

ROBINSON HURON TREATY LITIGATION FUND

c/o Chairperson, Mike Restoule

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*Atikameksheng
Anishnawbek*

*Aundeck Omni
Kaning*

Batchewana

Dokis

Garden River

Henvey Inlet

Magnetawan

M'Chigeeng

Mississauga #8

Nipissing

*Sagamok
Anishnawbek*

Serpent River

Shawanaga

Sheguiandah

Shesheganing

Thessalon

Wahnapiatae

Wasauksing

Whitefish River

*Wikwemikong
Unceded Indian
Reserve*

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October 21, 2020

The Right Honourable Justin Trudeau
Prime Minister of Canada
Office of the Prime Minister
80 Wellington St.
Ottawa, Ontario
K1A 0A2

Dear Prime Minister:

On behalf of the twenty-one First Nations of the 1850 Robinson Huron Treaty, we are writing to you to again to draw your attention to the ongoing failure of the Government of Canada to uphold the Judgment of Madam Justice Hennessey regarding the Robinson-Huron Treaty Annuities case, as well as the failure of Canada to honour the treaty right to increased annuities based on a fair share of resource development on Robinson-Huron Treaty territory. The Hennessey Judgment has the force of law and is binding on the Crown, including Canada and Ontario.

We are in full support of our Mi'kmaq brothers and sisters that continue to fight to exercise their rights confirmed by the Supreme Court of Canada in 1999.

The fact that negotiations with the Mi'kmaq having been going on for 20 years and have still not produced a comprehensive and complete resolution is completely unacceptable. It does not inspire any confidence that the Lake Huron Anishinabe of the Robinson-Huron Treaty territory will soon be able to enjoy the treaty benefits established in the Robinson-Huron Treaty relationship. Madam Justice Hennessey rendered her decision on December 22, 2018. Canada filed its factum in the Court of Appeal for Ontario pursuant to Ontario's appeal in May 2020 which declared:

“Canada has not appealed the judgments of the Superior Court on the motions for partial summary judgment. Canada agrees with the motions judge's finding that the Crown has treaty obligations under the Robinson Superior and Robinson Huron Treaties (the “Treaties”) to increase the promised annuity payments from time to time if net Crown resource-based revenues from the Treaties' territories permit.

It is the Crown's responsibility to implement the treaty promise to increase the annuities in a purposive and reconciliatory way. The judgments properly recognize the Crown's treaty obligations, while providing sufficient flexibility to allow the Crown to fulfill those obligations in a way that honours the purpose of the Treaties and advances the reconciliation of the First Nation treaty parties and non-Indigenous Canadians.”

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Canada's stated legal position is clear: Canada has treaty obligations, and reconciliation will be achieved through a negotiated implementation arrangement. It is simply not reasonable or acceptable that Canada has yet to engage in meaningful discussions to achieve an implementation arrangement.

As seen in many territories across the country, Canada's failure to live up to their legal and constitutional treaty obligations has consequences in the context of peaceful and respectful co-existence. Indeed, Justice Hennessey stated it plainly:

"The Treaties represent unique agreements by the Crown and the First Nations of the Lake Huron Territory and the Lake Superior Territory whose long-term goal was peaceful and respectful co-existence in a shared territory. Treaties are part of the constitutional fabric of this country. ...

This century old dispute between the federal and provincial Crowns is one of the reasons why no increase has been made to the annuities for over 150 years. This delay has had enormous negative consequences for the plaintiffs, not the least of which is the cost and complications of litigating this dispute based on two centuries of evidence. It is the stage on which this dispute plays out. (emphasis added)

It is unreasonable and unfair that resolution of the Robinson Huron Treaty Annuities Case be delayed further on account of Ontario's propensity to use court appeals to delay the resolution of this case, especially given that Canada has essentially admitted liability. We regard the Crown in right of Canada as our main treaty partner: we urge your government to settle with our First Nations and engage separately with Ontario to sort out the issue of respective Crown liability.

Our First Nations and citizens have been very patient this far, but our patience is wearing thin. Canada needs to meet their own legal obligations; however, what is more important is our sacred Treaty relationship that was struck and agreed to by our ancestors and the Crown's historic leadership. Our Treaty is a living document. Honour of the Crown and promises to our Indigenous Ancestors is at stake.

We urge Canada to honour its treaty obligations to the Mi' kmaq and the Lake Huron Anishinabe and to all your First Nations Treaty partners.

Sincerely,



Chief Duke Peltier



Chief Dean Sayers

cc. Minister Carolyn Bennett
Minister David Lametti
National Chief Perry Bellegarde
Robinson-Huron Treaty Leadership