

February 22, 2011

The Honourable Michael Chan, MPP
Minister of Tourism and Culture
Queen's Park
Toronto, Ontario

Copy to: Mayor Jim Watson, City of Ottawa

Delivered By Hand

Dear Minister Chan,

The Ontario Environmental Bill of Rights identifies that:

The people of Ontario have as a common goal the protection, conservation and restoration of the natural environment for the benefit of present and future generations.

The law also requires each Ministry to publish a Statement of Environmental Values (SEV) and your Ministry's SEV states that:

The Ministry of Culture recognizes the value that Aboriginal people place on the environment. When making decisions that might significantly affect the environment, the Ministry will provide opportunities for involvement of Aboriginal people whose interests may be affected by such decisions so that Aboriginal interests can be appropriately considered.

This commitment is not intended to alter or detract from any constitutional obligation the province may have to consult with Aboriginal peoples.

As an Aboriginal person, an Algonquin of the Ottawa River Watershed, I wish to bring to your attention the fact that **our constitutional right to consultation and accommodation, which has been requested by our Chiefs is currently being ignored by the City of Ottawa as a result of a decision of your Ministry on a matter pertaining to the protection of our religion and culture.**

Please understand that, unlike other cultures in Ontario, our culture is not based on "built heritage". Our culture does not build lofty cathedrals, temples or mosques. Our church is not found in steel and concrete but among the trees, rivers and mountains of our ancestral lands. We believe there is an ongoing connection between ancestors and descendants. These places connect us to the world of our ancestors who when we pass over will be there to greet and guide us.

Our religious beliefs affirm that the spirits of our ancestors are found in special places along with the spirits which represent every species of life. We call these spiritual beings *Manitou*. In every rock, plant, and creature we see the hand of the Great Spirit (the Creator that we call *Kitchi Manitou*) at work. These elements of nature are both the basis for our existence as well as the

source of our joy of Life. It is through our connection with nature that we connect both with the Manitou as well as with the Great Circle of all Life which is symbolized by the Medicine Wheel. This is why we never needed to build temples as other cultures do.

Our connection with the world of Manitou is greater in some places than in other places. Our Elders and Medicine people help us identify these special places of Manitou which we in turn protect as Sacred places. As both a Fire Keeper and a Warrior, my duty is to protect my people and this includes protecting against the desecration of the Sacred places that are integral to my people's culture and religious practices. It was in fulfillment of this duty that I maintained a Sacred Fire to protect the South March Highlands in both Ottawa and in Queen's Park.

Since your duty is also to protect the cultural heritage of the people of Ontario, **we have a shared mandate and responsibility** to respond to the desecration of the South March Highlands in Ottawa. The principal Elder of the Algonquin people has declared that this land is a Sacred place of Manitou and archaeologists licensed by your Ministry have declared that this land is of significant potential for the discovery of pre-contact archaeological resources. Even though several sites have been identified, at no point have First Nations been consulted prior to approval of development plans in the area.

The **cultural and historical significance of what is at stake here cannot be understated** since these sites are unique in Eastern Ontario and can elaborate our knowledge of my ancestors. Some experts have speculated that the area could potentially be recognized as a World Heritage site. Action must be taken immediately to halt development so that comprehensive and independent studies can be undertaken to properly determine the significance of this land.

In the following summary of archaeological reviews, you will note that 9 of the 11 professionals conclude this area is either of high or potentially high significance. The only 2 that rate the area as low significance were both employed by developers. You may wish to reflect on whether the downloading of archaeological resource approvals by Ontario to non-professionals in its municipalities is working to the benefit of Ontario's citizens.

In this case, action to halt development is not occurring because of an out-dated report (CIF P003-002 and P003-005) produced by an archaeologist, Nick Adams, in August 2003 which was accepted by your Ministry in June 2004 and used by a developer, KNL, to meet a requirement for subdivision approval in 2006. The non-licensed staff in the City of Ottawa infrastructure approvals group lacks the expertise to ascertain that the Adams report is now out-dated based on subsequent knowledge. The Adams' report erroneously states in:

- Section 2.3.1 *"No Palaeo-Indian sites are known in the vicinity of the study area."*
- Section 2.3.2 *"No Archaic sites are known in the immediate vicinity of the study area, although Archaic materials have been discovered in Leamy Lake Park."*
- Section 3.1 *"The majority of the study area has a generally low potential for pre-contact period sites." ... "It is recommended that archaeological testing ... focussing on the few small areas where the topography would have permitted seasonal settlement."*

Since it is commonly known that my Palaeo-Indian ancestors were migratory, it is evident that the 2003 assessment performed only a limited exploration for pre-contact cultural resources. The Adams' assumption that the area was of low pre-contact potential was made without consulting (not cited as references):

- **1998** – Marcel Laliberté (MA - Archaeology, University of Montreal) report for the National Capital Commission that identifies high potential for pre-contact cultural resources along the shores of the former Champlain Sea. Curiously, Adams cites only a later work by Laliberté on the *Middle Woodland in the Ottawa Valley* to discuss a historical perspective.
- **1999** – Archaeological Services Inc., *Archaeological Resource Potential Mapping Study of the Regional Municipality of Ottawa-Carleton* which identifies the area as being of high potential.

Subsequent to 2004, **new information** has also emerged which now indicate that the above assumptions and focus of the 2003 study were incorrect:

- **April 2006** - a licensed archaeologist, Ken Swayze, submitted a Stage 1\2 assessment of an adjacent property known as the Broughton lands, which documents a late Paleo-Indian site and recommends a Stage 3\4 assessment. The artifacts recovered from this site are currently preserved in the Algonquin Way Cultural Centre in Pikwàkanagàn. However, the Swayze study was rejected by the developer who commissioned it and the issue is now being adjudicated by the courts due to the refusal by the developer to pay for the study.
- **Nov 2006** - a licensed archaeologist, Lawrence Jackson, was hired to re-do the Broughton study and produced a report that did not reference the prior Swayze study or the assigned Borden numbers for the sites identified by Swayze. According to the MTC, the failure to reference the Swayze finds was due to the Borden numbers not being entered in the MTC database until after Jackson had requested a database search. In his report, Jackson (who apparently was also unaware of the 1998 & 1999 studies) cites only his own earlier research which suggests a low probability for Paleo-Indian cultural resources in the area. As Jackson cites no external research to support his assumption, his conclusions are controversial.
- **August 2010** – Dr. Robert Abell and Paul Renaud with guidance from a licensed archaeologist discover and report a second site, similar in characteristics to the Swayze site, on different adjacent property to the areas studied by Adams, Swayze, and Jackson. A quartz core is recovered from this site that clearly shows signs of tool-making (see attached). Although the site is reported to the City of Ottawa, the city has yet to assess or register the site since it does not have a licensed archaeologist on staff. This problem was brought to your attention in Jan 2011 in separate letters by Paul Renaud and MPP Ted Arnott.
- **August 2010** – Dr. Robert McGhee, Ph.D. F.R.S.C (Ph.D. Archaeology, University of Calgary, MA and BA (U of Toronto) reviews the Adams study for the Urbandale (KNL) land and declares that study has a “*fatal flaw*”. Dr. McGhee is a past-president of the Canadian Archaeological

Association and former editor of the Canadian Archaeological Journal. The Canadian Association of Archaeology has described Dr. McGhee as one of the most eminent scholars that Canada has ever produced and he is also recognized as a Fellow by the Royal Canadian Geographical Society. Dr. McGhee's review was communicated to you both by Paul Renaud and Robert Abell.

- **August 2010** – Dr. Hansjürgen Müller-Beck, Professor Emeritus of Palaeohistory and Archaeology of Hunting Cultures, University of Tübingen, Germany, confirms in a correspondence with Dr. Robert Abell that he had visited Swayze's site and examined some of the materials found by Swayze:

“Those stone fragments are really very scattered remains from raw material stone tool quarries of prehistoric times, sometimes forming clusters of more intense work. The dating of that waste material was open, but might go back quite well into Paleo Indian times and under the later finds still unknown to me might even be evidence for such a date.

...There should be no destruction of those sites before a clear research strategy for documentation was [is] developed.”

- **December 2010** – photos and a video of what may possibly be a Stone Circle on the KNL lands are circulated by the president of the Community Association and brought to the attention of the city of Ottawa.
- **January 2011** – Dr. Gordon Freeman (D. Phil. Oxford, Ph.D. McGill, M.A. U of Saskatchewan, Author Canada's Stonehenge, Professor Emeritus, U of Alberta) wrote to you regarding the importance of appropriate study of this site, elaborating on its potential for Archaeoastronomy.
- **January 2011** – The Ottawa Chapter of the Ontario Archaeological Society appealed to the Ontario Heritage Trust on this matter, referring to the “*inadequacy of existing protection for archaeological and architectural sites in Ottawa and the province of Ontario*” and noting that protection of sites “... *needs some teeth as well as good intentions*”.
- **January 2011** – An independent review of the Adams 2003 assessment by the Groupe de recherche archéologique de l'Outaouais (GRAO) reconfirms the need for a new archaeological study.
- **February 2011** – Dr. William Sullivan (Doctorate in American Indian Studies, University of St. Andrews, Scotland, Author of “The Secret of the Incas”) wrote an extensive paper to you in which he states concern that:

“Although no comprehensive archaeological survey of the South March Highlands has been conducted, already available archaeological evidence, ... make clear the extremely high probability that the South March Highlands

represent a unique and irreplaceable laboratory for understanding the human experience during the Upper Paleolithic (that is the end of the last Ice Age), and the transition to and adaptation to the new post-glacial world (the Archaic Period) up to the present.

Evidence already exists of ceremonial and calendric activities but the extent of such activities, as evinced by stone markers has never been properly explored and will certainly be totally destroyed if heavy logging equipment is run over the entire site.

*Understood in this light, **continued logging would represent a wilful destruction of an irreplaceable cultural resource, the equivalent of burning a library without even knowing its contents.** As the information herein enumerated has emerged only in the last three years, it renders moot previous archaeological reports written without benefit of recent discoveries.”*

In addition to exploring the duty of Aboriginal people to protect Sacred places, the Ipperwash Inquiry’s research report “*Respecting and Protecting the Sacred*” also observes:

There is more to heritage, however, than archaeology, and Aboriginal heritage is no exception. Cultural landscapes and heritage features continue to give meaning to Aboriginal peoples.

Similarly, from a heritage perspective, **new information** has also emerged regarding the cultural significance of the South March Highlands:

- **August 2010** – Grandfather William Commanda, principal Elder of Algonquin in both Ontario and Quebec, Ancestral Carrier of 3 Sacred Wampum Belts, and an Officer of the Order of Canada, declared the area to be an ancient and sacred site for the Indigenous people of the Ottawa river watershed. This was brought to your attention at that time by Paul Renaud.
- **September 2010** – The Arts, Heritage, and Culture Advisory Committee, City of Ottawa, passed a motion recommending:

“That the City designate the South March Highlands, and any other area within the City boundaries having an equivalent elevation profile, as an area of "special interest" for pre-contact archaeology;

“That the City should immediately re-examine all development proposals for the area of the South March Highlands, and require new archaeological assessments for any planned development that would occur above 90 metres land elevation;

“That the City of Ottawa ensure that there is no destruction of any potential sites before a research and management strategy is in place; ...”

- **December 2010** the Ottawa Inter-Tribal Medicine Council advises City Council that cultural heritage must be protected.
- **December 2010**, the principal Elder of the Algonquin in both Ontario and Quebec wrote to City Council formally requesting that a more credible study be done on the KNL lands. He re-iterated his request that a new study be done again in January 2011.
- **January 2011**, the leader of the Inter-Tribal Medicine Council visits the Stone Circle site and declares it to be significant to Indigenous people.
- **January 2011**, the Chiefs of the Ottawa Algonquin First Nation, the Chief of the Kinouchepirini Algonquin First Nation, both Chiefs of the Ardoch Algonquin First Nation and the Sachem of the Kichesipirini Algonquin First Nation all individually notified the City and your Ministry of their request that a new study be done.
- **January 2011**, the Algonquin of Ontario organization requested that tree-clearing be suspended until a new study be done. You were notified of this by Adam Caldwell in February 2011.
- **January 2011** - the Aboriginal Affairs subcommittee of the City of Ottawa's Arts & Heritage Advisory Committee passed a unanimous resolution requesting an independent study. This resolution was subsequently unanimously ratified by the full Arts & Heritage Advisory Committee and forwarded to City Council.

At the end of January 2011, the KNL began site alteration activities on the land claiming that they had been advised by the MTC that it was permissible to clear-cut while the ground was frozen so as not to disturb any artifacts. Subsequently your Ministry has denied giving such a recommendation or approval to the developer.

Earlier this month two members of the Coalition to Protect the South March Highlands (Paul Renaud and Robert Abell) requested meetings to discuss this matter with you in person during your recent visit to Ottawa. No meeting was granted by you, nor did you respond to either request.

The preservation of Aboriginal cultural sites and artifacts is a particularly sensitive issue in Eastern Ontario due to the unresolved Algonquin land claim that includes all of Ottawa. **Our right to consultation is affirmed by the constitution of Canada as an existing pre-treaty right and the Honour of the Crown is now engaged as a result of the formal requests by my Chiefs.**

It is worth noting that any further discovery of pre-contact resources in this area is highly likely to be Provincially Significant as defined in Ontario Regulation 10/06:

- It would elaborate and demonstrate the pre-contact theme in Ontario's history;
- It would have the potential to yield information contributing to an understanding of Ontario's history;
- Any discovery of this age would be rare in Ontario and unique in Eastern Ontario;
- The property would have a special association with Ontario's community of First Nations.

The Precautionary Principle states that whenever there is scientific dispute over a course of action that cannot be reversed, it is both prudent and responsible to maintain the status quo until further study is done. This is a well-established principle in law, medicine, ecology, and other branches of science. The common sense value of applying this Principle in this situation is compelling to anyone who believes that it is important to preserve our cultural heritage.

In view of the urgency of this situation, and in view of the fact that the Honour of the Crown is now at stake based on your actions or inaction, on behalf of Algonquin tradition and culture, I request that you uphold the Precautionary Principle and your Statement of Environmental Values and **issue an emergency Ministerial Order, pursuant to section 62 of the Ontario Heritage Act**, immediately protecting the South March Highlands from further destruction until an independent archaeological study can be completed.

Respectfully,

Daniel Bernard
Amikwabe - People of the Beaver
Algonquin of the Ottawa River Watershed
1-416-876-3051

Attachment: Photos of cultural resources discovered in 2010 in the South March Highlands