



SEPTEMBER 29, 2017

The Prime Minister, Justin Trudeau, stated on December 15, 2015 "This is a time of real and positive change. We know what is needed is a total renewal of the relationship between Canada and Indigenous peoples. We have a plan to move towards a nation-to-nation relationship based on recognition, rights, respect, cooperation and partnership... And we will, in partnership with Indigenous communities, the provinces, territories, and other vital partners, fully implement the Calls to Action of the Truth and Reconciliation Commission (TRC), starting with the implementation of the United Nations Declaration on the Rights of Indigenous Peoples."

### ***The Six Nations of the Grand River could not agree more!***

The TRC Report as referenced by the Prime Minister of Canada set out the Principles of Reconciliation with the first principle being:

1. *The United Nations Declaration on the Rights of Indigenous Peoples* is the framework for reconciliation at all levels and across all sectors of Canadian society.

On May 10, 2016 at the United Nations in NYC, Canada formally adopted the UNDRIP and said "We are now a full supporter of the declaration, without qualification," and stated "By adopting and implementing the declaration, we are excited that we are breathing life into Section 35 and recognizing it as a full box of rights for Indigenous Peoples in Canada."

I was at the UN Permanent Forum when Minister Bennett made this announcement to the Assembly. I witnessed the Indigenous groups from around the world giving Canada such a standing and vocal acknowledgement of this important announcement that she had to return to finish her presentation. And although it has taken Canada a long while to commit, it was the right thing for Canada to do.

### **The Problem: Canada's Land Claims Policies**

I'm certain with the mandate of this Committee to study aspects of outstanding Indigenous land issues and to review the federal policies regarding comprehensive and specific claims; you have heard evidence from many First Nations from across Canada what is wrong with the system so we will not reiterate much of the same. For the record, we feel the **National Claims Research Directors March 9, 2015 In Bad Faith: Justice at Last and Canada's Failure to Resolve Specific Claims** (attachment A) and the **Office of the Auditor General of Canada 2016 report on First Nations Specific Claims – Indigenous and Northern Affairs Canada** (attachment B) reports identify most of the short comings and failures.

A Nation-to-Nation relationship based on recognition of Indigenous rights, respect, cooperation and partnerships cannot and must not pretend to happen on the extinguishment of Indigenous Peoples Rights to their lands and resources. Canada's Specific and Comprehensive Claims Policies are adversarial to this principle and must be replaced; period. Anything less places Canada contradicting any Nation-to-Nation relationship the Prime Minister promised with Indigenous Peoples in Canada and to Canadians generally. These two claims policies are outdated and diminish the important recommendations of Truth

and Reconciliation Commission and undermines the unqualified support for UNDRIP Canada has internationally committed to embrace.

With the many failures of Canada's claims policies, the Six Nations of the Grand River foresaw no justice utilizing these policies as a remedy to the Crown's mismanagement of our lands, resources and monies and instead chose litigation in 1995 over Canada's failed land claims policies.

We want to affirm our Nation-to-Nation relationship and find resolutions to Canada's liabilities through good faith discussion, revenue and resource sharing agreements. Guided by the following UNDRIP principles we can re-establish this relationship and properly fulfill the legal duty of the Crown to consult and accommodate Six Nations as we continue to share our Haldimand Treaty lands with our neighbours, municipalities, Ontario, Canada and the corporate sector.

*Article 26.1 Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.*

*Article 26. 2 Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.*

*Article 26. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.*

*Article 27 States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.*

*Article 28.1 Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.*

*Article 28.2 Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.*

*Article 32.1 Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.*

*Article 32.2 States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.*

*Article 32.3 says States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.*

*Article 37.1 Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.*

What Six Nations is going to present today is not new. We have been persistent and consistent with what the Six Nations of the Grand River presented to the Parliamentary Task Force on Indian Self-Government on June 29, 1983 (attachment C) wherein we outlined how self-government for Six Nations can be financed using our unresolved land rights issues with the Crown(s); our May 17, 2011 paper for the Tenth Session of the Permanent Forum on Indigenous Issues (attachment D); Six Nations of the Grand River Shadow Report responding to Canada's 19<sup>th</sup> and 20<sup>th</sup> Reports to the United Nations Committee on the Elimination of all Forms of Racial Discrimination in January 2012 (attachment E); our December 11<sup>th</sup> 2012 face to face meetings with various parliamentarians from all party's with our neighbours, the County of Brant and the City of Brantford (attachment F); and our 2 interventions at the permanent forum on Indigenous Issues in 2014 (attachment G) and 2015 (attachment H).

### **Six Nations Land issues "a snapshot"**

The Six Nations Haldimand Treaty Lands covers an area of 950,000 acres. 275,000 acres are subject to Treaty fulfillment; 402,707 acres are subject to 999-year mortgage payments intended to finance Six Nations People's well-being and government; 19,180 acres were sanctioned for short term leasing arrangements to sustain a Six Nations revenue stream. These 3 examples alone would certainly go a long way in addressing the critical needs of the Six Nations Peoples. However, the wisdom of the Government officials of the day put a prohibition on our leasing arrangements on March 3, 1821 by stating; ***"The Wisdom of this prohibition is evident, if the peculiar situation and soil of some of the tracts occupied by Indians in this Province is regarded especially that on the borders of the Grand River, between the District of Niagara and London, intersecting the most populous part of the Province; and which, if permitted to be leased in detail, would render the Six Nations of Indians the wealthiest proprietors in the Province."***

This is a mere snapshot of the thousands of land and financial issues between our Nations requiring resolve. More details on other land issues and Crown mismanagement of Six Nations funds and natural resources can be perused in **"Land Rights A Global Solution for the Six Nations of the Grand River"** (attachment I)

### **Ontario**

On May 30, 2016 Premier Wynne confirmed Ontario's commitment to implement the TRC recommendations. She said "I hope to demonstrate our government's commitment to changing the future by building relationships based on trust, respect and Indigenous Peoples' inherent right to self-government." Ontario commits to working in partnership with Indigenous leaders and their communities to undertake 26 new initiatives that will help build trust and respect into our relationships and build opportunity and security into the lives of Indigenous people.

She promised to engage with Indigenous partners on approaches to enhance participation in the resource sector by improving the way resource benefits are shared and to work with the federal government to address the United Nations Declaration on the Rights of Indigenous Peoples.

Recently, the Province of Ontario introduced the Aboriginal Adder to its Feed-in-Tariff Program of Ontario's Green Energy and Green Economy Act allowing Indigenous First Nations an opportunity to participate. With green energy initiatives being developed within Six Nations Treaty lands and guided by the UNDRIP principles and the legal duty to consult and accommodate; Six Nations aggressively partnered and invested in these developments. Today we have secured more than \$1.4 million in post-secondary contributions to supplement our educational shortfalls, will generate more than \$100 million over the next 20 years for our community needs, and to date have supported 892 megawatts of green energy in our battle against climate change and countless of employment opportunities for the Six Nations and surrounding people. (attachment J)

### **Six Nations' Interim Use Agreements**

I applaud Ontario's Green Energy initiative and the inclusion of Indigenous governments in these developments. They have proven revenue sharing is nothing to be afraid of, but is instead a principle to be supported. For more than 40 years the Six Nations of the Grand River have not stood dormant in spite of our unresolved land issues with Canada. We have worked on consultation and accommodation agreements with our surrounding neighbours and the corporate world to help strengthen our nation and to protect our rights throughout our Treaty lands. From bridges crossing the Grand River to flood control dykes to protect the population of Brantford to many infrastructure projects required by the surrounding municipalities. We require environmental enhancements and mitigation to developments; we created educational opportunities for our students of all ages and have secured long-term revenue streams to support these unique educational opportunities. We have established partnerships with international proponents to enhance our economic opportunities and help build infrastructure at Six Nations. This has also allowed us to secure land holdings to expand our much-needed land base; but have had these efforts thwarted by Canada's additions to reserve policy. Enclosed are more details of these interim use agreements in attachment K

The Six Nations of the Grand River are including themselves in acceptable developments within our Treaty lands subject to Six Nations own consultation and accommodation policy (attachment L). We are producing revenues and other creative accommodations to address our people's needs; needs that the Crown in Right of Canada fails to address on an almost daily basis. And all the while, Six Nations are not required to extinguish one thing: but we do entertain these agreements specifically without prejudice to Six Nations' Aboriginal and Treaty Rights and without prejudice to Six Nations' litigation against Canada and Ontario.

***And yet the sun still shines, the grass still grows and the rivers still flow.***

To the members of the Standing Committee on Indigenous and Northern Affairs; before you I have outlined how Six Nations of the Grand River implements:

**“... partnership with Indigenous communities, the provinces, territories, and other vital partners, fully implement the Calls to Action of the Truth and Reconciliation Commission (TRC), starting with the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.”**

This is how nation-to-nation building with the Indigenous Peoples need to begin.

And for Six Nations, Indigenous Governance is tied to the land. As a part of our June 29, 1983 report to the Parliamentary Task Force on Indian Self Government we stated:

***“Entrenchment of our right to self-government will also mean entrenching our relationship, as a government, with the Federal Government in specific ways. This relationship will be in the future, as in the past, -- between the people of Six Nations and the Crown. Self – determination, Indian Government, and a special relationship are empty words unless there are the resources to make them real.”***

Six Nations has been in court with Canada and Ontario since 1995 seeking resolve for our Land Rights, financial and mismanagement of our resources. We would prefer negotiating rooms instead of the court rooms. Under the present governments, both Canada and Ontario have indicated their willingness to negotiate; but new mandates are required for both.

### **Moving beyond Canada’s Land Claims Policies**

Six Nations calls upon Canada and the Province of Ontario to return to the negotiating table with the proper mandates to rebuild this Nation to Nation relationship. Needed are long term sustainable and manageable revenue streams to offset the legal liabilities facing Canada today; going directly to the Six Nations’ government to supplement the shortfalls our community faces daily. This will take time, and we are willing to invest this time and do it right for the Six Nations Peoples’ future and for the future of our neighbours.

As we the Six Nations of the Grand River agreed to share our lands, we expect nothing less than Canada and Ontario agreeing to partnership building and revenue sharing from all users of our lands and resources throughout our Haldimand Treaty lands. Much like our interim use agreements and Green Energy investments and returns we just referenced. Six Nations want to talk revenue sharing for all aggregate and gypsum extraction and water consumption within our Haldimand Treaty Lands. We want to discuss sharing in a percentage of all land transfer taxes and development fees being charged for developments to proceed upon our Treaty Lands and overall tax reform for our membership and their businesses. We have always been key players in protecting Mother Earth, and as such we want to continue to proceed down this path in all of our battle against climate change. On all wind and solar developments throughout our Treaty lands, Six Nations want to be included in carbon credits, environmental attributes and certified emission reduction credits to help enhance environment challenges and to enhance the overall social well-being of the Six Nations of the Grand River. We are also entitled to our share of carbon credits from polluters to invest and promote a better environment.

This is the process Six Nations has proven works. It is a process we feel the Prime Minister of Canada and the Premier of Ontario need to implement to resolve the wrongs of their past governments without extinguishment of Our Children’s Rights. Canada and Ontario can now fulfill their commitments to the Indigenous Peoples in Canada and to all Canadians in a true Nation - to – Nation partnership. We look forward and welcome this new beginning.

Respectfully submitted

G. Ava Hill

Six Nations Elected Council