affecting the "management, life and progress of the said Indians as "may be required by the Superintendent General of Indian "Affairs", in which report the Commissioner deals with the matter of the election of chiefs as follows:

"The Council of Chiefs is composed of men not 'elected', but appointed.

The right to a seat in the Council is vested in certain families.

The Chieftainship does not go to any particular male member of the family, but to some one of these, selected for the purpose.

In their form of Government the Six Nations have no written constitution. Their procedure rests upon long established custom, but as the knowledge of this has been transmitted by word of mouth only from generation to generation, it is impossible to ascertain the facts with exactness.

*the dep. Director 18 Sept 24*

That the right to chieftainship is confined to a few families, and is hereditary in principle, all are agreed, and further that the nomination of the chief is a prerogative of the women of the family concerned. At this point, however, the evidence of the witnesses varied somewhat. Some maintained that the right of nomination belongs to all women of the family, with a final say, in case of disagreement, in the oldest woman thereof. Others maintained that the oldest woman alone has the right to nominate. The difference is not of very much importance, for after all the oldest woman of the family has the say, whether with or without consultation with the other women.

This family right to a seat in the Council is much cherished, and jealously guarded. It not infrequently happens that the number of males in the family concerned has become very small, with a limited choice in consequence. As a result men are sometimes sent to the Council who are grossly ignorant, and more than one witness alleged that even those mentally unsound had been sent there, in order that the chieftainship should be maintained in the family concerned.

It follows that a comparatively small number of old women have the selection of those who are entrusted with the transaction of the business of the Six Nations Indians, while the vast majority of the people have nothing whatever to say in the choice of their public servants".

The Commissioner states after full consideration of the subject that he is convinced "that those advocating a change in the system of government have fully established their contention, and that an elective system should be inaugurated at the earliest possible date".

In consideration of this report and recommendation and in view of the fact that this Band is considered fit to have Part II of The Indian Act, entitled "Indian Advancement" applied to it, the Minister recommends that from and after the date hereof, the said Part II of the Indian Act shall apply to the Six Nations Band of Indians.

The Minister further recommends that the Six Nations Indian Reserve be divided into Six Sections as shown on the blue print of a plan of the reserve attached

hereto marked "A", each section containing approximately an equal number of electors, and that two councillors be elected to represent each of the said sections.

The Minister also recommends that the electors shall meet for the purpose of electing the members of the Council of the reserve on Tuesday the 21st day of October, 1924, at the Council House, Ohsweken, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon.

The Committee concur in the foregoing recommendations and submit the same for approval.

*W. Macleod King*

Approved.

*Byrd of King*

17-9-24



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DATE : <i>[Date]</i>

# **EXHIBIT G**

This is Exhibit "G" to the Affidavit of  
Richard Wayne Hill Sr., affirmed this 10<sup>th</sup>  
day of June, 2022

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

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Commissioner for Taking Affidavits

DEPARTMENT OF INDIAN AFFAIRS

HON. CHARLES STEWART, SUPERINTENDENT GENERAL

DUNCAN C. SCOTT, F.R.S.C., LL.D., DEPUTY SUPERINTENDENT GENERAL

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REPORT

BY

COL. ANDREW T. THOMPSON, B.A., LL.B.

Commissioner to investigate and enquire into

the affairs of the

SIX NATIONS INDIANS

1923





## SIX NATIONS INDIANS

OTTAWA, November 22, 1923.

To the Honourable

The Superintendent General of Indian Affairs,  
Ottawa, Canada.

SIR,—Herewith I have the honour to submit the report of my investigation and inquiry into the affairs of the Six Nations Indians, under authority of a Commission issued to me dated March 20, A.D. 1923, based upon P.C. 44/506, by which I was instructed "to investigate and inquire generally into the affairs of the Six Nations Indians, including matters relating to education, health, morality, election of chiefs, powers assumed by council, administration of justice, soldiers' settlement and any other matters affecting the management, life and progress of the said Indians as may be required by the Superintendent General of Indian Affairs."

As you, sir, have given me no further instructions as to "other matters affecting the management, life and progress of the Six Nations Indians," my report is confined to matters of "education, health, morality, election of chiefs, powers assumed by council, administration of justice, soldiers' settlement," and some minor matters closely connected with these subjects.

Permit me to say that every possible effort was made to elicit facts and the views of all those Indians willing to express themselves on the matters involved.

For several weeks previous to the first formal hearing I spent much time reading books, pamphlets and departmental files likely to throw light upon the questions submitted for my investigation. I also travelled extensively over the reserve, interviewing men and women of all classes of the community, observing the condition of the schools and homes, and also carefully studying the roads and drainage system.

Some days previous to the first hearing a large bill notice was widely posted up throughout the reserve, in the following words:

(Coat of Arms)

### NOTICE

Under and by virtue of the authority vested in him by

THE GOVERNOR GENERAL OF CANADA IN COUNCIL,

LIEUT.-COLONEL ANDREW T. THOMPSON

will proceed to investigate and inquire into the affairs of the  
SIX NATIONS INDIANS

including matters relating to

Education

Health

Morality

Election of Chiefs

Powers assumed by Council

Soldier Settlement

Administration of Justice

and any other matter affecting the management, life and progress of the said Indians as may be required by the Superintendent General of Indian Affairs.

LIEUTENANT-COLONEL THOMPSON  
will commence his investigation at  
OHISWEKEN AT ELEVEN O'CLOCK

in the morning of Tuesday, September 18, at which time and place all those interested in the above matter are cordially invited to be present that they may be heard with reference to the same.

ANDREW T. THOMPSON,  
*Commissioner.*

In my personal interviews above referred to, I learned that a number of Indians, while anxious to give evidence, were very timid about doing so, because of acute political differences existing upon the reserve, and the consequent fear that a frank statement of facts and expression of opinion might lead to serious results. I was urged to take all evidence submitted under oath *in camera*, and this suggestion I adopted.

To supplement the information so obtained, a number of open meetings were held at Ohisweken, at which all were invited to express their views. This invitation was widely accepted. No man or woman was denied a hearing, and the open meetings were not discontinued until all desirous of a hearing had been heard.

I shall now deal with the questions submitted to me in the order in which they are named in my Commission.

## EDUCATION

There can be no doubt that the Six Nations Indians have made very substantial progress in the matter of education during the last twenty-five years.

They are a people of very quick intelligence, and quite as capable of assimilating education as are their white fellow-citizens. However, it must never be forgotten that they have not enjoyed the opportunities of the whites for a lengthy period, and are still working under decided handicaps.

A large number of the Indians, both men and women, are keenly alive to the benefit of education, and ready and willing to make sacrifices to obtain it. They are, none the less, a poor people, and so find themselves quite unable to give to their children that higher education so easily obtained in white communities.

In spite of all their disadvantages, quite a number among them have become qualified school teachers, a few have graduated from universities, and others have become members of the learned professions.

There are at present eleven schools upon the reserve, with the Mohawk Institute, situate in Brantford, serving as a residence, vocational and academic school, training, for the most part, orphan children, deserted children, and the children of the extremely poor.

Let me deal first with the question of the schools on the reserve.

They are at present managed by a school board, consisting of five Indian members, appointed by the Council of Chiefs, two white members, one representing the New England Company, and one doing missionary work upon the reserve, with the agent at Brantford acting as chairman.

From my investigation I am quite convinced that this Board is inefficient, and should be abolished.

I recommend that each school section elect a board of school trustees, to manage the affairs of the section, with the agent at Brantford to supervise the whole. I am convinced that in this way keen local interest will be aroused, with a corresponding improvement in present conditions.

The attendance of children at the schools is entirely unsatisfactory. This I learned from the evidence of the school teachers themselves, from the evidence of the truant officer, and from personal observation. I believe that at the present time this condition is very much worse than it was some two or three years ago. This is no doubt attributable to the unrest which has been so prevalent during that period, an unrest which has brought in its train quite widespread disregard for authority. Truancy laws have not been enforced—no doubt a few prosecutions, by way of example, would produce a most valuable result.

The present truant officer, Mr. John Lickers, is a capable and earnest official, but conditions have been too much for him. Even under normal circumstances, I consider the whole reserve far too large a territory to be administered by one man alone. In my opinion each school section should have a truant officer of its own. A small salary would secure the necessary service, and I do not think the expense would be much increased by the proposed change. In this connection I wish to say that the suggestion was made to appoint some women as truant officers. It was pointed out that the mothers of the children have really more to do with the attendance than do the fathers, on the reserve, and that a woman truant officer could do more in enlisting their cordial support than could a man. The suggestion seems to have some merit, and it might be well to give it a trial, should an officer for each section be appointed.

Sanitary conveniences are not at all what they should be. It appears that at some of the schools neighbouring farmers water their cattle at the school well or cistern during the winter months, fouling the ground, and leading to serious danger of water contamination.

Some system of individual drinking cups should undoubtedly be provided. At present, in several of the schools at least, one drinking cup does service for all the children, with an inevitable spread of disease. The lavatory accommodation is also entirely inadequate. Small plants are to-day being supplied to country people for individual residences at a cost of a few hundred dollars each. I think it would be quite possible to install similar conveniences in the various schools.

When I deal with the question of health I shall have something to say as to the appointment of a qualified nurse to work in conjunction with the resident physician at Oj.sweken. Should such an one be appointed, I strongly recommend regular periodical visits by her to the various schools, that she may keep a constant eye upon the sanitary conditions and upon the health of the children attending. Such supervision would undoubtedly lead to the cure of many troubles in their incipient stages, which if neglected, would become chronic, and lead in due course to unhealthy men and women. In addition, it would be a protection to healthy children from the dangers of infection.

The question of duly qualified teachers is one of great importance. In this connection it must be noted that conditions on the reserve are not so attractive as in the majority of white communities throughout rural Ontario. The roads are bad during the winter months, and almost impassable during the late fall and early spring. There are no large towns or villages upon the reserve, and resident teachers are, in consequence, cut off from the social advantages which such supply. There are not, as yet, sufficient qualified Indian teachers to supply all the schools, and incoming white teachers are not so contented in an Indian community as they would be among people of their own blood.

Boarding accommodation, too, in some of the school sections, is not at all of the best, and in two or three of them, is not to be had. These two or three sections are in contiguous localities. The suggestion has been made that one teachers' house might be erected for the residence of the teachers in these sections; the matter seems worthy of consideration.

Taking these various handicaps into account, the teaching staff on the reserve might be very much worse. Because of them, it has been impossible to

engage duly qualified teachers throughout, but the majority of them hold the proper certificates, and are an earnest and capable lot of men and women.

It was alleged at the inquiry that the salaries paid were lower than those received by teachers in white rural communities. I have looked into this matter since the close of the public hearing, and do not find the allegation sustained.

Several teachers complained of the impossibility of procuring school books and equipment promptly. I understand that these supplies are sent from Ottawa on requisitions approved and forwarded by the agent at Brantford, and it is said that vexatious delays result. On the other hand, it is but fair to state that officials of the Indian Department say the trouble arises because teachers do not file their requisitions reasonably ahead of their requirements, but wait until their actual need is upon them, before doing so. I have not been able to reach a conclusion as to the rights of the matter, but some friction undoubtedly exists, and I recommend that an ample supply be maintained in the Indian office at Brantford, for immediate issue on the receipt of requisitions.

School fairs, already somewhat in vogue, should be encouraged and extended, as should also school sports. All healthy competition and amusement tending to increase the pleasure of the children at the schools will have most beneficial results, and is a much better method of procuring satisfactory attendance than is the threat of a truant officer.

I come next to the question of education subsequent to that at the reserve schools. This is a matter of very considerable difficulty. As I have already pointed out, there is no large village or town upon the reserve, and there is no high school situate there. As a consequence, children seeking higher education must perforce attend schools in the neighbouring white centres—Hagersville, Caledonia, and Brantford. Most of them live too far away from these points to go back and forth daily, and that means the necessity of boarding where the school is. The people on the reserve are not well off, and but very few of them could afford this outlay if unaided. At the present time a grant of \$100 is made to each child attending high school. Even with that assistance the Indian parents must find some \$200 more to meet the total expense. With many, eagerly anxious to give their children these benefits, this is an impossibility, while many more can afford to send but one child, where they would gladly send more.

To meet the situation it has been suggested that a continuation school be established on the reserve. By reason of its location, Ohsweken would seem to be the only place for such an institution. But Ohsweken is a very small village, and almost totally without accommodation for boarding school children. The majority of those who would attend such an institution are too remote to drive back and forth daily, so, unless residence accommodation were also provided, this would be an impracticable scheme.

I have obtained a careful estimate of the probable expense of a continuation school with residence, upon the reserve. The annual expense of operating such an institution would be about as follows: Salaries, \$5,500; upkeep of plant, \$1,500; fuel, food, etc., \$8,500, a total of \$15,500. These figures are based on a three teacher school, with one matron, and fifty pupils in attendance, and provide for a residence for girls only. In my opinion a residence for boys would be equally necessary, and that would very largely increase the above estimate. The capital expenditure for the erection of the necessary building would be very considerable indeed. Of course, the parents of resident pupils might contribute somewhat toward their support, but even allowing for such a source of revenue, the net current expense would be heavy.

There is another important feature to be considered. The Indians themselves, who discussed with me this question of a continuation school, were unanimously of the opinion that it was very much to the advantage of their children to attend the white schools, and there to mingle with the white children. As one Indian put it, "We do not wish to be a people apart, we want our children to grow up good Canadians like the rest."

This seems to be a point well taken. The Indians cannot live advantageously as a separate community. They are a small handful of people, only some forty-six hundred in number, surrounded by densely settled white districts with which they must constantly have dealings. It is, therefore, of the utmost importance to them, that their young folk should grow up on terms of friendly intimacy with the young white folk of their neighbourhood, and to this end the attendance at the white schools materially contributes.

I do not think that the present grant of \$100 per pupil for Indian children attending high schools, is sufficient. I think it should be materially increased. Nor should it, in my opinion, be paid at a flat rate. Some of the children are close enough to the white schools to go back and forth daily; these should not receive as much assistance as those who are compelled to board in the towns.

At the present time thirty-five Indian children are in receipt of these grants for high school education, and in addition \$1,600 is paid to the Boards of the high schools attended; besides these, fourteen pupils are receiving grants, totalling \$2,300 for vocational training. The expense is divided between Parliamentary appropriation and Six Nations funds, and it will be seen that the forty-nine students are at present costing \$7,400 per annum. I understand that no contribution is made from Indian funds towards the fourteen pupils undergoing vocational training. To my mind, this vocational training is quite as important as the high school instruction, and the distinction made should disappear.

It will be seen from the above figures that a substantial increase could be made to the present aid granted, and that the total expenditure would still be very considerably less than that entailed by the establishment of a continuation school, with residence upon the reserve.

The Mohawk Institute, situate in Brantford, already referred to, performs a function quite apart from the general educational system. As I have stated, it provides vocational and academic training for orphans, for deserted children, and for the children of the very poor. This function is necessary, and must not be interfered with. At the present time its accommodation is nearly all taken up by children of this class. However, it might be advisable to construct a dormitory wing for the use of high school pupils attending in Brantford. A very small addition to the present staff would no doubt be quite sufficient to manage these new residents of the Institute. Such a dormitory would accommodate promising children of the very poor who, at present, even with the Government aid, are quite unable to attend high schools.

## HEALTH

The health of the Six Nations Indians is very far from being as good as it should be.

It must never be forgotten that these Indians are, in the main, a poor people, and good health and poverty never travel hand in hand. With a majority proper sanitary conveniences are entirely lacking, while ignorance of sanitation and indifference to it are widespread.

The Indian is by nature a Stoic, and will much more willingly endure the discomforts and pain caused by disease than go to the trouble of seeking remedies to defeat it.

In spite of all this many of the Indians have cleanly and sanitary homes, and there is a strong and growing desire upon the reserve for better conditions all round. The time appears very favourable for an advanced policy in matters pertaining to health. Asked as to the most prevalent diseases among the Indians, a physician who practices extensively among them replied: "Pneumonia, tuberculosis, and some venereal, rheumatism, neuralgia, and autointoxication; there is also a lot of communicable skin disease largely caused by uncleanness." It will at once be apparent that better sanitary conditions would go far to abate a number of these troubles.

The same physician deposed that "It is difficult to get them to carry out prescribed treatment, and to observe quarantine. For instance, last fall I treated six cases of diphtheria, and in my opinion there need only have been two, but for visiting back and forth. . . . I think if some example were made for breach of quarantine and other health laws it would have a good effect. I also think that instruction in the schools along health lines would have a good effect." He was asked, "Do you think that lectures given from time to time by the reserve doctors on such subjects as infection, sanitation, first aid, care of infants etc. would be of advantage?", to which he replied "To some extent, yes. I know there are a number of intelligent Indians anxious to profit by information of this kind."

I am of the opinion that lectures of the kind suggested as a part of a general health propaganda would be of considerable benefit. Some years ago tuberculosis was much more prevalent than at present. An active campaign was undertaken to instruct the people in the best means of combating this dread disease. Overcrowding in houses was vigorously attacked, cleanliness urged, the advisability of precautions against the effects of contact pointed out, suggestions made as to proper food, etc., with the fortunate result above indicated. I fear that the fight against the great white plague has somewhat slackened, its novelty having worn off, and I strongly urge that steps be taken once more to arouse the interest of the people in this struggle against the great scourge of American aborigines.

Dr. Greenwood, until very recently the resident Government physician upon the reserve, and who for some years held that post, pointed out that venereal disease, especially syphilis, was far more prevalent there than in white communities. He ascribed this, in large part, to the unwillingness of the Indians to undergo the long course of treatment necessary to effect a cure, to uncleanness, and to gross disregard of all means to prevent contagion. He stated that he had brought about some prosecutions under various health laws in this connection, but that the magistrates trying the cases seemed quite oblivious to the seriousness of the matter, dismissing the accused with penalties so light as to destroy what should have been the benefits of the proceedings. The matter is one of great importance not only to the Indians themselves, but also to the people of the neighbouring white communities. I strongly recommend that steps be taken to enforce the health regulations to the full. In this connection I think that the Indian agent at Brantford should keep in close touch with the resident physician at Ohsweken, and should institute prosecutions when informed by the latter that the law as to health is being broken. No doubt a few examples would have an excellent effect. The suggestion is made not only in the interest of the diseased themselves, but also for the benefit of the innocent who are in constant danger of contamination. Communicable skin disease has already been mentioned as prevalent on the reserve. From this very many of the school children suffer, as do they also from inherited venereal troubles. In my remarks upon education I pointed out the lack of proper sanitary conveniences in the schools. One can readily imagine the spread of disease where all the children drink from a common cup, and where there is a complete lack of facilities for washing and general cleanliness.

I recommend that a properly qualified nurse be appointed with residence at Ohsweken, to assist the resident physician there, one of whose duties it shall be to visit the schools at brief intervals, supervising sanitary conditions, and examining into the health of the children in attendance. Such an instructed visitor would discover many a trouble in its early stages, and by reporting to the physician not only effect the cure of the sufferer, but also in contagious cases, prevent the spread of the disease. In my opinion this is a matter absolutely vital to improved health conditions on the Six Nations Reserve.

I do not consider the present medical staff sufficient for its purpose. It consists of one resident physician, living at Ohsweken, with one assistant, the

latter not a fully qualified practitioner, while at times this assistant is not to be had. It is quite impossible for such a personnel adequately to attend to forty-six hundred people, scattered over a wide area, in a country where the roads in the late fall and early spring are almost impassable for horse-vehicles, let alone motors. As a matter of fact Indians living remote from Ohsweken and near Hagersville and Caledonia usually employ physicians from those towns at their own expense. Since the resident physician is paid from the funds of the whole band this is an unfair discrimination. It has been suggested that a physician be appointed in each of these places to do Indian practice, not upon a fixed salary, but to be paid for work actually done. The scheme undoubtedly presents difficulties, but is worthy of consideration; it should not be impossible to work out a plan which would give better all-round medical attendance, and remove the unfair discrimination at present existing. Should the patient and the Government each be required to pay a part of the expense, there would at least be some check upon unnecessary calls upon the physician.

### MORALITY

Standards of morality vary with time and with peoples. Webster gives a broad definition—"Conforming to the standard of right"—but what one community may regard as a "standard of right" another may regard as a standard of wrong. For instance, Indians, before they were converted, regarded revenge as a sacred duty, a doctrine quite contrary to Christian teaching. There are some eight hundred non-Christian Indians on the Six Nations Reserve. These are commonly called "Pagans," an appellation which they strongly resent. They call themselves "Deists," and point to the fact that they worship "The Great Spirit," whose blessings they invoke, and to whom they return thanks.

But the views of this minority, on some subjects at least, could not be considered "moral," from the Christian standpoint, and especially is this the case with regard to marital relations. The influence of so considerable a minority in a comparatively small population is necessarily large, and no doubt contributes not a little to loose living between the sexes.

In consequence married people frequently separate and take up with others, rearing families of illegitimate children. One or two of the witnesses referred to the prevalence of bigamy upon the Reserve, and advocated prosecution of the guilty, but I do not think that this crime is at all common, mainly for the reason that the husband or wife who has deserted his or her legal partner seldom takes the trouble to go through the form of marriage with the new companion. One of the missionaries living on the reserve gave evidence that many Indians live together as man and wife without ever having contracted marital relations with any one. This is not bigamy, though immoral, according to Christian ethics.

I believe that the clergymen living upon the reserve, commonly called "missionaries" there, are doing what they can to abate this practice, but it is so prevalent and has been so long in existence that they seem to be making little progress in this direction.

There is abundant proof that the Council of Chiefs is quite indifferent to this unfortunate state of affairs, and as their influence is great, it makes the work of the missionaries in this regard all the harder, and largely tends to destroy it altogether.

The better element upon the reserve, and it is by no means small, feels keenly this moral degradation of the people, and is anxious for betterment. Indian after Indian referred to it with regret, and various suggestions were made looking toward improvement. To one of the Indians examined this question was put: "Do you think the morality of the people, especially with regard to the relations between the sexes, can be improved?", to which he replied:—

"Yes, it is a very bad example to the rising generation to see men deserting their lawful wives and children, and taking up with other women and raising illegitimate children. I think men who do this should be followed up sharply and made to support those whom they have deserted. This would not stop the practice altogether, but it would tend to lessen it."

Another Indian, himself a chief, and of high standing in the community, on being asked the same question replied as follows:—

"We have some eight hundred non-Christian Indians on the reserve. Their ideas as to marriage are very different from the Christian ones, and the example they set has a considerable influence on the balance of the community. As it is now, when a couple properly married separate and take up with other partners their children are put upon the list, provided they are the offspring of Indians who are members of the Band. I believe that if this matter were properly looked into, and hereafter children born out of wedlock were not placed upon the list, it would have a decidedly good influence. In the case of married unhappiness I believe many of our people would get divorce in the regular way like the white people do, if they could afford the expense, but they cannot, and so they drift into these unlawful connections. I don't think that the passing of any law could force the people to improve in this connection. It is a matter of improving the moral ideas of our people, and our clergymen are doing all they can upon that line."

Still another witness, dealing with this subject, expressed himself thus:—

"There are a great many glaring examples of immorality within my own knowledge. It is quite a common thing for a husband to abandon his wife, and to leave her to support their children, while he goes off and lives with some other woman, and has a second family by her. I think if men who act in this way were followed up sharply and carefully and made to support their legal children, or to go to jail in the alternative, conditions would be improved. I further think it is a very bad thing to place children born out of wedlock on the Indian list. Should this practice be discontinued it would have a beneficial result."

A further statement made at the inquiry reads as follows:—

"First of all, I do not think illegitimate children should be placed on the list of the Band. At present all the mother of a child born out of wedlock has to do is to go to the Council and declare that the child is the child of an Indian father. Even a married woman who is the mother of a child by a man other than her husband can have that child placed upon the list. This is simply an encouragement to vice. I think some of our missionaries are too much inclined to accept the immoral conditions they find around them."

On the other hand, speaking on the question of placing of illegitimate children on the strength of the band, a witness pointed out that their exclusion would be hard on the children themselves, surely a point worthy of consideration. And what would become of such unfortunates, should they be deserted by their parents, and the band released of all responsibility?

I have very serious doubts of the advisability of the course suggested. In my opinion such exclusion from registration on the list of the band would not greatly improve moral conditions upon the reserve, while it might very easily place the unfortunate illegitimate children in a position of great hardship.

However, I am heartily in accord with the suggestion that the fathers of illegitimate children, wherever ascertainable, should be made to support them, with prison as an alternative, and also that fathers deserting their wives and legitimate children should be shouldered with the same responsibility, with the same alternative.

While people may honestly differ as to what constitutes morality, surely all will agree that premeditated violation of the law is such, and this leads me to the question of Sunday lacrosse games, held for profit on the reserve.

These have been the constant practice during the past season. The majority of Indians know perfectly well that such exhibitions, with admission charged, are not allowed in white communities, and that they are against the law. Their continuance breeds a contempt for law, and encourages the campaign for defiance of it.



Hundreds of whites, many of them of the extremely rough element, flock to these exhibitions. Sales of goods are openly carried on, till the gathering assumes almost the appearance of a market, and liquor is smuggled in.

The law-abiding Indians strongly protest against these games, and demand enforcement of the law. Some go so far as to say that the reserve is no longer safe for their children on Sundays, and that they are in constant fear of violence to their young women, and even of kidnapping.

I recommend that Sunday lacrosse games, where held for gain, be stopped.

### ELECTION OF CHIEFS

The Council of Chiefs is composed of men not "elected," but appointed.

The right to a seat in the Council is vested in certain families.

The chieftainship does not go to any particular male member of the family, but to some one of these, selected for the purpose.

In their form of government the Six Nations have no written constitution. Their procedure rests upon long established custom, but as the knowledge of this has been transmitted by word of mouth only from generation to generation, it is impossible to ascertain the facts with exactness.

That the right to chieftainship is confined to a few families, and is hereditary in principle, all are agreed, and further that the nomination of the chief is a prerogative of the women of the family concerned. At this point, however, the evidence of the witnesses varied somewhat. Some maintained that the right of nomination belongs to all women of the family, with the final say, in case of disagreement, in the oldest woman thereof. Others maintained that the oldest woman alone has the right to nominate. The difference is not of very much importance, for after all the oldest woman of the family has the say, whether with or without consultation with the other women.

This family right to a seat in the Council is much cherished, and jealously guarded. It not infrequently happens that the number of males in the family concerned has become very small, with a limited choice in consequence. As a result men are sometimes sent to the Council who are grossly ignorant, and more than one witness alleged that even those mentally unsound had been sent there, in order that the chieftainship should be maintained in the family concerned.

It follows that a comparatively small number of old women have the selection of those who are entrusted with the transaction of the business of the Six Nations Indians, while the vast majority of the people have nothing whatever to say in the choice of their public servants.

The appointment of the chief is for life, and he can only be removed if guilty of some serious offence, such as a crime. Utter incompetence is no bar to an appointment, and no reason for a dismissal.

There can be no doubt that some of the people cling to this ancient form of government. The Six Nations Indians have a wonderful history, and they are surprisingly well acquainted with its main features. They know that their confederacy, though numerically small as compared with the total Indian population, dominated America from the Great Lakes almost to the gulf of Mexico, and from the Mississippi to the Atlantic. They know that they were the powerful and much sought for allies of the British Crown in its struggle with the French for the possession of this continent, and that in courage and statecraft they were the superiors of all the other red races.

To-day they find themselves confined to a territory the size of a township, and with a total population less than that of a small Canadian city. They feel bitterly their fallen state. Their greatness and their influence are gone. Their history alone remains to them.

Under these conditions it is not surprising that many of them adhere to the form of government which served them in the days of their prosperity, even

though they must know in their innermost hearts that it has long outlived its usefulness.

One Indian proudly remarked, "Ours is the oldest form of government on the American continent."

On the other hand, the better educated and more progressive Indians, in whom the hope of the future lies, are keenly anxious for the same democratic form of government as is enjoyed by their white fellow-citizens.

Witness after witness pointed out the following objections to the present system:—

(1) The people as a whole have no voice in the selection of their councillors.

(2) The present Council is absolutely unwieldy. It consists of some sixty chiefs, charged with the conduct of the business of less than five thousand people. This leads to great delay in the transaction of even simple matters.

(3) Owing to the method of appointment a great many of the chiefs are ignorant men. Many of them are unable even to read and write, and totally incapable of transacting business.

(4) The present Council is unnecessarily expensive. An expense allowance is made to each chief for attendance at Council meetings, and while the individual payment is not large, the aggregate is said to amount to at least \$1,000 per annum.

I am convinced that those advocating a change in the system of government have fully established their contention, and that an elective system should be inaugurated at the earliest possible date.

The franchise should be given to all male Indians of the Band, twenty-one years of age or over. The consensus of opinion was that for the time being the franchise should not be extended to women, and since education is not yet very much advanced on the reserve, in this I concur.

The question of the number of councillors to be elected, and the method of election, in the event of a change being made, was fully considered during my investigation. As the change proposed is a radical one, time must be allowed for it to function smoothly. No doubt within a few years the proposed new form of government will be so well established that a small Council, say of five members, will be sufficient for the purpose, but for the present I think a larger number advisable. This larger number, giving an opportunity for more men to sit in Council, would arouse more widespread interest, would serve as an education to those elected, and would ensure the return of some capable men. I am of opinion that a Council of fourteen, with a chairman, corresponding to the reeve of a rural municipality, fifteen in all, would not be excessive.

The suggestion was made that each of the tribes should elect two councillors. As the Delawares are now a part of the Six Nations, making in reality seven nations in all, this would give the fourteen suggested. To elect the councillors by tribes would, I think, be inadvisable. The latest figures available give the Mohawks as numbering eighteen hundred and ninety-three, and the Delawares one hundred and sixty-seven. To give equal representation to each would be inequitable. Further than that, the difficulty in voting by tribes would be almost insuperable. The tribes are not confined to separate localities, but are scattered over the whole reserve; to arrange a voters' list with polls for each tribe under such conditions, would lead to the greatest confusion.

I recommend that the reserve be divided into seven wards, each ward running from north to south the full distance of the reserve, the area depending as far as possible upon equality of population, and that each should select two councillors. I further recommend that the electors as a whole should choose the chief councillor.

Perhaps, sir, it is not my function to pursue this matter too far into the future, but I shall at least venture a few further brief remarks.

The Six Nations Indians have progressed notably in civilization. They are amongst the most advanced, if not the most advanced, of the Indian tribes, and the Indian Act might very well be amended with respect to them, in consequence.

I realize that should you inaugurate an elective system of council at an early date the functions of that body will have to be determined by the Indian Act, as it at present exists. I would suggest, however, that after the new Council has reached a stage of settled efficiency the Indian Act be changed to enlarge its functions, so that it may more and more approximate to the Council of a white municipality.

### POWERS ASSUMED BY COUNCIL

The powers of the Council of Chiefs are strictly limited by the Indian Act.

Under that Act the Superintendent General of Indian Affairs is given the control and management of the lands and property of the Indians in Canada.

It is clear from evidence submitted by a number of witnesses at the inquiry that the Council of Chiefs has, in several instances, undertaken to deal with the property of the Six Nations quite independently of the Superintendent General of Indian Affairs.

For some considerable time past there has been a strong agitation to have the Six Nations constituted as a separate and sovereign people. Those supporting this course allege that by the wording of certain early treaties the Six Nations are not subjects but are allies of the British Crown.

To investigate the merits of this contention was not one of the duties assigned to me, and I merely mention it in connection with the subject "Powers assumed by Council," which was so assigned.

The separatist party, if I may so describe it, is exceptionally strong in the Council of Chiefs, in fact it is completely dominant there. Its members maintain, and it is a logical sequence from the position assumed, that not being British subjects they are not bound by Canadian law, and that, in consequence, the Indian Act does not apply to the Six Nations Indians.

No doubt this has been responsible for what under the Indian Act is undoubtedly an assumption of powers by the Council.

Some specific instances were called to my attention, and these I feel it proper to bring to your notice.

A house, a part of the property of the Six Nations Indians, which had been used for school purposes, was disposed of by the Council of Chiefs, and the money thence arising has not been accounted for either to the Superintendent General of Indian Affairs, or to the Six Nations Indians themselves. It was alleged by the witnesses, who testified to this transaction, that the money was handed over to one Levi General (Chief Deskaheh), the speaker of the Council, that he might use the same in support of the campaign for independence. These witnesses could not swear positively of their own knowledge to this fact, but they did swear that this was a matter of common notoriety among the people.

The Council of Chiefs issued bonds, alleged to be secured upon the trust funds of the Six Nations Indians, and sold some of them. The proceeds of these sales have been unaccounted for either to the Superintendent General of Indian Affairs, or to the people of the Six Nations Indians, and here again it is alleged that the money was handed over to Chief Deskaheh in support of the separatist campaign.

So much for the powers assumed by Council, as they directly affect the Government of Canada.

But it is further alleged that the Council has arrogated to itself powers previously vested in those who had the right to nominate chiefs.

In a preceding part of my report, under the heading "Election of Chiefs," will be found a description of the manner in which Six Nations Indians are made chiefs. There can be no doubt that the ancient usage of this people was on nomination by the women of certain families, in which the right to chieftainship was hereditary. There is abundant evidence to show that while the letter of this institution has been observed, its spirit is now constantly broken. The Council undoubtedly brings pressure to bear upon the woman about to nominate a chief, with the result that the party nominated is in reality their choice, and not the free and unfettered choice of the woman herself.

The Council appears further to have usurped authority as to dismissal. On this point very positive evidence was tendered by an Indian who was himself a Chief, who has been so for a period of some forty-five years, and who appeared to be exceptionally well posted in the customs and traditions of his people. In answer to the question, "How is a chief dismissed from Council?" he replied as follows:—

"If the chiefs desire his dismissal they so advise the woman who has nominated him. She then admonishes him, and he remains a chief. If, however, this occurs three times, he is ejected, and the woman nominates a new chief. This was the old system, but the chiefs have usurped this right of the woman to a large extent, and have been known to dismiss a chief from the Council without consulting the woman who nominated him. They have exercised their power in a tyrannical way to get rid of those opposing the view of the majority. The majority did not favour Indians participating in the Great War. Chief J. S. Johnson announced that he was going overseas to fight, and was dismissed in consequence. Chief Thomas John actually did go, and he, too, was dismissed. In my opinion the present action of the Council is a usurpation, and quite contrary to the ancient custom of our people."

Another witness deposed that he was a chief, but had been dismissed by the Council. He said that he requested Council to "lay a charge" against him, but that this they had refused to do.

I am fully convinced that the present Council has undoubtedly been guilty of a serious usurpation of power, with regard to the Government of Canada on the one hand, and the people of the Six Nations Indians on the other, and that for a considerable time they have been acting very much as a law unto themselves.

### SOLDIERS' SETTLEMENT

The Six Nations Indians sent some two hundred soldiers to the Great War. These men performed their duties admirably. Seven of them were commissioned officers, and two of these, both serving in the Air Force, lost their lives. One of the seven, Major George Smith, received three decorations, and his brother, Lieutenant Charles Smith, the Military Cross.

A number of the men in the ranks were also decorated for service in the field.

Although not strictly relative to the inquiry I take pleasure in stating these facts as an evidence of the patriotism and courage of the Six Nations Indians, and also of their efficiency as fighting men. The blood of the Iroquois has not grown thin.

Since these Indians are almost entirely an agricultural people, it is not surprising that a large number sought the benefits of the Soldiers' Settlement scheme. I understand that one hundred and thirty made application for its benefits, and of these about eighty were accepted. The remainder were rejected after careful inquiry, as not likely to make good, and I heard no complaint whatever on this score.

Of the eighty accepted applicants some seventy-five are "in good standing." By this is meant that they are still on the official books, kept there because it is considered that they have a fair chance to win through.

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No man has been sold out, or "salvaged," to use the official term, with the exception of two, one of whom burned his barn for firewood, and the other of whom sold nearly \$3,000 worth of timber without applying one cent of the proceeds in reduction of his loan.

Mr. Robert H. Abraham, the agricultural representative of the Indian Department, and the official charged with the administration of the scheme, pointed out in his evidence that while only ten or twelve of the soldier settlers had made all their payments up to date, the remainder had reasonable excuses for default, and that he expected seventy-five per cent of the payments due this fall to be met.

The "reasonable excuses" referred to lay in two partial crop failures, and in the fact that the farm stock and implements had been purchased when prices were high, and had since greatly depreciated in value.

Lieutenant Frank W. Montour, himself an Indian soldier settler, in giving evidence, made the following observation:—

"I think if anything, the department is a little too easy on the men for their own good. Most of them are hard working, and mean well, and they would respond to better supervision. For example, after hay harvest, and again after grain harvest, some of them sell their produce and the money is just frittered away. I think it would be a good thing to have a Government man visit the settlers during these two periods to encourage them to pay in as much money as possible on account of their instalments, even if the exact day for payments had not fallen due."

Mr. Montour knows practically every soldier settler on the reserve, and is highly thought of by them. Asked as to whether these had, to his knowledge, any complaint as to the treatment they were receiving, he replied, "I think not. I think the board has done everything reasonable so far." Mr. Montour stated, however, that, "We all bought our stock and implements when prices were high, and about the time payment became due the price of everything had dropped to about half."

Other soldier settlers also stressed this point, and urged that a revaluation, under the circumstances, would be only fair. One of them pointed out that at a salvage sale the chattels brought very low prices indeed, and that they were bought largely by men who had not gone to the war. He pointed out that in this way the Government made quite as big a loss as it would have done had the man sold out been given a revaluation. However, were this done in one case it would have to be done in all, and if for Indian soldiers, then for white ones. The question thus becomes a very large one involving in the aggregate millions of dollars, and is one of general policy not to be considered within the purview of this Report.

It is satisfactory to note that though many soldier settlers were examined, not one had any fault to find with the way in which the officials are administering the scheme.

## ADMINISTRATION OF JUSTICE

This may be considered under two heads.

In the first place, the Council of Chiefs has jurisdiction in certain matters of rather minor import between Indians.

A number of witnesses made serious complaints against the methods of the Council in this particular.

It was freely alleged that delays were frequent, lengthy and most vexatious. It was quite as freely stated that decisions went by favour, and not according to the merits, and that an applicant politically at variance with the Council had no chance of success if opposed by a man who supported the views of the chiefs. It was further declared that a majority of the councillors were totally without business experience, and so lacking in education that many of them could neither read nor write. As one witness put it, "How can men unfit to manage their own affairs manage the affairs of other people?"

One witness openly stated that to his personal knowledge there was corruption in the Council, while a number of others expressed their personal belief that this was so, but could not swear to it positively.

In the next place, there is the question of carrying out of the process of the courts.

About this there has been considerable difficulty, certain of the chiefs encouraging their followers to resist the officers of the law in the prosecution of their duties, on the ground, elsewhere alluded to in this Report, that the Six Nations Indians are an independent people, and not subject to Canadian laws.

The matter came to a head some months ago when two constables of the county of Brant proceeded to enforce a warrant of ejection. A number of armed Indians gathered and resisted their efforts, finally driving them away under threats of violence. The Government then sent a detachment of the Royal Canadian Mounted Police, who carried out the process, and who have ever since patrolled the reserve, and enforced the law's decrees. In this connection I wish to state that these men have carried out their duties with admirable tact and prudence, and seem to have aroused no feeling of personal animosity whatever.

Their presence on the reserve, however, is deplored, not resented, by the law-abiding Indians, who constitute a vast majority of the population, for they feel that it stamps them in the eyes of the white community as a lawless people.

While strongly sympathizing with this view, it will be necessary, in my opinion, to continue the service of the Royal Canadian Mounted Police force until matters have once more become normal upon the reserve, which I think will be in the not very distant future.

## ROADS AND DRAINAGE

While roads and drainage are not specifically mentioned in the subjects assigned to me for investigation, they touch so closely upon some of these that it is necessary to consider them.

In more than one place I have called your attention, Sir, to the fact that the Indians are a poor people, and that this is a serious handicap to their progress.

The Indians are almost entirely agriculturalists, and better market facilities would tend largely to increase their wealth.

Even the heart of the reserve is but a few miles removed from the city of Brantford, and from the flourishing towns of Hagersville and Caledonia.

However, during several months of the year, the Indian farmer is practically cut off from these centres by reason of impassable, and often flooded, clay roads, and this at the very period when many of his products command the best price.

The same difficulty presents itself with regard to health. The sick person is frequently unable to reach his doctor, while the doctor's ability to minister to his patients is for long periods almost destroyed.

In my remarks as to education I have referred to the unsatisfactory state of attendance. For this, again, bad roads are partly responsible.

The present clay roads are fairly well graded and drained. There is a good plant of road machinery upon the reserve, so that conditions are favourable for improvement.

On this one subject of good roads there was an absolute unanimity of opinion during my inquiry. They were more spoken of than any other one thing, and all were most anxious to obtain them.

An expensive system of roads is out of the question, nor is it necessary. Gravelled roads would fully meet the situation.

I made careful inquiry as to the gravel deposits on the reserve, and am quite convinced that they are ample and fairly well placed.

The consensus of opinion was that a main road should be gravelled, beginning at what is known as the Cockshutt Road on the north, and running south through the central portion via Ohsweken to the Hagersville-Caledonia road at Willow Grove. This should be followed later by another gravelled road, bisecting the reserve from east to west. I feel quite sure that with these two main highways constructed, connecting links would follow by a co-operation of the people themselves, should further money be unavailable.

No doubt, Sir, you could arrange with the Ontario Government to bear a proportion of the expense in connection with the general road system of the province. There is plenty of Indian labour available, and the engineering supervision could be furnished by officers of the Indian Department. Should further money be required, it was the generally expressed opinion that the Indians themselves would gladly sanction a grant of the same from their principal fund.

I recommend that a start upon gravelled roads be made next spring, or even sooner, should that be possible, and that the main road above indicated be pushed to completion at the earliest possible moment.

A good system of drainage has been planned for the reserve, and about one-half of it carried out, with very beneficial results.

In consequence, a considerable area of low lying land has become productive, while the health of the community has also materially benefitted.

I am told that a completion of the system would not cost more than \$20,000, and I am of opinion that this expenditure should be made, and the work completed without delay.

### GENERAL OBSERVATIONS

Though not strictly within the class of subjects submitted to me for consideration, some matters were so frequently called to my attention that I think it advisable to make brief reference to them.

#### SEED GRAIN

There is evidently a misunderstanding as to the distribution of seed grain upon the reserve. Witness after witness deposed that this was a "free" distribution, that is, free to the recipient, and that the cost of the seed was charged against the funds of the Band.

I find on investigation in the department that this is not so. In every case the recipient signed for his grain and undertook to pay for it. The earlier distributions were, it is true, financed from the funds of the Band, but almost this entire amount has been repaid.

The distribution of 1922 was financed from a Parliamentary vote, and not from Indian funds. The greater part has not been repaid. Should default continue the loss will be to the people of Canada as a whole, and not to the Six Nations Indians.

I have reached the conclusion, from evidence submitted, that a distribution of seed grain, even on promise of repayment, is unnecessary. Any Indian requiring such can readily obtain it from some neighbour on a share basis.

I recommend that the practice be discontinued.

#### STATEMENT OF RECEIPTS AND EXPENDITURES

The Indians do not feel that they receive sufficient information as to receipts and expenditures in connection with their own fund. They claim that the general report of the department is too complicated for their understanding, and that they should have, half-yearly, a simple statement as to moneys received and expenditures made on their behalf, a statement similar to that issued annually in the majority of white municipalities.

I feel that the adoption of this suggestion would do away with much misunderstanding and some mistrust, and I strongly recommend that it be followed.

While on the subject of accounts, I desire to deal briefly with two items brought up by Mr. Albert Edward Hill, who in his evidence, stated:—

"A vote of Parliament was passed for bonuses to teachers paid in 1919-20, and afterwards this was charged against our interest, as shown on page 107 of the Auditor General's report for 1920-21. If this money were voted by Parliament I do not see why it should have been charged back to us. While on the question of accounts I desire to call attention to a further item on the said page 107, showing a payment of more than \$15,000 to forty-seven enfranchised Indians. As far as I know \$170 was the highest paid to any individual. We would really like an explanation."

With regard to the bonus for Indian teachers, it appears that certain Indian Bands in Ontario, including the Six Nations, pay the salaries of their own teachers, and in these cases the Auditor General requires the bonus to teachers to be met from the same source. When the salary is paid from parliamentary appropriation the bonus is paid therefrom also, but not otherwise.

As to payments for enfranchisement, the explanation is as follows: The total amount paid for enfranchisement is \$15,799.98. The Auditor General shows this as being a payment to forty-seven Indians, but the payment was really made to one-hundred Indians at a per capita rate of \$157.99. The Auditor General's report is misleading inasmuch as it shows a payment to forty-seven Indians, instead of to forty-seven families, consisting of one-hundred individuals. As a matter of fact the payment was to forty-five heads of families, representing the one-hundred individuals, and not to forty-seven Indians as stated.

#### WEEDS ON HIGHWAYS

Complaint was made to me that no effort was made to cut noxious weeds on the highways before they ripen. One farmer stated that he kept the weeds cut on his own frontage, only to lose the benefit of his industry through seed blown on to his farm from neighbouring weed patches on the highway.

I recommend that the cutting of weeds upon the highways be made a part of the care of roads system upon the reserve.

#### GRAND RIVER NAVIGATION COMPANY

This matter was frequently called to my attention, and is considered a real and very substantial grievance by the Indians.

It was alleged, and a perusal of a file I have made seems to bear out the main facts, that from the year 1834 to the year 1842, both inclusive, almost \$160,000 of Six Nations Funds were invested in the stock of the Grand River Navigation Company, quite without the approval of the Indians, and without consultation with them.

The investment was a total loss. Ever since it became so the Indians have been constantly seeking reparation.

In answer to appeals made, the Canadian Government took the stand that the transaction occurred before there was responsible government in Canada, and that, therefore, no responsibility rested upon it.

The Six Nations Indians then forwarded, through the Government of Canada, an appeal to the Imperial Government. The Imperial Government replied, in effect, that this was a matter for the Government of Canada, and disclaimed all liability.

The fact remains that these trust funds have been lost, and that the Indians have been denied redress by both Governments to which they have appealed.

They suggest that the Canadian Government should negotiate with the Imperial Government to the end that an agreement may be reached between



the two to appoint a jurist of repute, a citizen of some foreign country, to whom shall be submitted the whole question, with power to find whether the Six Nations Indians are entitled to a return of their money, and if so the amount thereof, and which Government should make the payment.

This question undoubtedly constitutes a real grievance and should finally be dealt with in some way. It is a constant irritation to the Indians, and, as one of them put it, shakes their confidence in British justice.

Your obedient servant,

ANDREW T. THOMPSON,  
*Commissioner.*

**RE SIX NATIONS INDIANS  
SUPPLEMENTARY REPORT**

OF

**ANDREW T. THOMPSON, ESQ., K.C.**

OTTAWA, December 5, 1923.

*To the Honourable the Superintendent General of Indian Affairs, Ottawa,  
Canada:*

SIR,—On November 22, I submitted to you my report upon the Six Nations Indians, in which I referred, in general terms only to the Mohawk Institute.

Almost immediately thereafter my attention was called to serious charges which had then just recently appeared in the public press, made against this institution.

Having discussed these criticisms with you, Sir, you instructed me to proceed to Brantford, and there to make a thorough investigation into the affairs of this school.

This inquiry I have since concluded, but before reporting upon it I shall state briefly the general character of the charges made against the institution.

These refer mainly to food and discipline. It is also asserted that truancy has been unusually prevalent, while suggestions have been made that the Institute should be changed somewhat from its present operation, which is that of an academic and industrial boarding school for both the sexes.

I arrived at the Institute on the morning of Thursday, November 29. I had given no previous intimation of my proposed visit, and was absolutely unexpected by any member of the staff, or by any one else within the institution. I took this course that I might be able to make my inspection under the ordinary everyday working conditions of the school.

I spent the whole day in a careful inspection of the premises; in attendance in the class and industrial rooms, where book work and manual labour were in progress; in the stables and outbuildings, where gardening and farm work was going on; in watching the children at play, in talking to a number of them; in inspecting the food served at the dinner hour, and the supplies held in store; in interviewing nearly every member of the staff, and in taking evidence under oath from Mrs. Alice Rogers, the Assistant Principal and the present Acting Principal of the school; R. H. Knowles, Boys' Master; Miss Floretta Elliott; Miss Minnie Cummins, the housekeeper; Mrs. Emma Persall, Sewing Teacher; Mrs. Neva Knowles, Junior Governess; Miss Carrie Crowe; and Miss Susan Hardie, senior teacher of the school.

Three of these were themselves Indians, and formerly, for many years, pupils of the institute.

**FOOD**

I found the food of good quality, and that served at the dinner meal, which I most carefully inspected; clean and well cooked. The reserve stores were well and neatly housed, and appeared to be of ordinary good quality.

At this dinner meal the quantities served to the children were certainly ample.

In conducting my examination under oath, above referred to, I paid special attention to the question of food. As this is a matter of importance I beg to submit the following extracts from the sworn testimony of the witnesses:—

PERCY HENRY KNOWLES: "I have been here eight months. I preside in the dining room each breakfast, and so far I have never seen anything I would not willingly eat myself. To the best of my knowledge no child has ever left the dining room hungry. They are allowed further helpings every time they ask for them."

FLORETTA ELLIOTT: "I am on the staff of the Mohawk Institute, and have been since the end of June, 1923. Previous to that I lived here as a pupil for more than eight years. I was happy and contented. I always had lots to eat and it was good. All the children get all they want to eat, and are given further helpings if they ask for them."

ALICE MARY ASHTON ROGERS: "It is and always has been of the best quality, and sufficient in quantity."

MINNIE CUMMINS: "The food is very good, and the children are really well fed. They have all they can eat, and usually there is food left over. The food is as good as in any other institute I have seen."

Miss Cummins is the housekeeper at the Institute, and she detailed her duties as follows: "To arrange the children's meals, and to keep stock of the supplies, and generally to supervise all kitchen duties." While she has been at this school only since October 13, 1923, she is a woman of experience, having served in the Liverpool Sheltering Home and the Belleville, Ontario, Marchmont Home.

I asked, "Have any of the children ever complained to you about their food, as to either quality or quantity?" and she replied, "Never; they have sometimes told me it was very good. I taste all the food that ever goes in to the children. Mrs. Rogers has never stinted me in my requirements for the children's food, and I always ask for plenty."

EMMA PERSALI.—"I take the suppers every night." Asked as to the quantity of the food, she replied, "It is splendid; quite as good as I would give my own children. They are never allowed to go away hungry. They can have further helpings if they ask for them, and very often they do."

NEVA KNOWLES.—"I preside at the serving of the dinners every day." In reply to the question, "What have you to say about the food?" she replied, "I have always found it plentiful, and of good quality; the children get all they want." She further deposed that margarine is used instead of butter, and declared it to be of good quality, saying, "As I know from having eaten it myself."

CARRIE CROWE.—"It is good, pure and substantial, and they always get plenty of it at their meals. They are allowed extra food when they ask for it, and they do, at almost every meal."

SUSAN HARDIE.—"During all the time I have been here the food has been abundant and wholesome, but of late years the variety has increased, which is an improvement. You have only to look at the boys and girls to see that they are well fed."

I would like to point out that Miss Hardie is herself one of the Six Nations, and has been on the staff of the Institute for thirty-six years. She further deposed that the children get *fresh separated milk*, but *not fresh whole milk*.

From my personal inspection and from the evidence of the witnesses above quoted, I feel absolutely certain that the children at the Mohawk Institute are well and abundantly fed.

I would, however, call your attention, sir, to the fact that margarine is used instead of butter, and separated milk instead of whole milk.

The Institute maintains some twenty milch cows, and while margarine may be a wholesome food in itself it can hardly be maintained that it is as nutritious as butter. In the same way separated milk is wholesome, but it lacks certain important nutritive qualities which are found in whole milk.

Many of the children at the Institute are quite young, ranging from nine years upward. I recommend that butter be substituted for margarine, and I very *strongly urge* that whole milk be given instead of separated milk, especially in the case of all children up to fourteen years of age.

### DISCIPLINE

In articles appearing in the public press comment has been made upon the stern discipline of former times. I conceived it to be my duty to inquire into present conditions, and not into what may or may not have happened in years gone by.

However, so serious were the allegations made as to past severity, carrying with them implication of present excessive strictness, that I think I cannot do better than to quote again from the evidence of the sworn witnesses.

PERCY HENRY KNOWLES.—“The children are not severely handled; just enough punishment is administered to maintain a fair amount of discipline.” In answer to the question, “Are the boys contented at the Institute?” he replied, “There is a very good spirit among the boys; I hardly know how else to put it. Their doors are not locked at night; in fact they are never locked in. I have lived in the city for twenty-three years, and in my opinion these boys have more advantages than those living in the city. The boys are supplied with all the bats and balls they can use up, both baseball and football, and they play with good spirits in both the boys’ and girls’ schools.”

FLORETTA ELLIOTT.—In answer to the question, “Is the discipline severe?” Miss Elliott replied, “No, just enough to keep order,” and in answer to the further question, “Are the pupils contented?” she said, “Yes, as much as any would be away from their homes, I think. Mrs Rogers is very thoughtful, and looks carefully after their health, too.”

ALICE MARY ASHTON ROGERS.—In answer to the question, “How do you maintain discipline in the Institute?”, Mrs. Rogers replied, “In cases of extreme breach we use the strap in moderation. Only the regulation school strap is used, and whipping is confined to the hands. Whippings are only very occasionally administered. Quite frequently whole weeks pass without a single whipping.” In answer to the question, “Do you ever use a dark or semi-dark room for punishment?”, she replied, “Never.” To the question, “Do you ever restrict diet as a punishment?”, she said, “Only once in the years I have been here, and then only for one meal. Even then, the restriction being to bread and water, unlimited bread was allowed. I do not believe in such a form of punishment, as it would injure the health of the children.”

CARRIE CROWE.—In answer to the question, “Do you consider the discipline severe?”, Miss Crowe replied, “I do not; when I was a pupil I found that I was always treated well. Of course, when the children misbehave, they are punished, but not severely.”

SUSAN HARDIE.—In answer to the question, “What is the discipline imposed?”, Miss Hardie replied, “It is not severe,” and to the question, “Is whipping used?”, she said, “Yes, and I have to do it for all the girls. I do not have to whip more than once a month on an average, and I use a rubber strap and seldom give more than six or seven strokes on the hands.” To the question, “Do you ever confine in a dark or semi-dark room?”, she replied, “No. This practice was abolished almost ten years ago.”

I most carefully observed the deportment and appearance of the children both at work and play. I saw no evidence of sulkiness or unhappiness in any of them. At their dinner meal they talked and laughed constantly. They appeared to me to be acting as white children of the same ages would do under

normal conditions. They showed no signs, whatever, of being under severe restraint.

From this my personal observation, and from the evidence of the witnesses above set forth, I am fully convinced that the discipline at the Mohawk Institute is not at all harsh, and that criticism levelled against it is entirely unjust and unwarranted.

### HEALTH

At the time of my visit the health of the children impressed me as extremely good.

They were comfortably clad, and cleanly in appearance. Bath-room accommodation was ample, and I learned that all the children are under careful supervision and obliged to bathe frequently.

Mrs. Rogers, the Assistant Principal, is a graduate nurse of the Royal Victoria Hospital, Montreal, and also a trained and social service worker of Bellevue Hospital, New York; she has held several important hospital positions, and has been on the staff of the Institute itself for nearly seven years.

In her examination I asked, "What have you to say as to the health of the children?", to which she replied, "Absolutely good. They are a healthy lot of children on the whole. Years ago we had great trouble with scrofula, but to-day we only accept healthy children. Should tuberculosis or other disease subsequently appear, we have the child removed. I use my own professional knowledge in watching over the children. When I think a doctor necessary I send for Dr. Palmer, our regular physician. I have not had to call him in since last August. If a child develops eye trouble we send him to an eye specialist. We do everything possible to make the children healthy, and to keep them so."

I found the residence clean, well ventilated, well heated and with plenty of light. The improvements carried on during the last three years, at a large expenditure of public money, have been most beneficial, and I have nothing further to suggest in this particular.

### TRUANCY

There must always be a certain amount of truancy from an institution such as this.

The majority of the pupils are orphans or neglected children. In many cases, in consequence, they have grown up in a wild, undisciplined way. To such even the mild restraint of the Institute is irritating, and the reserve from which they have been sent is only a few miles away.

It is an undoubted fact that truancy has been more prevalent during the last two years than formerly. In my main report I pointed out that exactly the same condition has obtained during that period in the day schools upon the Six Nations Reserve, and I gave it as my opinion that the cause lay primarily in the state of unrest upon the reserve, with its consequent disrespect for order and authority.

I do not think that the Mohawk Institute is suffering more in proportion than are the day schools, and I cherish the belief that when conditions upon the reserve once more become normal, truancy will almost disappear at the Mohawk Institute.

### FINANCE

I desire to correct a misapprehension existing in some of the Six Nations Indians.

During my inquiry held upon the reserve last summer more than one witness spoke of the funds of the Band as going towards the support of the Mohawk Institute.

I have examined into this question and for the information of the Indians wish to state that none of their funds are expended in the support of this school, but every dollar is found by the Government of Canada from the funds of the Canadian people, and by the New England Company. This New England Company is the oldest English Missionary Society, having been chartered by King Charles II in 1661-1662. It was founded for the work of propagating the gospel among the Indians of New England, but ever since 1829 the work has been confined to the Indians of Canada. Previous to that time, however, in fact from 1661 on, the activities of the company included Canada as well as New England.

### SUGGESTED CHANGE IN SCHOOL

At the present time the land used in connection with the school consists of ten acres, owned by the New England Company, most of which is in orchards, gardens and playgrounds, and a two hundred acre farm, upon which the agricultural work of the institution is done.

Of the latter the Institute has the use so long as it is maintained as a manual training farm, with reversion to the Six Nations Indians.

Because of its close proximity to the city of Brantford, this two hundred acre farm is of large value, and consequently much more capital is tied up than is warranted for agricultural uses.

It would in my opinion be advisable to continue the school for girl pupils only, retaining the ten acres in connection therewith.

At the present time the accommodation for girls is fully taken up. Should the boys be removed from fifty to seventy-five more female pupils could be accommodated and from inquiries I made I am convinced not only that this number could be readily obtained, but also that there is a necessity for this extra accommodation for Indian school girls.

A new agricultural school, and a farm in conjunction therewith, would then become necessary. The land could be purchased at a reasonable figure in the neighbourhood of the reserve, should that be thought desirable, but the necessary buildings would be somewhat expensive.

The difference between the selling price of the present farm and the purchase price of the proposed new farm would go very far towards paying for the new buildings.

I realize that the proposed sale and disposition of the funds arising therefrom could only be made with the consent of the Council of Chiefs, but the proposal seems so full of advantage for the Indian children, to wit: more accommodation for the girls, and better accommodation for the boys, that it might be possible to obtain this.

### GENERAL REMARKS

In conclusion I wish to say that I was unable to see Mr. Rogers, the Principal, as he is away on leave of absence in England.

The following facts will, I think, prove of interest, and will show conclusively that the Mohawk Institute has the careful management and generous financial support of the Canadian Government, very kindly assisted in the latter respect by the New England Company, the founder of the school.

### FISCAL

In January, 1922, the Mohawk Institute was leased by the New England Company to the department at a nominal rental for a period of twenty-one years. This change in management became necessary because of the diminution in the revenue of the New England Company. The company grants £1,000

per annum for current expenses, and, when they can find funds, they are assisting the Department of Indian Affairs with capital expense. In the past two years the New England Company has granted \$7,015.25, which has been used for alterations and repairs.

The Department of Indian Affairs, before leasing the Mohawk Institute, made per capita grants for current expenditure each fiscal year. For the past few years the per capita grant has amounted to:—

1914-15.. . . . .	\$12,003 00
1915-16.. . . . .	12,066 08
1916-17.. . . . .	12,002 00
1917-18.. . . . .	13,231 37
1918-19.. . . . .	12,642 44
1919-20.. . . . .	14,514 10
1920-21.. . . . .	22,830 27

During these years no grants were made from parliamentary appropriation, for buildings or equipment.

Since leasing the institution, the department has not only paid from parliamentary appropriation a per capita grant for current expenses:—

1921-22.. . . . .	\$20,843 98
1922-23.. . . . .	18,772 10
1923-24.. . . . .	20,000 00 (estimated)

but also grants for buildings and replacements, as follows:—

1921-22.. . . . .	\$ 1,486 00
1922-23.. . . . .	36,568 13
1923-24.. . . . .	6,500 00 (estimated)

Since leasing the Mohawk Institute from the New England Company, the department has met, roughly, 82 per cent of the current expense and has appropriated, roughly, 85 per cent of the moneys needed for the alterations and repairs that have been undertaken in the past three years.

MANAGEMENT

Under the terms of the lease, the department is to maintain the Mohawk as an educational institution for Indian boys or girls, or for both, and the pupils are to be drawn, as far as possible, from the Six Nations Indians. It should be noted that the responsibility for the management of the Mohawk Institution is practically entirely with the department.

INSPECTION

The Brantford representative of the department visits the Mohawk Institute each month and reports to the department. The new agent, Colonel Morgan, has already paid some eight visits. The public school inspector for the county inspects the class-room activities twice each year and reports to the department concerning the progress of the pupils and the pedagogy of the instructors. The date of the last inspection by the public school inspector was the 7th of November. The Superintendent of Indian Education has paid two official visits to the Mohawk Institute during the past two years. The department architect has visited the school at frequent intervals during the alterations and additions to the buildings.

RELIGIOUS

Church services are conducted regularly each week by an Anglican clergyman, communion services being held each quarter. The Bishop of Huron is the official church visitor.

INSTRUCTION

The department requires each pupil in residence to be held in the classroom at least five half days per week. The older boys and girls spend the other school hours in one of the departments, for the purpose of assisting with the domestic duties and the farm and garden activities and to receive instruction along vocational lines. The department expects the younger pupils up to eleven and twelve, to be in the class-room during the whole of each school day.

Your obedient servant,

ANDREW T. THOMPSON,  
*Commissioner.*



# EXHIBIT H

This is Exhibit "H" to the Affidavit of  
Richard Wayne Hill Sr., affirmed this 10<sup>th</sup>  
day of June, 2022

A handwritten signature in blue ink, appearing to be 'M.D.', is written above a horizontal line.

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Commissioner for Taking Affidavits

Part II

NOVEMBER 28, 1951

1173

on Tariffs and Trade listed in the said Appendix C, and it is hereby further amended, effective November 18, 1951, by deleting therefrom the Tariff Items specified hereunder:

<i>Tariff Item Number</i>	<i>Description of Products</i>
Ex. 511	Racquets and racquet frames.
537e	Rovings, yarns and warps wholly of jute, including yarn twist, cords and twines generally used for packaging and other purposes, n.o.p.
Ex. 547	Bags or sacks of jute.
Ex. 567	Saris of any material, embroidered with gold or silver thread or with
Ex. 567a	silk.
et al	
570a	Ex. (1) Carpeting, rugs, stair pads, mats and matting of jute.
571a	(1) Mats with cut pile, of cocoa fibre. (2) Mats, n.o.p., rugs, carpeting and matting of cocoa fibre.
572	Oriental and imitation Oriental rugs or carpets and carpeting, carpets and rugs, n.o.p.
611a	Ex. (1) Sandals, Oriental type, embroidered with gold or silver thread.
Ex. 624	Ornaments of amber.
Ex. 711	
Ex. 624	Statutes and statuettes of any material, n.o.p.
Ex. 711	Ivory carvings.
616	(1) Rubber, crude, caoutchouc or India-rubber, unmanufactured, n.o.p. (2) Powdered rubber and rubber or gutta percha waste or junk.

N. A. ROBERTSON,  
*Clerk of the Privy Council.*

SOR/51-528

Indian Act—Council of Six Nations Indian Band, mode of election

P.C. 6015

AT THE GOVERNMENT HOUSE AT OTTAWA

MONDAY, the 12th day of November, 1951.

**PRESENT:**

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL

His Excellency the Governor General in Council, on the recommendation of the Minister of Citizenship and Immigration and pursuant to the powers conferred by section seventy-three of The Indian Act, is pleased to order as follows:

1. It is hereby declared that after the fifteenth day of November, 1951, the Council of the Six Nations Indian Band in the Province of Ontario, consisting of a Chief and Councillors, shall be selected by elections to be held in accordance with The Indian Act;

2. The Chief of the said Indian Band shall be elected by a majority of the votes of the electors of the Band, and the Councillors of the said Indian Band shall be elected by a majority of the votes of the electors of the section in which the candidate for election resides and which he proposes to represent on the Council;

3. The Reserve of the said Six Nations Indian Band shall for voting purposes be divided into six electoral sections, each containing as nearly as may be an equal number of Indians eligible to vote; two councillors shall be elected to represent each of the said sections; and the said electoral sections shall be as set forth on a map of the Reserve marked "32/3-5 Electoral Sections—Tuscarora Indian Reserve" dated October 29, 1951, of record in the Indian Affairs Branch of the Department of Citizenship and Immigration;

4. Order in Council P.C. 1629 of 17th September, 1924, relating to elections to the Council of the Six Nations Band of Indians, is hereby revoked.

N. A. ROBERTSON,  
*Clerk of the Privy Council.*

SOR/51-529

**Indian Act—Councils of certain Indian Bands, mode of election**

P.C. 6016

AT THE GOVERNMENT HOUSE AT OTTAWA

MONDAY, the 12th day of November, 1951.

PRESENT:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL

His Excellency the Governor General in Council, on the recommendation of the Minister of Citizenship and Immigration and pursuant to the powers conferred by section seventy-three of The Indian Act, is pleased to order as follows:

1. It is hereby declared that after the fifteenth day of November, 1951, the Council of each of the Indian Bands named in the Schedule hereto, consisting of a Chief and Councillors, shall be selected by elections to be held in accordance with The Indian Act;

2. The Chief of each Indian Band named in the Schedule hereto shall be elected by a majority of the votes of the electors of the Band, and the Councillors of each Indian Band named in the Schedule hereto shall be elected by a majority of the votes of the electors of the Band;

3. The Minister having reported that he is satisfied that a majority of the electors of each of the Indian Bands named in the Schedule hereto do not desire to have their respective reserves divided into electoral sections, it is hereby ordered that the reserve or reserves that have been set apart for the use and benefit of the said Indian Bands shall for voting purposes consist, in the case of each Band, of one electoral section;

4. All Orders and regulations heretofore made relating to the elections of Chiefs and of Councillors of the Indian Bands named in the Schedule hereto are hereby revoked.

N. A. ROBERTSON,  
*Clerk of the Privy Council.*

SIX NATIONS OF THE GRAND RIVER BAND OF INDIANS  
Plaintiff

-and- THE ATTORNEY GENERAL OF CANADA *et al.*  
Defendants

Court File No. CV-18-594281

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
TORONTO

**MOTION RECORD OF THE HAUDENOSAUNEE  
DEVELOPMENT INSTITUTE**  
*(Motion for Joinder/Intervention)*

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