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150+ YEARS OF COLONIZATION = RACIAL DISCRMINATION

SHADOW REPORT BY THE ALGONQUIN NATION SECRETARIAT

ON

CANADA'S ONGOING COLONIZATION OF INDIGENOUS PEOPLES TO THE UN CERD COMMITTEE

July 2017

This submission is being made by the Algonquin Nation Secretariat, comprised of three member communities (Barriere Lake, Timiskaming, Wolf Lake) of the Algonquin Nation in Ontario and Quebec, regarding ongoing attempts by the Government of Canada and the provinces of Ontario and Quebec to extinguish indigenous land rights (Aboriginal Title), rather than recognize indigenous territorial governance and other related discrimination against Indigenous Peoples by Canada.

Our submission will first speak to the colonial underpinnings of Canada's legal system and dealings with Indigenous Peoples, resulting in the ongoing dispossession and oppression of Indigenous Peoples, creating a deliberate vicious circle of dependency which is based in racism and discrimination against the Indigenous Peoples of these very territories. As Canada celebrates 150 years of Confederation, including the adoption of the British North America Act, now the Canadian Constitution Act, 1867, Indigenous Peoples lament 150 years of Canadian Colonization. This submission will not only speak to these persistent colonial underpinnings, but also provide recommendations to recognize our underlying indigenous title and decision-making authority regarding our territories and resources.

This submission is also a follow-up on an earlier early warning and urgent action submission that was jointly made in April 2016, by our three member communities (and Eagle Village) of the Algonquin Nation in Ontario and Quebec and demonstrated the violations of indigenous and human rights under the Algonquins of Ontario Process and the Canadian Comprehensive Claims Policy (CCP).

As Canada celebrates 150 years of the 1867 British North America Act, our three Algonquin communities remain dispossessed, forced into dependency and oppressed.

I. INTRODUCTION

Our ancestors were traditionally allied to the French and we played an important role in their struggle with the English because we controlled the Ottawa River, which was a strategic transport corridor between the St Lawrence and the upper Great Lakes. Beginning in 1760, Algonquins entered into a number of peace and friendship treaties with Great Britain: at Swegatchy and Kahnawake in 1760, and at Niagara in 1764. They were not land surrender treaties: these agreements assured the British of our alliance, and in turn the British promised, among other things, to respect and protect our Aboriginal title and rights. In addition, the Royal Proclamation of 1763 applies to our traditional territory: it guaranteed that our lands would be protected from encroachment, and that they would only be shared with settlers, if and when, we had provided our free and

informed consent through treaty. Algonquin Chiefs were given copies of the Royal Proclamation by British Superintendent of Indian Affairs, Sir William Johnson in 1763-64.

Unfortunately, despite these commitments, the British Crown, and later the Canadian government, took our lands by force, without our consent, and without any compensation. Sixty years after the Royal Proclamation of 1763 had been given to them, our Chiefs still had their original copies, which they presented to government along with petitions for protection of their lands and just compensation. Instead of dealing with them honestly, government ignored its commitments and continued to take the land without treaty and without consent.

Our people suffered greatly as a result, even as those around them became rich from the furs, timber, minerals and other resources.

Our Aboriginal rights and title have never been extinguished and exist to this present day.

The Ottawa River Watershed, now included in the provinces of Quebec and Ontario was “settled” under the colonial doctrine of discovery which is woven throughout the Canadian legal system and jurisprudence of the Supreme Court of Canada up to today and reflected in Canadian policy and the reality that Indigenous Peoples face on the ground. This not only constitutes racial discrimination, it violates our indigenous and most fundamental human rights and international oversight is required.

II. HISTORICAL BASIS FOR ABORIGINAL RIGHTS AND SELF-DETERMINATION OF THE ALGONQUIN NATION:

The modern province of Quebec is a creation of British colonial law. Like Ontario, it has all along been subject to what Professor Brian Slattery calls "common law aboriginal title". By virtue of the Royal Proclamation of 1763 and subsequent regulations, aboriginal title can only be acquired by the Crown - which today means the Federal Crown - through voluntary surrender "taken from Indians of the lands occupied by them".

Despite this fact, it has often been claimed that Quebec’s distinctiveness in the Canadian federation also extends to aboriginal rights. Generations of local school children have been taught that, from New France, their province inherited a pattern of dealing with indigenous people that was remarkably different from that followed in the Anglo-American colonies.

This argument - still being advanced by some politicians and academics in Quebec - has had profound consequences for indigenous people, because it has been largely accepted by the Federal Government. In 1906, for example, government commissioners negotiating Treaty Number Nine at Abitibi Post in northwestern Quebec explained to the local Algonquins that - because of Quebec's distinct history - they were only authorized to treat with those people who had hunting grounds in Ontario:

> *The policy of the province of Ontario has differed very widely from that of Qu6bec in the matter of the lands occupied by the Indians. In Ontario, formerly Upper Canada, the rule laid down by the British government from the earliest occupancy of the country has been followed, which recognized the title of the Indians to the lands occupied by them as their hunting grounds, and their right to compensation for such portions as have from time to time been surrendered by them. In addition to an annual payment in perpetuity, care has also been taken to set apart reservations for the exclusive use of the Indians, of sufficient extent to meet their present and future requirements.*
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> ***Quebec, formerly Lower Canada, on the other hand, has followed the French policy, which did not admit the claims of the Indians to the lands in the province, but they were held to be the lands of the crown by right of discovery and conquest. Surrenders have not, therefore, been taken from the Indians by the Crown of the lands occupied by them.***
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> *The reserves occupied by the Indians within the province of Qu6bec are those granted by private individuals, or lands granted to religious corporations in trust for certain bands. In addition, land to the extent of 230,000 acres was set apart and appropriated in different parts of Lower Canada under 14 and 15 Vic., chap. 106 (1851), for the benefit of different tribes.*
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> *Several reserves have also been purchased by the federal government for certain bands desiring to locate in the districts where the purchase was made.*

While their account of reserve creation is correct, there is only one problem with the commissioners' analysis of historical Quebec Native policy - it is not true. Britain did not adopt "French policy" with regard to native land claims in what is now Quebec. Nor did the British Crown ever claim unceded Indian lands in that province by virtue of discovery or conquest. Unlike the French-speaking inhabitants of what is now Quebec, the Indian Nations were considered allies, not subjects, of the Crown – and their pre-existing lands rights were to be

respected. When French civil law was reintroduced into Quebec in 1774, it was never intended that the Indian Nations would be subject to its provisions.

Until 1830, there was little settlement pressure on unceded Indian lands in what is now Qu6bec. It is true that thereafter - unlike in Ontario - land surrenders were rarely taken, even though the law clearly required them. But this was not because governments of the day believed that they were following old French colonial policy. By the 1840's, settler politicians in the eastern half of the pre-confederation Province of Canada, responding to among others a powerful lobby of Ottawa valley timber magnates, believed they could open such unceded Indian lands to settlement and resource extraction without first extinguishing aboriginal title.

After Confederation, the Quebec elite invented the theory that their predecessors had simply been following French colonial practice in order to justify the non-recognition of aboriginal title. This is what the Treaty 9 commissioners had reported as historical truth. This self-serving argument was important to Quebec, because Canadian boundary extension acts in 1898 and 1912 - which incorporated the Abitibi and James Bay regions into that province implicitly or explicitly recognized pre-existing aboriginal rights in those same territories.

For our three Algonquin communities whose common law aboriginal title to much of modern Quebec has never been extinguished – this report provides an opportunity to set the record straight.

(1) **The French Regime**

Even the statement that France never "admitted" Indian claims to land is incorrect. As a number of historians have pointed out, French policy towards indigenous people has been frequently misunderstood. It is important, for example, to distinguish between assertions of international and domestic sovereignty. The French Crown never claimed full title to lands occupied by Indian nations within the purported boundaries of Canada - which, after all, covered an enormous part of North America.

This was especially true of the lands north and west of the seigneuries on the St. Lawrence River - where, since 1716, settlement and clearing of land had been forbidden without the express authorization of the Crown. Known to the French as the "pays d'enhaut" - and to the Anglo-Americans as "Indian country" - this was the zone of the fur trade. Effective French sovereignty in these regions extended no further than musket range of their trading posts.

The traditional lands of the Algonquin Nation - which extend up both sides of the Ottawa River and inland towards James Bay - were always considered part of the Indian country. The French traded with the Algonquins at posts along the Ottawa and its tributaries, with major trading establishments at Abitibi and Temiscamingue.

In the first half of the eighteen century, some members of the Algonquin Nation - known then both as Algonquins and Nipissings - were spending their winters in their homelands and their summers at the Sulpician mission settlement on Lake of Two Mountains, which they called Oka {pickerel). These were the people who hunted along the lower Ottawa River as far as Mattawa and Lake Nipissing.

The Algonquins who remained on their lands year-round were known to the others as **Nopiming daje inini** or inlanders, which the French translated as **gen des terres**. To confuse matters, the French occasionally called them têtes de boule (which was a term applied as well to the Attikamegue Nation of the upper St. Maurice region). These were the Algonquins who inhabited the headwaters of the Ottawa - including Barriere Lake - and the Kipawa, Abitibi and Temiscamingue regions.

The Algonquins were famous warriors. As allies of the French, they fought many battles against the British and their indigenous allies, the Six Nations Iroquois. Without their assistance – and those of other "domiciled" Nations - Montreal and the other tiny French settlements along the St. Lawrence would not have survived the seventeenth century.

But it was not just the mission Algonquins who were involved in combat. In the late seventeenth and early eighteenth centuries, warriors from as far away as Abitibi and Temiscamingue joined the French on their expeditions against the Iroquois and the English. During the Seven Years War, inland Algonquins also fought alongside their brethren from Oka until the French alliance was abandoned in the late summer of 1760.

(2) **Nation to Nation Relations**

As late as the 1950's, it was still possible for historians to ignore Native people when writing about the conquest of New France. Such rights as France's former allies had retained under the British, it is usually argued, flowed from Article 40 of the capitulation of Montreal on 8 September, 1760. The capitulation had been drafted by the Marquis de Vaudreuil and his officers:

> *The Savages or Indian allies of his most Christian Majesty, shall be maintained in the Lands they inhabit; if they chuse to remain there; they shall not be molested on any pretence whatsoever, for having*

carried arms, and served his most Christian Majesty; they shall have, as well as the French, liberty of religion, and shall keep their missionaries […]

But the Indian Nations were not dependent on such agreements between France and Britain to protect their interests. As former Chief Justice Lamer of the Supreme Court has pointed out in the 1990 Sioui case, the Hurons of Lorette had already made their own treaty with the British two days before the fall of Montreal.

The same was true for other Indian Nations of what is now Quebec. In mid-August of 1760, deputies of nine tribes – including representatives of the Algonquin Nation - came to meet Sir William Johnson, the British Superintendent of Indian Affairs, at Fort Levis in the St. Lawrence River. British forces, beginning their descent on Montr6al, had just captured this island stronghold near what is now Prescott, Ontario. There, accordingly to Sir William, the nine Nations ratified a Treaty with British, "*whereby they agreed to remain neuter on condition that we for the future treated them as friends and forgot all our former enmity*".

The consequences of the treaty were devastating for the French colony, since the Indian Nations controlled the water routes to Montreal. On the 29th of August, the French commander – the Maréchal de Lévis - called a council with the chiefs and warriors at La Prairie to urge them to stay in the French interest. As he was speaking, the ambassadors who had been sent to Sir William Johnson suddenly returned - interrupting him to announce that they had already made peace with the British. The assembled tribes vanished, leaving Lévis with a belt of wampum dangling uselessly from his hand.

Sir William Johnson used his close contacts with the Six Nations of New York province to cement diplomatic ties with these former native adversaries. After the capture of New France in 1760, the Seven Indian Nations of Canada, along with their "allies and dependents", formally united together with the Six Nations to form one large confederacy in the British interest.

Unlike the "canadiens", the Indian Nations of Quebec were considered allies, not subjects, of the British Crown. over the years that followed, colonial officials responsible for Indian relations - governors, the military, and officers of the Indian Department - continued to operate on a nation to nation basis with Indian Nations.

Governor Haldimand of Quebec made this point at the close of the American Revolutionary War in 1783, in instructions which he issued to Sir William Johnson's son, John Johnson, as the new Superintendent-General of Indian Affairs. As the Indian Nations, he wrote, "consider themselves, and in fact are, free and independent,

unacquainted with control and subordination, their Passions and Conduct are alone to be governed by Persuasion and Address".

First Nations from what is now Quebec - including warriors of the Algonquin Nation - had fought as allies of the British throughout the American Revolutionary War. They also fought in the War of 1812-15 - helping, for example, to defeat the Americans at the Battle of Chateauguay. The Algonquin Nation remained loyal to the British Crown during the 1837-38 Rebellion in Lower Canada.

Algonquins have also, in keeping with this martial tradition, served overseas with Canadian Forces in both World Wars.

(3) **British Military Rule 1760-63**

After the fall of Montreal, Britain never intended that aboriginal people living within the former boundaries of Canada would thenceforth be subject to French colonial usages and customs. The continuation of those French laws had been rejected by the British Commander in Chief General Jeffrey Amherst, under the terms of the Capitulation.

In fact, the British Crown promised equal treatment to both French-speaking "canadiens" and aboriginal people. As the King instructed General Amherst in 1760-61, the Indian Nations were to be treated "upon the same principles of humanity and proper indulgence" as the French; and Amherst was to "cultivate the best possible Harmony and Friendship with the Chiefs of the Indian Tribes".

On September 20, 1760, Sir William Johnson had appointed his son-in-law, Daniel Claus, as Deputy Indian Agent at Montreal, in order to extend "the British Indian interest". At a series of council meetings with the Algonquins and other Indian Nations, Claus assured them that their land rights would be respected.

The military government did abolish the former French trade monopolies, which had seen fur trade posts - such as Temiscamingue - either kept for the Governor's profit or sold to the highest bidder. But the three military jurisdictions - Montreal, Quebec and Trois Rivieres - maintained the French distinction between the settled lands on the St. Lawrence and Indian country. Within the Montr6al District, for example traders needed military permission to pass up the Ottawa River beyond the old seigneurial boundaries west of Lake of Two Mountains.

(4) **The Province of Quebec, 1763-1774**

The Royal Proclamation of October 7, 1763 created the Province of Quebec, though with relatively limited boundaries. These encompassed the old French seigneuries and a part of the interior country within a diagonal line drawn from Lac St. Jean southwest to the eastern tip of Lake Nipissing. The Crown's purpose in doing so was to include the rivers which flowed into the St. Lawrence from the northward - presumably so that the St. Lawrence and Ottawa River routes, the main access points to the settled part of the province, would be under the new civil government's control.

Some settlement was to be permitted in Quebec – particularly for demobilized military officers and their families. Thus, Part II of the Proclamation permitted the Governor of Quebec to "settle and agree" with the inhabitants of the province for such lands as "are now or hereafter shall be in Our power to dispose of". However, the Crown had relatively little land at its disposal – and relatively few Anglo-American settlers actually arrived in the province.

Apart from the seigneurial grants, the remaining lands in Quebec were in the possession of aboriginal people. These were protected by the provisions set out in Part IV of the Proclamation:

> *And whereas it is just and reasonable, and essential to our Interest and the Security of our Colonies, that the several Nations or Tribes of Indians, with whom We are Connected and who live under our Protection, should not be molested or disturbed in the possession of such Parts of Our Dominions and Territories as, not having been ceded to or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds.*

Accordingly, the Governors of Quebec and the other colonies were forbidden to pass patents or issue warrants of survey beyond the bounds of their commissions. Private persons were forbidden to settle on unceded Indian lands. When Indian lands were wanted, they were to be purchased for the Crown at a public meeting with the nations or tribes concerned.

The Royal Proclamation of 1763 was officially promulgated within the new Province of Quebec by Governor James Murray. This was so that the new and old subjects of the Crown would know the various regulations it contained. The Crown also ordered Sir William Johnson to make the Proclamation known to the Indian Nations within the territories under his jurisdiction.

These Indian territories included the lands of Algonquins. Some of these lands - such as those along the Ottawa River – were now within the Province of Quebec. The remainders were within the great Indian reserve set out in Part IV of the Proclamation. There was to be no settlement at all within the latter territories, without the "leave and licence" of the Crown - and the consent of the Indian Nations.

The 1971 report of the Dorion Commission on the territorial integrity of Quebec disputes the applicability of the Proclamation within the boundaries created in 1763. However, it fully accepts that the Proclamation applied to the lands north of Quebec's 1763 boundary.

Historical evidence, however, shows that the provisions of the Proclamation were also strictly observed within the old province of Quebec. In 1766, for example, His Majesty's Privy Council in London had endorsed a grant of 20,000 acres to a certain Joseph Marie Philibot at a location of his choosing. But when that individual asked for land on the Restigouche River, the Governor and council of Quebec refused his application - on the grounds "the lands so prayed to be assigned are, or are claimed to be, the property of the Indians and as such by His Majesty's express command as set forth in his proclamation in 1763, not within their power to grant".

Lands within the province which the Crown considered in its "power to dispose of" to settlers - to use the wording of the Royal Proclamation - did not include the areas north and west of the Ottawa and St. Lawrence Rivers. As under the military regime, these lands were zoned for the fur trade and aboriginal people. In April of 1764, it was forbidden for inhabitants of Quebec to pass beyond Carillon on the Ottawa without a pass from the Governor.

(5) **The Province of Quebec, 1774-1791**

By the Quebec Act of 1774, the province's boundaries were enormously enlarged, extending as far to the westward and southward as the upper Great Lakes and the Mississippi River. This took in much of the territory which had been zoned under the Proclamation for exclusive Indian occupation. Virtually all of the lands of the Algonquin Nation, for example, were now within the bounds of Quebec.

The reason for the boundary extension, as both the Preamble to the Act and the subsequent instructions to the Governor make clear, many small French interior settlements - such as Detroit, and Kaskaskia on the Illinois - had been left by the Proclamation without civil government. Not only would these settlements now be governed from the St. Lawrence, but they would be able to avail themselves of French civil law, which had been reintroduced by the Act as well.

These new arrangements, however, had little relevance for the Indian Nations of Quebec. Indian Nations, as before, had a direct relationship with the Crown, through the British military and Indian Department. As the Commander in Chief explained to the head of that Department shortly after the passing of the Quebec Act, Indian people were ordinarily left to "their own usages and customs" in most things. While they might, said General Thomas Gage, have been informed that, "in cases of murder or robbery", they could be tried according to English law, the "French law of Canada" would have no authority over them.

The settler government - which at this time consisted of a Legislative Council, rather than an Assembly had no constitutional authority over aboriginal people, though it could and did pass laws to protect them from depredations by whites. One such piece of legislation was a 1777 Ordinance to prevent the selling of liquor to aboriginal people. Under its terms, inhabitants of Quebec were also forbidden to travel past the foot of the long fall on the Ottawa River - near Carillon - without a pass. Nor was anyone to be allowed to settle "in any Indian village or Indian country within this Province" without a licence in writing from the government.

British officials assured the Indian people that the provisions of the Royal Proclamation protecting their land rights were still in effect. There was little settlement pressure within the province in any case until the close of the American Revolutionary War - when Britain suddenly had to provide for great numbers of refugee Loyalists.
Many of these Loyalists wanted to settle on Indian lands north of the St. Lawrence River and Lakes Erie and Ontario. As a result, beginning in 1781, the Crown acquired various tracts of land from the Indian Nations - in keeping with the rules set down in the Royal Proclamation of 1763. One of these purchases - in 1783, of lands in what is now the far corner of eastern Ontario - was made from Mynass, an Algonquin Chief, who lived at Oka.

Some Loyalists also settled in what are now the Eastern Townships of Quebec. The Crown had purchased the Seigneury of Sorel for them - and, with other seigneurial lands available, there was little need to apply to the Indian Nations for more land. Disputes did arise at St. Regis - Akwesasne - much of which was coveted by the settlers. However, their petition to the Executive council - the ultimate land-granting authority - was refused, on the grounds that the lands in question, being Indian lands, were "not in the King's power to grant".

(6) **The Province of Lower Canada, 1791-1841**

The Province of Canada was created by Imperial statue in 1791. What had remained of Quebec after the American Revolution was formally divided into Lower and Upper Canada by Imperial Order in Council of 24 August 1791. The boundary between the two provinces was to run along the Ottawa River as far as Lake Temiscamingue and then "due North until it strikes the boundary line of Hudson's Bay". The traditional lands of the Algonquin Nation, therefore, were now both in Upper and Lower Canada.

French civil law was to apply in the lower province, while the English common law was to prevail in the upper. This did not affect common law aboriginal title, which was to have the same application in both. Shortly after the passing of the 1791 legislation, the King reappointed Sir John Johnson as Superintendent General of Indian Affairs. He was to assure "Our Faithful allies, the Nations inhabiting our provinces of Upper and Lower Canada and the frontiers thereof" of His Majesty's continued concern for their welfare.

These assurances included protection of existing land rights. As Sir John's superior officer - Governor Guy Carleton, Lord Dorchester - assured the Confederacy of Indian Nations at Montreal in 1791, the Crown "never has, and never will, take a foot of land from you without your consent, and without paying you for it".

There were problems, however, as Lord Dorchester explained to the colonial secretary in early 1795, he had been hearing frequent "complaints of the Indians of Lower Canada regarding their Lands", as well as protests from the Indians in Upper Canada at "Persons who have taken possession of Lands which are still claimed by them". These discontents, according to the Governor, "could proceed only from the omission of Form, and want of knowledge in the Persons employed to make Purchases of their Lands". Deciding therefore to expand on the rules originally set out in the Royal Proclamation of 1763, Lord Dorchester had issued a new series of regulations to Sir John Johnson on 24 December 1794.

These regulations clearly applied to Lower Canada, as well to the upper province. They state that when lands are wanted in "any of the King's Provinces", proper requisitions are to be made to the Commander in Chief. By Article 3, "All purchases are to be made in public Council with great solemnity and ceremony according to the antient usages and customs of the Indians, the principal Chiefs and Leading Men of the Nation or Nations to whom the lands belong being first assembled". Proper maps of the lands to be acquired are to be made, and copies of the agreements given to the Indian Nations for their records.

Between 1794 and 1830 in Upper Canada, the British Crown entered into a long series of land surrender agreements with the Indian Nations. This was to allow for the settlement of American Loyalists and subsequent British immigrants.

Within Lower Canada, on the other hand, there was no sustained pressure on unceded Indian lands before 1820. Until that time, settlement had largely been confined within the old seigneurial grants along the St. Lawrence. When the frontier of settlement did advance into Indian country, Indian Department officials insisted that the Royal Proclamation of 1763 continued to apply. In 1824, the octogenarian Superintendent-General, Sir John Johnson, argued in a letter to the Governor that the lands of the Algonquin Nation were being illegally encroached upon by lumberman and settlers:

> *By His Majesty's Proclamation dated the 7th October 1763, a copy of which is herewith enclosed, you will find that it is expressly provided that the Indians shall not under any Pretence whatever, be deprived of the Lands claimed by them, unless they should be inclined to dispose of them, in which case they are to be Purchased for the crown only, and at some Public meeting to be held for that purpose.*

As late as 1837, the Executive Council of Lower Canada considered that the Algonquin Nation had established a valid claim to their hunting grounds along the Ottawa River, based on the Royal Proclamation and Lord Dorchester's regulations.

(7) **The Province of Canada, 1841-1867**

By the early 1840's, the Lower Canada forest industry had spread into the Saguenay-Lac St. Jean region and far up the Ottawa River and its tributaries. English speaking lumberman like William Price - the "father of the Saguenay" - and John Egan - who held all the licences around Lake Temiskaming - used their influence with the provincial government to open what had until then been fur trade and Indian country to resource extraction.

At the same time, the Catholic clergy were pressing the government to allow proper colonization of the Saguenay. They were concerned that rural people - faced with a shortage of arable land in the old seigneuries - had been leaving for the towns of Canada and the United States.

As some compensation to aboriginal people who were being displaced, Oblate missionaries petitioned the provincial government to provide Indian reserve lands in the Saguenay and Ottawa regions. These would include a township on the Gatineau River and another large tract at the head of Lake T6miscamingue - both for

the Algonquins and their relations. In a report to the government dated August 2, 1849, the Assistant Commissioner of Crown Lands, Teophile Bouthillier, recommended that the tracts be set apart. He also noted the contrast between the two halves of the province of Canada in their treatment of Indian claims:

> *There is this general observation to make in conclusion, that while in Upper Canada the Government have scrupulously paid the actual occupants of the soil for almost every inch of ground taken from them, making fresh purchased as new districts were laid out, they in Lower Canada appear to have been totally regardless of all Indian claim.*

The Assistant Commissioner's remark was meant as a criticism, not as a defence, of Lower Canada land policy. Nowhere do Bouthillier or any other government officials of this period suggest that the lower province, in disregarding Indian claims, was following old French colonial practise.

The government's response to these petitions was the Lower Canada Statute of 1851, which set apart 230,000 acres of land in Canada East for the use of certain Indian tribes. By Order in Council of 9 August 1853, these lands were formally distributed. The schedule included 38,400 acres at the head of Lake Temiscamingue, and 45,750 at Maniwaki or Riviere Desert for the "nomadic tribes" of the Nepissingue, Algonquin, Outaouais and Têtes de boule.

In effect, then, the creation of reserves in Canada East constituted compensation for damages caused to Native hunting grounds by lumbering and settlement. However, none of the official documents - including the 1851 statute - tied reserve creation to the extinguishment of aboriginal title. This is not surprising since the Legislative Assembly of Canada had no such constitutional authority.

(8) **The Province of Quebec, 1867 -**

The modern province of Qu6bec came into being through the British North America Act of 1867. Responsibility for "Indians and lands reserved for the Indians" within the province was entrusted to Canada under Section 91(24). Under Section 109 of the Act, Quebec was given authority over lands and resources within its boundaries - subject to any "interest other than that of the province in the same".

It was a commonly held view that aboriginal title was just such an interest. In 1875, Télėsphore Fournier - Minister of Justice in Alexander Mackenzie's Liberal government - argued this point in an opinion involving

aboriginal title in British Columbia. The opinion notes that aboriginal rights to land had always been respected throughout what was now Canada - including both Ontario and Quebec:

> *The determination of England as expressed in the Proclamation of 1763, that the Indians should not be molested in the possession of such parts of the dominions and territories of England as not having been ceded to the King are reserved to them, and which extended also to the prohibition of purchase of lands from the Indians except only by the crown itself at a public meeting or assembly of the said Indians to be held by the Governor or Commander in Chief, has with slight alteration been continued down to the present time, either as the settled policy of Canada or by Legislative provisions of Canada to that effect; […] and in various parts of Canada from the Atlantic to the Rocky Mountains large and valuable tracts of land are now reserved for the Indians as part of the consideration of their ceding and yielding to the crown their territorial rights in other portions of the Dominion.*

In 1867, Qu6bec's boundary only extended as far north as the height of land separating the St. Lawrence watershed from the rivers flowing into Hudson and James Bay. The more northerly territory - part of the lands covered by the Charter of the Hudson's Bay Company - was formally transferred to Canada in 1870, following petitions from the Senate and House of Commons of the new Dominion. The transfer stipulated that the "claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government in communication with the Imperial Government".

Most of the Algonquin homelands were within the territorial boundaries of Quebec in 1867, though some lands remained within what were now the Northwest Territories. In 1898, Canada transferred the southern half of this northern territory to Quebec. The remainder was transferred in 1912. Again, there was an express stipulation that aboriginal title would be dealt with.

Canada made Treaty No. 9 in 1905-06 and 1929-30 with the Native inhabitants of Ontario whose lands had once been part of Rupert's Land. No such treaty was made in Quebec. In the decades following confederation, the Quebec elite had begun arguing that the province had inherited French policy with regard to aboriginal title. It was not necessary, therefore, to negotiate for the extinction of the aboriginal interest. This argument was adopted by the provincial government - and largely accepted by Canada.

In the period after 1880, Quebec began a major expansion of settlement and resource extraction in the traditional homelands of the Algonquin Nation. Continuing their attempts to stem the flood of rural "canadiens"

to the New England states, Oblate clergy promoted major colonization schemes at the head of Lake Temiscamingue and in the Abitibi region.

Lumbering remained the major activity up the Gatineau River and around the headwaters of the Ottawa. To aid the lumber industry and provide hydro-electric power, Quebec permitted the construction of enormous dams and reservoirs at Baskatong, Cabonga, Dozois and Kippewa. These dams caused major damage to the homelands of the Algonquin people.

Quebec also stepped up prosecution of Algonquin people for supposed violations of provincial game and fish regulations. Between the two world wars, only the Hudson's Bay Company – for their own commercial reasons - were prepared to support the pre-existing rights of aboriginal people to hunt, fish and trap.

Development and encroachment on unsurrendered Algonquin lands continued to the end of the nineteenth century and throughout the twentieth century, more or less unabated. This caused much hardship to the Algonquin people whose traditional way of life depended upon hunting, fishing, trapping and gathering.

Their way of life was even more directly interfered with when the government of Qu6bec permitted the creation of private hunting and fishing reserves on traditional lands, without Algonquin assent. When the private clubs were abolished, the government of Quebec created Zones of Controlled Exploitation (ZEC). Algonquin people did not assent to these either. Yet they are still being harassed for exercising their aboriginal rights in these zones.

Although the Department of Indian Affairs tried, after the 1940's, to have small reserves set apart for the interior Algonquins - at Amos, Lac Barriere, Grand Lac and Lac Simon, for example - these proposals were resisted by the Quebec Colonization Department.

Apart from these minimal efforts, Canada has generally failed to support the rights of Algonquin peoples in Quebec. The Algonquin people are among the poorest in Quebec and Canada. Housing, health and education standards are inadequate and our unemployment rates are as high as 80-90 per cent. And despite outstanding Aboriginal title, we have been squeezed by Quebec onto marginal land bases. For example, the reserve at Rapid Lake is made up of 59 acres of sand for a total population of 450 people, Quebec has only recently agreed to transfer up to 6.8 km2 to expand the land-base at Rapid Lake. Wolf Lake does not even have a reserve.

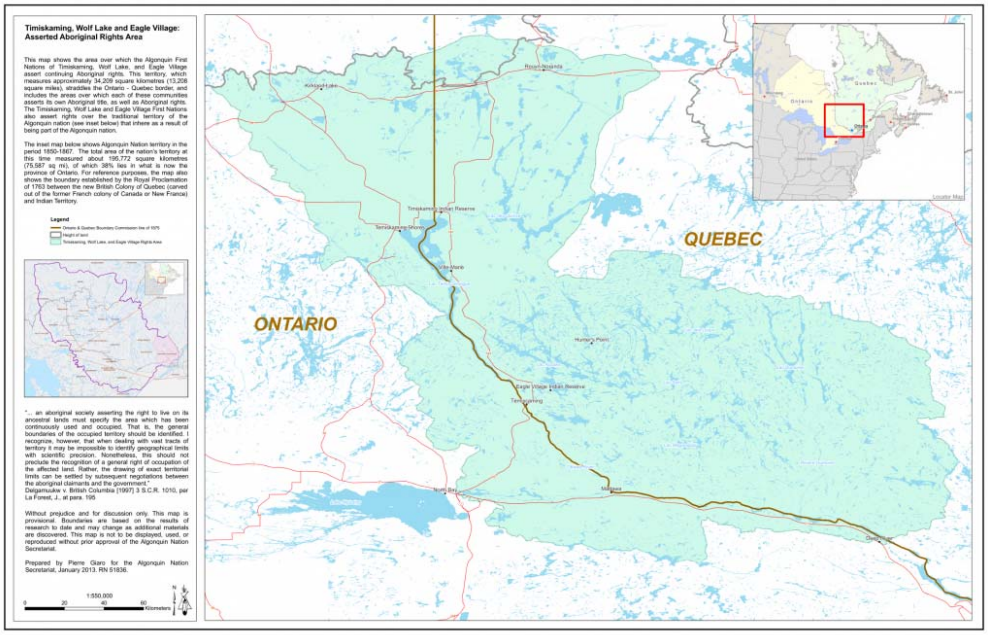
III. WOLF LAKE, TIMISKAMING (AND KEBAOWEK) STATEMENT OF ASSERTED RIGHTS AND TITLE:

In January 2013, Timiskaming (TFN), Wolf Lake (WLFN) (and Kebaowek/Eagle Village EVFN) presented Canada, Quebec and Ontario with a **Statement of Asserted Aboriginal Rights & Title** (SAR), in part to address the gaps in federal policy related to consultation and interim measures prior to treaty negotiations. As explained in that document:

> *The purpose of this Statement is to set-out the evidence to support WLFN, TFN (and EVFN) in their efforts to engage the honour of the Crown and its duty to consult them and accommodate their interests in matters affecting their traditional territories. It is intended to engage Canada's obligations under domestic law (Constitution Act, 1982, s. 35 and the Haida case) and international law, the **United Nations Declaration on the Rights of Indigenous Peoples** (**UNDRIP**), which requires free prior and informed consent before any development activities within the traditional territories of Indigenous Peoples.*
>
> *This Statement is provided as an interim step prior to the completion of formal Statements of Claim from TFN, WLFN (and EVFN), and is provided at this time to give the Crown formal notice of their asserted Aboriginal rights and title. [...] Although this Statement is only a summary of the evidence, it is intended to provide enough evidence to trigger the Crown's duty and to establish that the scope of that duty is at the high end because of the strength of the claim.*[1]

The package that went with the SAR included extensive documentary evidence to substantiate the assertions made. It also included a map showing the geographic extent of the area over which the three communities assert Aboriginal title and rights (Timiskaming, Wolf Lake (and Eagle Village): Asserted Aboriginal Title & Rights area (January 2013)).

[1] Statement of Asserted Aboriginal Rights & Title: Timiskaming, Wolf Lake & Eagle Village, Jan 2013: p. 2



Canada has been unprepared to address the SAR in any meaningful way. It has refused to engage the communities substantively with respect to consultation, and instead has insisted that the only way for these matters to be addressed is for Wolf Lake, Timiskaming (and Kebowek) submit their comprehensive claims to Canada for review; but that even then, nothing will be done until all of the nine 'Quebec Algonquin' communities submit claims. Canada has refused to act on the strength of evidence provided to it in the SAR.

Barriere Lake's experience with the Trilateral Agreement and the experience of Timiskaming, Wolf Lake (and Eagle Village) with the SAR, suggests that federal officials are unwilling to consider practical alternatives to the federal Comprehensive Claims Policy, even when confronted with significant strength of evidence in accordance with Canadian judicial standards.

Two hundred and fifty-four years after the Royal Proclamation of 1763, our people are still waiting for a just settlement with Canada, while we continue to be excluded from equitable benefit of the economic and social life of our region. Despite being surrounded by their own Aboriginal title lands, three out of the nine Algonquin communities in Quebec don't even have federal reserve lands of their own, while other communities do not have enough land to meet their growing housing needs.

Since the advent of section 35 of the Constitution Act, 1982, the contradictions have been mounting. Despite the fact that section 35 "recognizes and affirms" our Aboriginal and treaty rights, successive federal and provincial governments have produced a series of policy and negotiation frameworks which discount or ignore those rights, but which also require their extinguishment. In contrast, Canada's courts have issued a series of

judgements which serve to confirm and lay out the nature and scope of Aboriginal & treaty rights, and the tests required to prove them.

At the same time, the *United Nations Declaration on the Rights of Indigenous Peoples* has contributed to standard-setting with respect to Aboriginal rights and key principles such as free and informed consent.

Unfortunately, with each positive court decision or development on the international stage, the federal government seems to move it's policy further away, deeper into denial and avoidance. This was clear after the Supreme Court of Canada ruled in Delgamuukw in 1997. Following this decision, the federal government refused to amend its Comprehensive Land Claims Policy (CCP), despite the fact that the policy and process were at odds with the legal reality described by the court.

With subsequent court decisions, in particular Haida and Tsilhqot'in, the disconnect between federal policy & practise on the one hand, and the law on the other, has become even more glaring. In particular, while the courts have acknowledged the need for policy and process that covers the spectrum from asserted rights through to final negotiated agreements, including the need to consult and accommodate in the interim, federal policy has failed to provide practical measures to address these realities.

For Wolf Lake and Timiskaming (and Kebaowek) on January 23, 2013, they submitted a **Statement of Assert Rights and Title** to the governments of Canada, Ontario and Quebec, to address the need for a formal consultation protocol for land and resource developments occurring on their Aboriginal title territories. To date, none of the governments have seriously responded to the formal notice of title and rights.

IV. SPECIFIC CONCERNS OF THE ALGONQUINS OF BARRIERE LAKE

My name is Casey Ratt, and I am Chief of the Algonquins of Barriere Lake. We have lived in the Ottawa Valley watershed from time immemorial. Our reserve at Rapid Lake is about 3 ½ hours north of Ottawa, on the Cabonga reservoir. We have over 750 members but our reserve only measures about 74 acres in size.

Our lands and resources have been dispossessed by Quebec and Canada. Our people live in poverty. We have high unemployment because we have been excluded from the development of our traditional lands. For generations we have tried to resolve these issues with Canada and Quebec. There have been times of conflict but we have always tried to solve our issues through negotiation. In 1991, we signed an agreement with Canada

and Quebec to negotiate the management of lands in our territory. In 1997, we signed another agreement with Canada, to rebuild our community. Canada walked away from those agreements in 2001 and refused to negotiate. Then, in 2006 Canada imposed Third Party Management (TPM) on our community, and four years later they removed our customary system of government and imposed the Indian Act election system on us.

The federal government's TPM has controlled all aspects of our community's programs and services since 2006. There is no accountability to our people. Canada has made our system of governance almost irrelevant, since so many decisions are made by the TPM without any consultation with us. Taken together, these events have increased our hardship and poverty.

We had to ask ourselves why the government of Canada would take control away from our people and impose a TPM which actually made our lives worse.

There is no exit strategy. Canada and the TPM did nothing to work with us to build a bridge out of this situation. They seemed happy to let this go on forever. So, in 2016 we sued Canada in Federal Court. Now we are in mediation to once again try and negotiate a fair resolution so that our people can take back control over their lives.

We always hear that First Nations must be accountable and transparent. Then how come Canada and the TPM can get away without being accountable and transparent to our people?

We know we could do better. I want to provide you with some examples:

- Our TPM gets paid about $550,000 a year to administer our poverty. We don't think that our community or the Canadian taxpayer gets value for dollar in this arrangement.
- Nothing in the TPM agreement measures whether our quality of life, or the delivery of services improves under TPM. There is nothing to link the TPM to positive outcomes for our community. It has nothing to do with improving our living conditions or the lives of our people.
- We have no role in developing the TPM's terms of reference. Each year the contract only requires the TPM to administer the current year's programs & services. So, past debts are left unattended. Before the TPM was imposed, Revenue Quebec had assessed our outstanding bill at $218,000. We now owe an additional $305,000 in interest, and $34,000 in penalties, for a total of $558,000. Separately, Quebec's

CSST assessed our community for $400,000. Since then, they have added another $290,000 in interest, for a total of $690,000. Apparently the TPM's have done nothing to pay down these debts, because INAC has not required them to do it. Is this proper financial management?

- Despite population growth, terrible overcrowding, and a lack of housing stock, no new houses have been built at Rapid Lake since 1995.
- In the past ten years none of the TPM's have worked with us so that we can develop the capacity to take over management of programs. There is no exit plan.
- We do not receive regular financial statements from the TPM, so our staff are unable to plan or carry out their responsibilities properly. In a normal situation we would expect to get monthly financial statements but the TPM refuses to provide them, except once every three months. Notices of layoffs come suddenly and without warning.

So, we went to Federal Court and we are now in mediation. We want to negotiate a way out of this terrible situation that has caused our people so much suffering. We are not able to talk about the content of our discussions in the mediation, but we can tell you that INAC and the Department of Justice are refusing to support our proper involvement in our search for a negotiated settlement. They have refused to cover the costs of our legal counsel, or of our financial advisor, or of our negotiators. Being in TPM, we have no discretion over our expenditures. We are in a Catch 22.

We think that your committee should be very concerned about this situation. We hear all about this government's commitment to "renewing the nation to nation relationship". We also hear a lot about this government's commitment to "reconciliation". But we don't see it. In fact, we see the opposite.

We think you need to ask this government some hard questions about how it is treating the people of Barriere Lake. We are asking for your help so that we can regain control over our community and our future.

III. ONGOING WARNING: "ALGONQUINS OF ONTARIO" (AOO) EXTINGUISHMENT NEGOTIATIONS

Traditional Algonquin territory straddles the Ottawa River watershed on both sides of the Ontario - Quebec border. There are eleven federally recognized Algonquin communities - two in Ontario and nine in Quebec. At least five of these communities assert Aboriginal title in Ontario, and most or all of them assert some form of Aboriginal rights in that province.

In 1991-92, Canada & Ontario began negotiating a land claim solely with the Algonquins of Golden Lake (now Pikwakanagan) to deal with Algonquin title on the Ontario side. Over the years, they have expanded the definition of who is entitled to participate in these negotiations, to the point where Pikwakanagan is now outnumbered by nine groups made up of mostly unregistered individuals who claim some Algonquin ancestry or connection. Out of the 7,714 people on the AOO voters' list, some 3,016 voters (39%) have had no intermarriage with anyone of Algonquin ancestry for 200, and in some cases over 300 years. At least hundreds more have had no intermarriage with anyone of Algonquin ancestry for between 100 and 200 years. In contrast, the registered members of Pikwakanagan make up less than 10% of the voters list. These large numbers of "instant Algonquins" undermine the legitimacy of the AOO negotiations and threaten the interests of legitimate rights-holders.

Under the proposed agreement, the AOO would surrender Algonquin rights to approximately 3.6 million hectares in eastern Ontario, including Parliament Hill. In return, undefined "Algonquin institutions" would receive 117,500 hectares of provincial Crown lands and $300 million in cash (about $0.012 per hectare for surrendered lands. Canada, Ontario and Pikwakanagan have been advised many times that the AOO claim negatively affects the rights and interests of other Algonquin communities, but so far they have refused to address these concerns. In 2013, the federal and provincial governments received a Statement of Asserted Rights to lands in Ontario from Timiskaming, Wolf Lake (AND Kebaowek/Eagle Village) First Nations, who together have an overlap of over 855,000 acres with the AOO. The AOO AIP will lead to a surrender of Algonquin rights and title to the same lands in eastern Ontario over which Kebaowek, Timiskaming & Wolf Lake assert Aboriginal rights.

The governments of Ontario and Canada have a legal duty to consult and accommodate the Algonquin communities who assert an interest in the AOO claim area. So far, they have refused to consult in a meaningful way, let alone accommodate. This is in breach of their legal duties to the Algonquin people, and a blot on their record.

In 1983, without any agreement with our Algonquin First Nations, Pikwakanagan (Golden Lake) submitted a land claim to the Ontario side of the Kichi Zibi (Ottawa River), which the government of Ontario accepted for negotiations in 1991 and the federal government accepted for negotiations in 1992. Following the acceptance of the land claim for negotiations the governments of Ontario and Canada fabricated the "Algonquins of Ontario"

for the purposes of negotiating the extinguishment of Algonquin Aboriginal Title and Rights in the Province of Ontario.

The federal government has known for at least 21 years that there are overlapping territorial interests among the Algonquins on both sides of the Ontario - Quebec boundary. In 1994, two years after it had commenced tripartite negotiations with Ontario and the Algonquins of Golden Lake (now Pikwakanagan), Canada commissioned an assessment of the state of Algonquin research, which was carried out by ethnohistorian James Morrison. His report, which is dated September 1994, spoke directly to the matter of overlaps:

> *There are also areas of overlap within what might be broadly defined as Algonquin territory. Algonquin claims in Ontario are not neatly confined to the community of Golden Lake. All the communities under study except Winneway assert some sort of traditional claim to lands on the Ontario side of the Ottawa River, both between Pembroke and Mattawa, and from Mattawa to Lake Temiskaming and beyond.* [2]

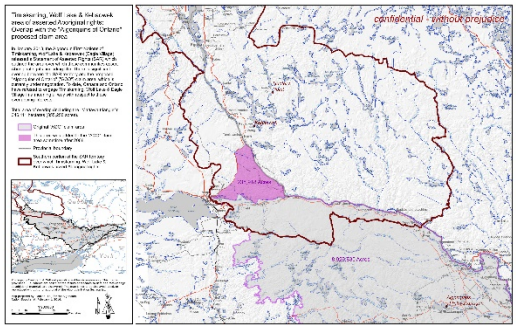
So, for almost the entire time that Canada and Ontario have been negotiating towards the Preliminary Draft Agreement-in-Principle (AIP), the federal government has been aware of the fact that there are overlapping assertions of rights.

The Algonquin Nation Secretariat (ANS) Tribal Council began carrying out Aboriginal title research on behalf of the Algonquins of Barriere Lake (ABL), Wolf Lake (WLFN) and Timiskaming (TFN) in 1996/97. Around this time, Eagle Village (EVFN) also began doing the same work.[3] As additional facts resulting from this research came to light, Canada and Ontario have been periodically reminded about the nature and scope of the rights being asserted and the fact that overlaps with the "AOO" needed to be addressed.

Through further research and despite being aware of the nature of the overlap issue, Canada and Ontario extended the boundaries of the "AOO" claim area, from the south shore of the Mattawa River northwards to Long Sault Island, apparently sometime between 2008 and 2010. There were no consultations or discussions with our communities about this boundary change prior to it being made, despite its impact on our Aboriginal title area. (Map of SAR overlap with AOO claim area and boundary change in purple).

[2] James Morrison, "Quebec Algonquin Historical Research: An Assessment". Prepared for INAC, 30 September 1994, at p iii.

[3] In January 2012, EVFN mandated the ANS to complete its Aboriginal title research.



We have never authorized any body or group, including the "AOO", to negotiate on our behalf with respect to our communities' rights in Ontario. Furthermore, there are unsettling questions around the sweeping scope of the definitions used in the AIP with respect to who is an "Algonquin".

The definitions used in the AIP are overly broad and leave ample room for confusion and potential damage to the interests of our communities, our members, and our Aboriginal title. As it now stands, the scope of the eligibility requirements for an "Algonquin" contained in the AIP are so broad that they could include many or all of our current members. The criteria seem to be focussed on individual genealogy and not dependent on the existence of a community.

The AIP definition of beneficiaries may also provide eligibility to individuals who are not entitled to benefit from collective rights under the law of aboriginal rights, enabling them to make decisions regarding the extinguishment or modification of rights in our Aboriginal title territory, while we are excluded.

The AIP also leaves open the prospect that some of our individual members might somehow be in a position to "waive" their Aboriginal rights, including title, to the "AOO" claim area. We wish to state unequivocally that neither our respective First Nations as a whole nor our members in any way waive our respective Aboriginal rights, including title, in our traditional territory within Ontario.

We do not accept the assurances of the federal or Ontario negotiators that the non-derogation sections of the AIP will safeguard the rights and interests of our communities. The fact of the matter is that some individuals who may have a degree of Algonquin ancestry are being provided an opportunity to vote on an agreement that may extinguish and/or modify rights within our Aboriginal title territories, without our consent, and in the absence of good faith consultations. A July 13, 2015 letter from the federal and Ontario negotiators states that an additional clause 2.2.3 has been included in the PDAIP, which purports to protect our interests, by defining "Algonquin communities located in Quebec" as "Aboriginal people other than Algonquins". This is an absurd approach which has been formulated in the absence of any consultation with us, and which we reject.

We believe that the non-derogation clause is being used as a means of excluding us from negotiations that directly impact on our Aboriginal title and rights.

The AIP contains a release and indemnification clause which may prevent our First Nations from making any claims against Ontario or Quebec for compensation for past infringements of our Aboriginal rights.

In the Haida decision it was made clear that "the Crown cannot run roughshod over one group's potential and claimed Aboriginal rights in favour of reaching a treaty with another". But it appears to us that this is exactly what Canada and Ontario have been doing to our rights by way of the "AOO" negotiations. This is unacceptable and the Crown need to act more honourably.

We have a growing number of legitimate questions and concerns. Many of these arise from the fact that we have not been provided with relevant and timely information or documentation. We have a long list of items which we will need to review in order to better understand issues arising from the AIP. If Canada and Ontario are serious about consulting our communities, there needs to be far more good faith and disclosure.

There also needs to be authentic engagement between our communities and Canada and Ontario. This must be more than simply issuing letters, or the repetition of "talking points". Canada and Ontario need to provide us with adequate financial resources, and need to dedicate human resources with the requisite authority to deal with the issues that have arisen, and to engage us in a substantive way. And we need to come to agreement on the terms of such engagement.

At the same time, without adequate resources it will not be possible to begin proper engagement. Canada and Ontario need to provide financial support for the work that must be done, proportionate to the outlays that have already been made, and continue to be made, by the parties to support the "AOO" negotiations.

If Ontario and Canada insist on excluding us from meaningful consultations on the AIP, then we insist that Canada and Ontario exclude the areas where our First Nations' asserted Aboriginal title and rights overlap with the "AOO" claims, or at least suspend negotiations over such areas, until such time as we have engaged in meaningful consultations and reached an acceptable accommodation.

Despite our objections in March 2016, the "Algonquins of Ontario", Canada and Ontario have proceeded to hold a referendum vote on the AIP.

The results of the ratification vote on the "Algonquins of Ontario" (AOO) land claim Agreement in Principle (AIP) were released to the public on March 17, 2016. The AOO land claim involves outstanding Algonquin Aboriginal title and rights to 3.6 million hectares of land in eastern Ontario, including Parliament Hill. The Algonquin First Nations of Wolf Lake and Timiskaming (and Kebaowek/Eagle Village) have overlapping interests in almost 900,000 acres of that territory, but are not party to the negotiations between the AOO, Canada and Ontario.

The results of the ratification vote throw a spotlight on the concerns the Algonquins of Eagle Village, Timiskaming and Wolf Lake have been raising for years. There were 3,341 votes cast in the AOO vote, and over 90% of those individuals voted in favour of the AIP. But the eligibility criteria are so loose that over 3,000 people on the AOO voters list have not even had intermarriage with any Algonquins for over 200-300 years.[4] How can these individuals be allowed to have a decisive voice in the land claim negotiations when the legitimate rights-holders who assert Aboriginal title to large parts of the territory aren't even at the table?

To add to the uncertainty, a separate vote was held for the registered members of the Algonquins of Pikwakanagan, the only federally-recognized First Nation that is actually participating in the AOO negotiations. Of those who voted, fully 57% voted against the AIP.[5] The fact that the majority of Pikwakanagan members who voted, voted against the AIP, sends a strong signal to all who are impacted by the AOO claim. The members of Pikwakanagan are outnumbered at the negotiating table. The AOO claims process seems to be controlled by individuals and groups who are not actually rights-holders. These results take away any legitimacy that the negotiations may have had.

This result throws the legitimacy of the entire AOO land claims process is into question. We continue to object to Canada and Ontario proceeding with Final Agreement negotiations based upon the AIP. These governments need to engage with the rights-holders, including our Algonquin communities, to properly address outstanding Aboriginal title and rights in the territory.

[4] Algonquin Nation Secretariat, Review of AOO Voter's List of December 2, 2015

[5] March 17, 2016, Algonquins of Pikwakanagan Chief & Council Notice to Members on results of separate Referendum Vote by Algonquins of Pikwakanagan First Nation members on the proposed AIP.

Yet, despite our objections and the only federally recognized Algonquin community, Pikwakanagan members voting 57% against the AIP in a referendum, on October 16, 2016, the governments of Canada, Ontario and representatives of the "AOO" signed an Agreement-in-Principle.

IV. NEED FOR ONGOING INTERNATIONAL OVERSIGHT AND SUPPORT BY CERD:

Despite the 2015 Indigenous Policy commitments of the Liberal Party of Canada. The federal government is attempting to proceed with its Comprehensive Land Claims Policy (CCP) of extinguishment of Aboriginal Title and Rights. Our three Algonquin communities have adopted a common position rejecting the federal CCP and are seeking a process of negotiation consistent with the Tsilhqot'in decision and the United Nation *Declaration on the Rights of Indigenous Peoples*.

We have attached two resolutions duly adopted by our Algonquin Nation Tribal Council Annual Assembly for your information.

ANNEX

Algonquin Nation Annual Assembly Resolution #2013-08

Algonquin Nation Annual Assembly Resolution #2014-07

CERD Secretariat
8-14 Avenue de la Paix
CH 1211 Geneva 10
Switzerland
Via email: CERD@ohchr.org

Gabriella Habtom, CERD Secretary
ghabtom@ohchr.org

ANPSS/ANS Annual General Assembly
Wednesday, October 30, 2013, TFN Community Hall, Timiskaming Reserve
Resolution # 2013-08

RE: Algonquin Aboriginal Title & Rights vs. Canada's Comprehensive Claims & Self-Government Policies

WHEREAS our Peoples are the original Peoples of the traditional territory of the Algonquin Nation, having been placed here by the Creator; and

WHEREAS in 1991, our Algonquin communities adopted our Constitution committing ourselves to establish the conditions under which justice and respect for the obligations arising from our Aboriginal Title, Jurisdiction, Rights and Interest, and from international law can be maintained; and

WHEREAS we also declared we would collectively and in unity promote social progress and better conditions among our Algonquin Peoples; and

WHEREAS the government of Canada's current Comprehensive Claims and Self-Government policies are based upon the denial and avoidance of our Algonquin Anishinabe Aboriginal Title & Rights, and these policies directly contribute to and perpetuate the poverty and suffering in our communities by denying our Algonquin Right of self-determination while preventing our communities from receiving equitable benefit from our traditional lands and resources; and

WHEREAS in January 2013, Chief Terence McBride, Chief Harry St. Denis and Chief Madeleine Paul gave notice to the governments of Canada, Quebec and Ontario in the form of a **Statement of Asserted Rights** for the purposes of the federal and provincial governments fulfilling their duty to consult and accommodate our communities about any current or planned projects or activities affecting the lands, waters or resources on our traditional territories; and

WHEREAS our Algonquin **Statement of Asserted Rights** is the summary of evidence for our three Algonquin First Nations (Wolf Lake, Timiskaming & Eagle Village) Aboriginal Rights & Aboriginal Title and is NOT our Aboriginal Title claim, which remains to be completed and which needs to go to our members to get direction from our three Algonquin First Nations about what we do next; and

WHEREAS the government of Canada has refused to fund the completion and final preparation of our Aboriginal Title claims and is trying to force our three Algonquin First Nations to submit our incomplete research findings to the federal Department of Aboriginal Affairs in their effort to force our communities into a Comprehensive Claims table under the current federal Comprehensive Claims Policy; and

WHEREAS the core elements of the current federal Comprehensive Claims & Self-Government Policies are intended to get our communities to agree to:

- Accept the extinguishment (modification) of Aboriginal Title;
- Accept the legal release of Crown liability for past violations of Aboriginal Title & Rights;
- Accept elimination of Indian Reserves by accepting lands in fee simple;
- Accept removing on-reserve tax exemptions;
- Respect existing Private Lands/Third Party Interests (and therefore alienation of Aboriginal Title territory without compensation);
- Accept (to be assimilated into) existing federal & provincial orders of government;
- Accept application of Canadian Charter of Rights & Freedoms over governance & institutions in all matters;
- Accept Funding on a formula basis being linked to own source revenue;

WHEREAS our communities reject these core elements of the federal Comprehensive Claims and Self-Government Policies

WHEREAS these core elements of federal policy are included in the "Algonquins of Ontario" proposed **Agreement-in-Principle**, which is scheduled for a vote in December 2013; and

WHEREAS the "Algonquins of Ontario" proposed **Agreement-in-Principle** will negatively affect our Aboriginal Rights and Title to our Territories on the Ontario side of the Algonquin Nation Territory;

THEREFORE BE IT RESOLVED that this Annual General Assembly hereby rejects the current versions of the federal Comprehensive Claims & Self-Government policies because they are based upon the denial and extinguishment of our communities Aboriginal Rights & Title instead of recognition and affirmation of our Aboriginal Rights & Title as protected by section 35 of Canada's constitution and recognized in the **UN Declaration on the Rights of Indigenous Peoples**; and

BE IT FURTHER RESOLVED that this Annual General Assembly hereby calls on our Chiefs to seek changes to these federal Comprehensive Claims & Self-Government policies to ensure consistency with our constitutionally protected and internationally recognized land rights and Right to Self-Determination with the relevant regional and national First Nations organizations and directly with the government of Canada

BE IT FINALLY RESOLVED that this Annual General Assembly opposes the "Algonquins of

Ontario" proceeding with their vote on their "Agreement-in-Principle" unless and until the Rights, Title and Interests of our communities in Ontario are recognized and protected to the satisfaction of our members.

Moved By: Terence McBride, TFN
Seconded By: Clifton Polson, TFN
Adopted by Consensus

Wednesday, October 30, 2013

Grand Chief

Secretary

ANPSS/ANS Annual General Assembly
Wednesday, September 17, 2014 – Laniel, Algonquin Territory
Resolution # 2014-07

RE: Rejection of Federal "Interim" Policy Entitled "*Renewing the Comprehensive Land Claims Policy: Towards a Framework for Addressing Section 35 Aboriginal Rights*"

Whereas the federal government has introduced an "interim" policy entitled "*Renewing the Comprehensive Land Claims Policy: Towards a Framework for Addressing Section 35 Aboriginal Rights*"; and

Whereas the federal Minister of Aboriginal Affairs, Bernard Valcourt, has requested submissions from the public and First Nations to comment on the "interim" policy; and

Therefore Be It Resolved that the Members of the Algonquin Nation Tribal Council's 34th Annual General Assembly call on our Chiefs to communicate our rejection of the "*Renewing the Comprehensive Land Claims Policy: Towards a Framework for Addressing Section 35 Aboriginal Rights*" interim policy and demand a new policy framework recognizing and affirming our Algonquin Aboriginal Title and Rights in accordance with the Supreme Court of Canada's Tsilhqot'in decision and the Articles of the **United Nations Declaration on the Rights of Indigenous Peoples'**.

Moved By: Dianna Wabie, TFN
Seconded By: Randy Polson, TFN
Status: Adopted by Consensus

Wednesday, September 17, 2104

Secretary

Treasurer