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July 19, 2013

Honourable Kathleen Wynne
Premier of Ontario
Legislative Building
Queen's Park
111 Wellesley Street West, Room 281
Toronto, ON M7A 1AS

Honourable David Orazietti
Ministry of Natural Resources
Suite 6630, 6th Floor, Whitney Block
99 Wellesley Street West
Toronto, ON M7A 1W3

Honourable David Zimmer
Minister of Aboriginal Affairs
160 Bloor Street East, 4th Floor
Toronto, ON M7A 2E6

Honourable Linda Jeffrey
Minister of Municipal Affairs and Housing
College Park
777 Bay Street, 17th Floor
Toronto, ON M5G 2E5

Dear Honourable Premier and Honourable Ministers:

Re: Algonquin Land Claim Preliminary Draft Agreement-in-Principle, and
Re: Impacts of Algonquin Land Claim on Private Landowners

We are private landowners adjacent to parcels of Crown land proposed to be transferred to the Algonquins of Ontario as part of the settlement of Algonquin land claims in southeastern Ontario. We are writing this letter to express concerns regarding the Preliminary Draft Algonquin Land Claim Agreement-in-Principle released in December, 2012. The issues raised in this letter affect more than one million Ontarians who live in the lands subject to the negotiations.

Copies of this letter are being delivered to:

- each Member of the Provincial Parliament in the land claim area;
- Ron Doering, Chief Negotiator for the Federal Government;
- Brian Crane, Chief Provincial Negotiator for Ontario; and
- Robert Potts, Lead Negotiator for the Algonquins of Ontario,

with the request that each also responds to the issues set out in this letter.

Like other private landowners in the Province who are directly impacted by negotiations in which we have had no direct part or representation, we seek a process to be put in place now through which our views will be heard, given due and proper regard and addressed in a timely fashion.

The Algonquin people as aboriginal occupants are entitled to fair arrangements to accommodate their long-term needs and aspirations in their traditional territory. We respect that. At the same time, there is an urgent need for a formal

process to address impacts, some of them potentially severe, of Algonquin land selections on private landowners. We believe that long-term goodwill between the Algonquin people and existing (and future) landowners should be a priority. This will be achieved by responsible changes in process now that will not grind negotiations to a halt but rather build on good neighbour principles already in the Agreement-in-Principle. If the right mechanism is developed now, it can be both effective and efficient.

OUR CONCERNS

The following are our concerns:

(i) Principles Only:

As an Agreement-in-Principle, the document should be confined to principles; it should **not** provide for specific property selection or allocation. **How** lands will be selected and acceptable uses for selected land (including, without limitation, compatibility of land use, commitments to future use, conservation, safety, management, and access) should be key **principles**. Land allocation is premature.

(ii) Populated Southeastern Ontario and the Need for Adaptation of Treaty Models:

In other areas of Canada, there are vast tracts of unpopulated land at issue. That is not the case in heavily populated southeastern Ontario. The treaty model developed for remote Northern Canada simply does not fit in developed and populated southeastern Ontario and must be adapted in Ontario to allow early input by all stakeholders including private landowners.

(iii) Representative Government:

We believe that, while respecting the legal imperative that the Crown is required to honour aboriginal rights, the Federal negotiation team and the Ontario negotiation team are also responsible for representing the interests of the approximately 1.4 million non-Algonquins in the land claim area. We are aware of the three party "Statement of Shared Objectives" signed by Canada and Ontario in 1994 and re-affirmed by Canada and Ontario in 2006 in which the Federal, Provincial, and Algonquin negotiators developed eight shared objectives. The final of these was "to continue to consult with interested parties throughout the negotiation process and to keep the public informed of the progress of the negotiations." Neither Canada nor Ontario has done so insofar as individual landowners are concerned. This must change.

While an Advisory Group of NGOs was struck to have reciprocal input to and from the negotiating parties, by all accounts there has been no meaningful representation of the individual landowners. There has been a lack of meaningful consultation by the Federal and Provincial representatives on the negotiating team with affected municipalities and their non-aboriginal residents. We are among the residents who have strived to sustain the area over the years by hard work, dedication and payment of significant taxes (at three levels – federal, provincial and municipal). It is extremely important that our voices be heard in order to obtain acceptance of the Agreement.

It is not enough for the government to invite public comment on an Agreement-in-Principle which is a "done deal".

(iv) Inconsistent Confidentiality

We are told that the Ontario government represents all people – aboriginal and non-aboriginal – yet when we ask about land selection, or historic uses, or cultural connections, or specific negotiations, we are faced with confidentiality agreements that deny us access to information. This is inconsistent and goes to the root of our confidence.

(v) Imbalanced Negotiation

At the information meetings conducted earlier this year, it was stated that such meetings were "not information meetings but rather the commencement of a comprehensive consultation and dialogue process." That statement of commitment strains credibility given the fact that Ontario's own web site makes it clear that changes in the draft would require the consent of the Algonquins of Ontario. How can meaningful consultation and dialogue take place to deal with the non-Algonquin public's concerns if the Algonquins of Ontario have a veto over any changes? What incentive is there for the Algonquin people to have discussions? None of the "consultation" sessions have been such ... they have, in reality, been little more than information sessions with little to no consideration given to issues that have been raised to date. That needs to change to achieve the harmony required.

If indeed the Ontario government represents all people – aboriginal and non-aboriginal – why is there separate representation of the aboriginal people and no separate representation of the non-aboriginal affected private landowners?

Currently, there is an unbalanced playing field in which an individual landowner must incur prohibitive personal expense to secure a voice. There needs to be a fiscally responsible way for the government to also fund negotiations for private landowners as the government has done for the Algonquins of Ontario.

(vi) Land Selection and Land Uses

These are not isolated lands. They have been occupied for generations by non-Aboriginal private landowners. Many issues emerge for private landowners specifically regarding land selection and land use, including:

A. Process:

We understand that the Algonquins identified parcels they preferred, the government narrowed down the number of parcels to reach the required amount of land to be turned over, and then the government accepted the remaining parcels without apparent meaningful consideration of the particular parcels or input from local residents.

There is no mechanism in the current process to allow existing private landowners to make their concerns (very real concerns) known regarding selected lands in any meaningful way. We are told that specific uses of selected lands will be matters for discussion in the future. We are being told to wait, trust, and hope that in due course there will be an opportunity for the interests of impacted private landowners to be raised and addressed. It is unacceptable that consideration of selection or issues of use are to be addressed much later. By the time they are subject to discussion, in the current protocol, there will be vested rights and certainly expectations. Such a process does not promote harmony.

B. Compatibility of Land Use:

Government representatives have said that they will respond to Algonquin requests for change of allocated lands if, for example, the topography of particular allocated lots is inconsistent with Algonquin objectives. While public health and safety *might* be another reason to substitute other lands in the context of incompatibility, in this case the government refers more to contamination that would harm the Algonquins. It has been acknowledged that the proposed environmental assessment might also manifest incompatibility of land uses but the Agreement-in-Principle (in the current process, i.e. absent change) will be ratified before any environmental assessment even begins. Without the municipality and existing adjacent private landowners involved at this time, assessments of incompatibility are done only from the perspective of the Algonquins. In fact, in the current process, Algonquin expectations re lot selection will be entrenched before uses even come into deliberation. The possibility of thoughtful consideration and perhaps of substitution/ exchange of other more appropriate lands will then be "much more difficult" and probably not be possible. This is unacceptable.

C. Impact of Indigenous Rights:

The Algonquin land awards will be in fee simple. The lands awarded will not become reserve lands. We are told that the lands will be subject to all the same zoning, municipal planning and other limitations that apply to private landowners now. The reality is, however, that the native people of Canada have indigenous rights to hunt, fish and harvest that cannot be abrogated. There is no certainty that the Algonquins will be bound by the "usual limitations" when indigenous rights cannot be abrogated.

D. No Common Vocabulary:

In fact, there is no common vocabulary. As private landowners, we talk of zoning and by-laws. The Algonquins talk of cultural, economic, and indigenous uses. This disparity in communication needs to be clarified and addressed into the principles of the Agreement-in-Principle.

E. Uncertainty of Uses:

Designated land uses of the proposed parcels have not been determined. While the Algonquin people have indicated some **possible** uses, they are subject to change.

We understand that there is a register that keeps track of the land uses that are "proposed" by the Algonquins for parcels but that such proposed uses are always subject to change. There is a selection of word descriptors – offered (subject to change) by the Algonquins. The current consideration of uses is abstract at best and not consistently understood or applied even by representatives of the Ministry of Natural Resources themselves. Consistency and clarity are required.

A truly representative process, that addresses uses now, will build confidence for all parties. A mechanism that leads to an agreement to be bound by the rules and a commitment to specific uses for parcels would go a long way.

F. Conservation:
This is a modern day treaty being settled in southeastern Ontario where fish and wild life resources are critically important to the economy and culture of the area. Scientific data have driven well-founded conservancy standards for the non-aboriginal people. Where is the protection in this draft Agreement-in-Principle for the unique species of trout in Ontario or the carefully nurtured fisheries in the lakes in the land claim area? For example, our particular lake has been designated by the Ministry of Natural Resources as a highly sensitive cold water trout lake. Unabrogated fishing rights are at best inconsistent and at worst will lead to the compromise of a lake that is currently a significant source of fish stocking for other already-depleted Ontario lakes. Local municipalities and local landowners can identify and speak best to these issues as they impact locally. They/ we need to be at the table.

G. Safety and the Implications:
The draft Agreement-in-Principle provides for unlimited hunting, harvesting and fishing on all Crown Land in the land claim area 365 days per year by all Algonquins of Ontario for their own or bartering purposes. That activity is subject only to the requirement that if conservation, public health or safety becomes an issue then "Ontario or Canada would consult with the Algonquins prior to implementing any measure necessary."

The government contends that that is the law now and nothing changes by virtue of the Agreement-in-Principle. In fact, allocation of land in residential areas increases convenience and frequency of use. Access drives risk. It is the responsibility of our government representatives to anticipate and protect the safety of its people or face the risk of actionable accountability later.

H. Management:
It has been suggested that title to allocated lots will be taken in an Algonquin "institution" to be held for the Algonquin community. If the respective lots will be communal property, lack of maintenance of buildings and docks and the properties, in general, is a real possibility, particularly because there is no apparent dedication of financial resources to ongoing maintenance of allocated lands.

I. Economic Impact:
It has been stated to the municipalities that Algonquin settlement lands will bring new revenues to municipalities. The statement does not take into account the cost of servicing these lands which costs are forecasted to far outweigh the revenues. The costs of land use planning and zoning will be ongoing. Access roads to isolated lands year round for the use of ambulance, fire and police will be costly both to create and maintain. While there are monetary awards to the native people in addition to land allocations, the monetary amounts are already earmarked to other purposes than maintenance of properties or access roads. Assumption by the municipalities of private roads to allow uninterrupted access by private landowners over lands allocated to the Algonquins will add to municipal costs. Undoubtedly all of these additional costs will then be punitively passed on to the local landowners, respectively, in higher taxes. The economics of the Algonquins cannot be advanced to the detriment of private landowners.

J. Expropriation:
Agreement was reached in early meetings of the parties to the Agreement-in-Principle to not make land awards of privately-owned land. There "would not be expropriation" of private landowner rights.

Isolating a privately-owned parcel is arguably tantamount to expropriation without recompense, as is making a parcel unsalable because of uncertainty regarding uses for the next 20+ years while the native arrangements

and uses are finalized. Lack of a clear and accountable process and expectations now could adversely and unfairly affect marketability for existing owners indefinitely. Similarly dramatic changes of use and enjoyment of the current landowners by Algonquin uses that impact safety or otherwise are tantamount to expropriation without recompense. This is unfair.

K. Additional Land Claims:
There are apparently other possible indigenous peoples' claims that are pending. Without limiting the generality, there are the Williams Treaty Claim, the Métis claim and the claims of the Algonquins of Quebec.

Recognizing that there are finite Crown lands available, it is imperative that all possible claims are settled concurrently. In particular, the Algonquins of Quebec have overlapping hunting and harvesting rights into eastern Ontario. We have no clarity regarding the possibility of those claims and how they will also impact non-native people. Surely it is incumbent on the Ontario government to ensure that the process with the Algonquins should run to concurrent completion with such other possible claims.

SUGGESTION

We believe that there should be a negotiator appointed now, who joins the other negotiators immediately and represents all private landowners across Ontario. Such negotiator should be at the table throughout. It should be a responsibility of such person to engage in learning the concerns of the private landowners and to develop a strategy to ensure they are heard and addressed. Such negotiator should be responsible for, and to, private landowners.

The province should be prepared to provide reasonable funding to appoint such a negotiator. Such an appointment would not make excessive demands on limited public resources and would go a ways to leveling what is otherwise a very unbalanced playing field.

The Agreement-in-Principle should be confined to principles. Land selection should be segregated and dealt with later, though principles should be added now that address how land selection will occur and how land use issues will be settled.

This framework, if adopted by Ontario, would ensure that private landowner concerns will be addressed in a fair and timely way. It would also be efficient.

CONCLUSION

It seems many are resigned to this draft Agreement-in-Principle being a "done deal". We are not.

As part of the non-Algonquin public, we urge that political direction be now given to change this process, even at this late date, to one of open, informative, comprehensive and true discussion that includes the non-Algonquin public immediately, and into the future.

We sincerely believe it is necessary that Ontario now, though belatedly, take the lead in amending the go-forward process to allow truly open dialogue with the non-Algonquin public in the land claim area – a process that will mitigate the public backlash that has developed. This is the obligation of a truly representative government. It will be time consuming and intense but it is much more likely (and very important) to achieve community harmony.

It may take a little longer if a new negotiator is inserted into the process but, we submit, the end result will be better and more sustainable.

We look forward to your response to this letter.

Sincerely,

Linda Betts

** Grateful acknowledgement is here noted of the letter of Michael J. Johnson, Eganville, ON dated April 18, 2013 parts of which are here incorporated *verbatim*

** and to the letter of Henry Hogg, Reeve Township of Addington Highlands to Premier Kathleen Wynne dated May 21, 2013 parts of which are here also incorporated *verbatim*

** and to the letter of the Private Landowners Adjacent to Parcels to be Transferred to the Algonquins of Ontario addressed to Premier Kathleen Wynne et al. dated July 16, 2013 parts of which are here also incorporated *verbatim*

cc.:
Hon. Bob Chiarelli, MPP, Ottawa West-Nepean
Grant Crack, MPP, Glengarry-Prescott-Russell
Victor Fedeli, MPP, Nipissing
Jack MacLaren, MPP, Carleton-Mississippi Mills
Lisa MacLeod, MPP, Nepean-Carleton
Jim McDonell, MPP, Stormont-Dundas-South Glengarry
Phil McNeely, MPP, Ottawa-Orleans
Hon. Madeleine Meilleur, MPP, Ottawa-Vanier
Hon. Yasir Naqvi, MPP, Ottawa Centre
John Yakabuski, MPP, Renfrew-Nipissing-Pembroke
Steve Clark, MPP, Leeds-Grenville
Todd Smith, MPP, Prince Edward-Hastings

Brian A. Crane, Q.C., Ontario Chief Negotiator
Ron Doering, Federal Chief Negotiator
Robert Potts, Chief Negotiator for Algonquins of Ontario
David MacDonald, Manager, Claims Negotiations Support Unit, Aboriginal Policy Branch, MNR, Ontario
Kim Finley, Policy Liaison Officer , Lands Specialist, Claims Negotiation Support Unit, Aboriginal Policy Branch, MNR, Ontario

Federation of Ontario Cottagers' Associations
Ontario Federation of Anglers and Hunters
Michael Johnson

Henry Hogg, Reeve, Township of Addington Highlands

Also copies to our local MPs and MPPs, respectively, cc.:
Scott Reid, MP, Lanark-Frontenac-Lennox and Addington, Ontario
Randy Hillier, MPP, Lanark-Frontenac-Lennox and Addington, Ontario
Bob Rae, MP
Carolyn Bennett, MP
Honourable Glen R. Murray, MPP

and to MPs in the land claim area