

Tyendinaga Township Land Claims Update August 2007

Background

In 1793 the British Crown formally granted a tract of land along the Bay of Quinte to the Mohawks of the Bay of Quinte (MBQ). The legal instrument is called the Simcoe Deed. This Deed was granted in recognition of the Mohawks support of the Crown during times of war, and their eventual displacement from the Mohawk Valley in upstate New York.

In 1837, John Culbertson, the grandson and heir of John Deserontyon (former Mohawk Chief) received Letters Patent from the Crown for approximately 827 acres. This area, in Tyendinaga Township, is south of the CN tracks to the Deseronto border and includes the east half of Lot 38 and all of Lots 39 and 40. There are approximately 450 acres in Tyendinaga Township affected by the Claim.

The Mohawks of the Bay of Quinte allege that the Crown's 1837 patent was an invalid transaction since the Mohawk people did not surrender the lands to the Crown. Surrenders require a community vote and it appears none took place. The MBQ submitted the Culbertson Tract Specific Claim to Canada in 1995. Canada completed a thorough historical and legal review of the Claim. Canada accepted the Mohawks claim for negotiation in 2003. Neither the Town of Deseronto nor Tyendinaga Council has received any information as to how the Crown came to the conclusion that there was a legal breach.

Present Day

Culbertson negotiations got underway in 2004, but not until the quarry was occupied in the spring of 2007 was there significant interest outside the MBQ. It must be mentioned that the disruption of the quarry and associated rail and 401 closures are not the workings of the duly elected Mohawk Band Council. The events that have garnered significant media attention the past few months are the doings of a small group of malcontents and not the work of the legitimate Mohawk Government.

Tyendinaga Township does not have a place at the negotiating table, nor does the Town of Deseronto. This is frustrating for both Councils, but the Government of Canada has decreed that this is a matter between the Federal Government and the First Nation only. The Government of Ontario has been offered a place at the table but thus far has declined. Sean Kennedy has been appointed as lead negotiator for the Federal Government.

The Federal Government has also appointed Doug Forbes as a third party liaison to the negotiations. His role is to listen to third party (our) interests, the interests of community members and others affected by the claim to ensure that third party interests are considered as resolution is discussed. Reeve Walsh and Mayor Clarke held a meeting with Mr. Forbes on March 29 as an introductory session to get a sense of his role and mandate.

On April 20 the group occupying the quarry closed the CN tracks on the Deseronto Rd for 30 hours. This was not the direction of the legitimate Mohawk Government. This upset and disrupted the day to day affairs of all residents in the area. The situation came to peaceful conclusion but the quarry occupation did not.

Mr. Forbes held meetings in Deseronto for community members through most of May. Many of our residents who live within the Culbertson Tract attended these meetings so that Mr. Forbes could get a sense of the third party interest.

On June 13, Tyendinaga Township Council met with Mr. Forbes to express our concerns and frustrations. Council is concerned about:

1. *Peace and order*
2. *Investments in municipal infrastructure*
3. *Erosion of tax base*

4. *Municipal services - post claim - in the affected area*
5. *A potentially patchwork community*
6. *Lack of involvement in the process*

At this meeting Mr. Forbes outlined a couple of interesting points in relation to Specific Claims Policy.

1. *Canada does not expropriate privately owned land to settle land claims*
2. *Land only changes hands on a willing buyer / willing seller basis*

On June 29, the National Day of Action took place. The group at the quarry forced the closure of the 401 and the traffic was to be detoured north on #37 and #41 and along #7. This detour did not work as the OPP had intended. Tyendinaga Township was flooded throughout the night with transport trucks and most 401 traffic coming through the Township road grid. The municipality set up its own detours in the morning to protect the Lonsdale and Wymans bridges. Since the NDA, our engineers have inspected the bridges for damage; they are structurally sound.

On July 5, Reeve Walsh penned a letter to Leona Dombrowsky, Member of Provincial Parliament, Daryl Kramp, Member of Federal Parliament, the Honourable Jim Prentice, Federal Minister of Indian and Northern Affairs and the Honourable David Ramsey, Provincial Minister of Aboriginal Affairs. This letter states clearly the frustration of our Council. Council demands that the taxpayers of Tyendinaga be reimbursed for all costs associated with the National Day of Action and assurance that the situation that unfolded the night of June 29 is not repeated. Council is committed to this position.

On July 13, Tyendinaga Council and Deseronto Council met with chief negotiator Sean Kennedy and Linda McWilliam from Indian & Northern Affairs for an update and introduction to the Additions To Reserve Policy. This is the policy by which First Nations can purchase land and ask for it to be added to the existing Reserve. Interestingly, this policy applies whether a land claim is underway or not. Presumably, if there is a cash settlement in regards to the Culbertson Claim, the MBQ may start buying property in the area and ask to have it added to the existing reserve. This policy contains provisions that both the affected Municipality and the Provincial Government be involved so that our interests are recognized and protected. This process can average about five years.

Currently , Tyendinaga Township is affected by only one land claim; this is the Culbertson Tract. The media and MBQ have issued statements that there may be as many as three more potential land claims in Tyendinaga Township, each in the neighborhood of 30,000 acres. These Claims have not been filed by the MBQ. Even when and if they are filed, they go through a vigorous Federal review before they are accepted for negotiation, or not accepted at all. It is extremely premature for Council to comment or be in a position to make any substantive statements in regards to these future claims, which have not yet even been filed.

Council will be holding a community meeting on September 18, 2007 at 7p.m. at the Recreation Hall so the community can express concerns and speak with Council. We are also inviting Mr. Forbes, Mr. Kennedy, our MP, MPP and the OPP to be in attendance. Doug Forbes has been very receptive to hearing community concerns in this matter. He can be reached at (416) 201-0219 or forbesdoug@rogers.com for anyone who wishes their comments to be incorporated into the many reports that Mr. Forbes is forwarding to the negotiating team.

In the meantime, your Council is available to speak with you directly. The main office (396-1944) can furnish community members with the contact information for the Reeve and Council. We hope this update helps bring some clarity to any confusion regarding Land Claims in the area and we hope to see you on September 18, if you wish to attend the community meeting.

**Reeve Margaret Walsh, Deputy Reeve Fred Lang, Iain Gardiner, Rick Phillips, Chris Brady
Tyendinaga Township Council**

