

∞ The Puzzle of the Haldimand Tract:

45 Years of Land Claims Research at Six Nations

A Conversation with Phil Monture

Adrian Blackwell

Phil Monture is a Mohawk land historian, who has been researching the history of Indigenous lands in Canada and the land of the Six Nations of the Grand River in particular since the early 1970s. This conversation with Adrian Blackwell took place in the Musagetes Library at the University of Waterloo School of Architecture in Cambridge Ontario, on 31 January 2020. The conversation was transcribed by Alexander Robinson.

AB: Can you describe when you first became interested in understanding more about the history of the lands of the Haldimand Tract,¹ what inspired you to think about the history of the space that you lived in?

PM: That's a very personal question, because when we grew up on Six Nations there were only Federal schools. We were never ever taught our own history. In fact, the idea was to take it away from us, this was the next step after the residential schools. There were even some native teachers here at Six Nations who lost their teaching certificates because they went outside of the curriculum, teaching us about our culture and rights. One of them was Emily C. General. She refused to declare an oath to Canada, on the principle of being a federal employee, and she lost her job for it. Now, with all this history coming forward, she has a school named after her for standing up for her valued principles and rights. So, what you're being presented here today is something we were never taught in our schools. It wasn't until the early 1970s that I got a job as a summer student in Ottawa, and it happened to be at Indian Affairs. They had introduced a recruitment program for aboriginal people across Canada. They brought in about a hundred of us, to learn about Indian Affairs and integrate us into the system. I decided I'd take it just to learn about it, to learn what Indian Affairs was all about. So, I went up there as a summer student and I stayed for about four years. There I learned how to do archival work, history, all the necessary skills to collect data, because we never had access to this. It was actually kept from us in most cases, under very restrictive practices. I'll be honest, I hated history in school. Nobody cared about Columbus, the guy was lost, and that's all you heard about.

But once I started learning more, I got absorbed in it and kept digging into our history, learning more and more, until I was branching out across all of Canada from Vancouver to the Maritimes. So, it grabbed a hold of me. That was a history that I wanted to learn, so I learned how to do the archival research. But the problem was that every time I would bring up issues that weren't correct to the department officials, their line was "don't open that can of worms." They asked us to "find the answer to this," but when you found it, if it wasn't the answer they wanted they would push it away. It was right around this time that native rights started becoming a national issue.

In 1927, the Six Nations decided to take the government to court over fraud associated with making the Grand River more navigable. In the 1830s, the Grand River Navigation Company, a private enterprise backed by the government, had a scheme to make the river navigable from the ongoing works of the Welland Canal feeder at Dunnville up to Brantford, and as far as Galt—and they misused funds belonging to Six Nations to build it. So in the 1920s, we went out and hired our own lawyers from London, Ontario, including A.G. Chisholm.² Canada's defense against this litigation was to pass legislation that forbid us from hiring independent lawyers, a law that stayed in effect

right up until 1951. We weren't allowed to go out and hire our own lawyers to find out what Canada was doing to us. Earlier in the 1920s, Deskaheh, one of our chiefs, brought this issue to England, to the League of Nations. He was embarrassing Canada by trying to get a hearing before the world court of the day. But Canada never participated, and you couldn't have a judgement if the accused wasn't there. We had the support of four countries, but couldn't push the case forward.³ Deskaheh stayed in London and educated the people about our rights and what Canada was doing to us. When he came back, Canada wouldn't let him back into the country, and in fact he ended up dying in a Tuscarora reserve in New York State; it wasn't until then that Six Nations brought him home.

So that's the kind of history we never had access to. We knew about it, but were never taught in our education system, and many of you probably hadn't heard about it until The Tragically Hip started exposing things, or from the Truth and Reconciliation Commission (TRC)'s report. A lot of reports were done before the TRC and Gord Downey made it his mission to educate people about this history. So, a whole generation began speaking about this and everything came together through the TRC. Slowly an awareness about the residential schools emerged, and people know that John A. Macdonald, who founded this country, was actually the one who invented the principle behind the residential schools of "taking the Indian out of them," so he could run the railways to the West.

AB: When you went to Ottawa, did you begin your work by looking at Six Nations or was it more broadly national?

PM: It was more broadly national, we learned how to do the research and leases and right of ways and land tenure systems. We learned about how the government was keeping our records.

AB: Over the four years, did you end up focusing more closely on Six Nations?

PM: On my own I was, and towards the end they knew that I was. I had decided that this wasn't for me. I guess the other side of it was that the government at the time was playing games where they were trying to decentralize people, so you'd be given only one month to find an answer to a question—but I got pretty good at what I was doing and could find it in two weeks. So, I learned to not sit around; I worked on Six Nations materials and started collecting them. I was lucky that I had a very good boss, who taught me well, that's the positive thing. When they finally noticed what I was doing, they said we're going to have to let you go, because you're in a conflict. I said no, that shouldn't be a conflict. My boss at the time said: "so let's make sure you have the right material." She was a good person, but there weren't enough of those people.

AB: When you left was there was a movement at Six Nations to look into land claims that you connected with?

PM: Well, they had tried to establish an office previously. Canada's first aboriginal lawyer, Seneca Norman E. Lickers, was trying to help out with it. But

he was doing this on the side, because he was also on the Six Nations council at the time. I had an uncle who was on council, who knew about the work I was doing in Ottawa, so he linked us up. We had an issue with the city of Brantford, so I started collecting that information. They knew I was focusing on Six Nations, so they were watching me. I had access to records that most researchers couldn't get. You as individuals couldn't get this information, because the government is very restrictive. But as a government employee I took full advantage of my access. It was strange how it all unraveled, but that's how it worked out.

AB: Can you explain the development of this research project. It started when you left Ottawa, but how did it develop over the years with the Six Nations Land Claims Research Office?

PM: I came back home, and as I said we had trouble with the City of Brantford. I didn't even know it, but the Six Nations council had requested to have me return home on a one-year secondment from the department of Indian Affairs to work on this conflict. All of a sudden, I received a letter from Jean Chretien, who was the Minister at the time, saying that I could go to Six Nations for a year to work on their issues. I never went back to Ottawa, but by then I had all the documents and knowledge that was available. So, we started that work on 1 June 1975. The biggest thing was to start collecting many more of our documents from the National Archive of Canada, Ontario Archives, New York State archives, and the Newberry Library in Chicago, which has a very good Iroquoian collection. Also, because of our military alliance with the Crown in the American Revolution, a lot of promises and land transactions were made with Britain. So, some of our earliest and most valuable documents were in archives in Great Britain. Our biggest task was to get the records, which we did: copying, buying microfilm, and finding whatever we could access, because we'd never had these records.

AB: How did you build the research office? Was there a team in place, or did you build a team to do this work?

PM: Well, when we started it was just me, and then I had somebody help with typing and transcribing; it's not like today when everything is done on a computer. We were photocopying papers and taking handwritten notes. Good luck trying to read them! I was actually transcribing many of these documents.

AB: And did you travel to the different archives?

PM: Yes, to all of them except in London, England, but the National Archives of Canada has microfilm copies of pretty much everything that should be held on behalf of Six Nations in England. At the time, we fortunately had a student from Six Nations who was studying in London. So, we hired her to go through the British Archives on our behalf, subsidizing her studies, because it was very expensive there. We've got all those records at home now. One thing I'm proud of is that this was all done by Six Nations people, who collected this knowledge. We didn't hire outside consultants, in part because we had no money. Everyone who worked on this has been from Six Nations, and

they gained a wealth of knowledge. Because of the incredible scale of this research project, everyone found different pieces of the puzzle. One person knows this time period and another that time period. It was so exciting for all of us to see all these different pieces of research coming together. We began to remember our own history. One example of this was when we were looking into The War of 1812. We started to uncover that money that was supposed to be held in trust for us by the Crown was being drained to fight that war, because it says “war losses” in the ledgers we found. So, the Six Nations funds were the bank for building this country. We didn’t really understand this until we got into this research.

AB: Was there a dedicated space for the research office?

PM: We nicked and dined on everything to survive, we were all over the place. When I started, I worked out of a little office out of the Woodland Cultural Centre, which was actually a part of the former residential school in Brantford. From there, we got a larger space in the Six Nations Council administration office. Now we have an office set aside in part of the Six Nations tourism building called the Six Nations Lands and Resources Office. But we still need proper facilities to consolidate our archives, research office, and library. We have plans to house them all together, in order to preserve these records. That’s the long-term goal, but it needs capital which we don’t have. But the building is already designed, the dream is there—let’s put it that way.

AB: Can you give a sense of how the Six Nations came to settle on the Haldimand tract?

PM: These were lands which the Erie, the Neutral, and the Hurons occupied. There was no Canada-US border like there is today, and our traditional territories were south of Lake Ontario. Within these beaver hunting grounds, the Hurons were allies with the French and we were allies with the British—and that meant we were fighting against our brothers the Hurons, and they were fighting us. In the mid-1600s we conquered the Hurons throughout Southern Ontario and took control of these hunting grounds (Figure 1). But to be frank, we were just pawns in all this. We were being used and set up in battles, because the British wanted to show their dominance over the French.

So, we entered into the treaty with the British after we conquered the Hurons in the area. Because the Erie and the Neutral all have Iroquoian languages and culture, many of them were absorbed right into the Haudenosaunee Six Nations. We negotiated a treaty with the British in 1701, which let the King place his castles on our lands to protect from invasion by the French on our Beaver hunting grounds in Southern Ontario.⁴ We entered into a treaty with other First Nations to quit fighting over the resources. Most of Southern Ontario was covered by the Dish with one Spoon Treaty of 1701, between the Haudenosaunee and the other Indigenous Nations. We agreed to share the natural resources and respect the land. That’s actually what the treaties were based on: respect, not control. We agreed to share it respectfully.

We also negotiated a treaty with the British Crown in 1768.⁵ From the Susquehanna, to Fort George, to Albany, there were treaties across that vast territory. We had use of a vast beaver hunting ground about 400 miles by 800 miles all around the Great Lakes. But skirmishes started up between the Haudenosaunee and British squatters during the period leading up to the American revolution. That’s what brought about the Royal Proclamation of 1763. A lot of newcomers were coming from the Susquehanna River in Pennsylvania and along the Allegheny Mountains and they had no rules for settling—they didn’t even know that we were there. This concerned us deeply, because they were on our territories, which we had treaties with the crown to protect. So, the Crown made the Royal Proclamation which laid down the rules for these newcomers. Then the American Revolution started in 1775 with Great Britain fighting the revolutionaries, and they brought the Six Nations in to fight as their allies.

Our relationship with the British was governed by what was called the Two Row Wampum, which basically said we would respect each other’s government. You won’t control us and we won’t control you; we’ll live together jointly, as canoe and the ship going down the river together. We won’t dominate you; you don’t dominate us—we won’t make laws for you; you don’t make laws for us, and we’ll respect each other. It was essentially based upon the principles of these peace, friendship, and respect.

When the American Revolution started, it fractured the Iroquois confederacy, because some said “this is not our war, it’s between those people.” But they were called into it as allies. It’s called the covenant chain. When our allies need help, they’re supposed to shake the covenant chain and we’re supposed to come and aid, being their allies. We were caught in a contradiction. Many of the Mohawks and others members of the six nations said “it’s on our land.” We have to be involved. So, it fractured the confederacy.

We fought during the American Revolution, but we felt betrayed, because during the negotiations of The Treaty of Paris that established the eventual Canada-US border, and we weren’t consulted even though it was on our land. That was the issue, but to make everything right again, in 1784 Haldimand promised us the Haldimand Tract (Figure 2), six miles on either side of the Grand River from Lake Erie to its source, 950,000 acres to “which them in their posterity are to enjoy forever.”⁶ That was them trying to redeem themselves for signing what they had no authority to agree to on our behalf.

This is where we get into some of the bad principles of things. Today all we have left is less than six percent of the total land grant. Of course, that’s all I grew up with, and when I went to Ottawa and started learning all of this, I thought: wow, what the heck is going on here? We have mortgages of land that basically mean we shouldn’t have needed anything, we should have a revenue stream to take care of all of our needs. In 2006, when the Caledonia uprising

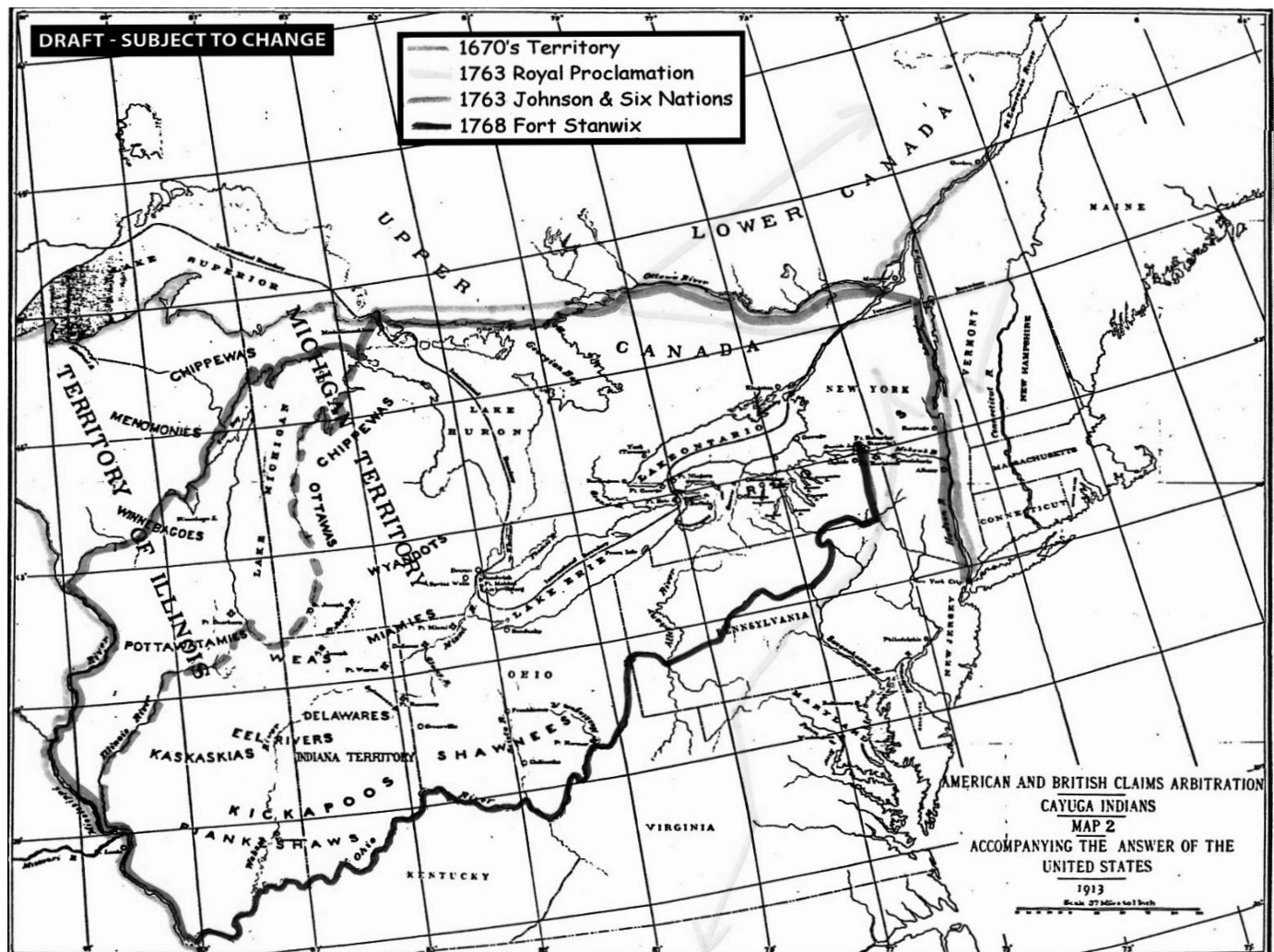


Figure 1.
Plan of the Haldimand Tract of 1784, showing subsequent dispossession of Six Nation Lands.

happened, we did an analysis and there were over four billion dollars collected in taxes by Canada, Ontario, and the municipalities on the Haldimand Tract; these are the lands in dispute, and we're not getting anything out of it. So these are the kind of issues that we bring up and ask Canada: where's all the money from all these Blocks? And they can't answer.

Those are the types of issues that research I've been involved in brings us to. Haldimand's grant is clear that it runs from the source, but they cut it off at Fergus, Ontario, though everyone knows the river goes way beyond Fergus (See item 3 on Figure 2). The area from there towards the source includes another 250,000 acres. Here's the problem: all these people living on this land do not know this history. They're all fine people, but they don't know the underlying issues and the promises that were made.

AB: What was the relationship between the grant and the survey historically?

PM: The survey was made within a year of Haldimand's promise. This was a large tract to survey and the biggest question was: what is the tract going to look like this? What was agreed to was to simplify the points along the river and go 960 Chains wide from there. So in reality it didn't accurately follow

either side of the Grand River, which meanders within the 960 chains.

AB: So when Five Nations saw the survey did they understand immediately that the source was missing?

PM: Augustus Jones, who was the surveyor, stopped at Block 4 in Fergus. The Six Nations then petitioned the King to continue the survey and the King said the agreement was the agreement and should not be diminished without Six Nations approval. But then it was never finished.

AB: And when the Six Nations came to settle this land, they were primarily in the Southern part of it at first—is that correct?

PM: Yes, they came up along the river up to about present-day Brantford, what was then called Brant's Crossing. To be quite honest the first transactions were the mortgage leasing of Blocks 1-4. This was a large tract of land, and a lot of people wanted to reside there (Figure 3). With the American Revolution, Mennonites were being pushed out of the US as well, and they settled in one of the blocks. Now we've talked to them many times and that's the problem, how do we get over these issues? They didn't know the history behind the settlement, nor that Canada collected money but didn't save it for our use, or release it to us, and instead used it to run the country.

AB: How did land which was originally granted to The Six Nations come to be mortgaged? Was



Figure 2.
Plan of the Haldimand Tract
of 1784, showing subsequent
dispossession of Six Nation
Lands. Six Nations Lands and
Resources Office, Redrawn by
Marco Adly.

Legend
1 (White diagonal line
hatch) Reserved for Six Nation's
use in January 1844

2 **Innisfil**
900 acres in Innisfil Township
and 4,000 acres in East
Hawkesbury Township were
transferred for the use and
benefit of the Six Nations people

3 **Source**
Source of the Grand River
to Nichol Township. Includes
Townships of Melancthon,
Proton, East & West Luther,
Amaranth, Garafraxa, Erin and
Eramosa

4 **Block 4**
Nichol Township — 2 November
1796 Joseph Brant was given a
power of attorney from the Six
Nations to surrender "in trust"
to the Crown Blocks 1,2,3 & 4 to
secure 900 year lease payments
for the perpetual care and
maintenance of the Six Nations
people

5 **Block 3**
Woolwich/ Pilkington Townships
— 2 November 1796 Joesph
Brant was given a power of
attorney from the Six Nations
to surrender "in trust" to the
Crown Blocks 1,2,3 & 4 to
secure 900 year lease payments
for the perpetual care and
maintenance of the Six Nations
people

6 **Block 2**
Waterloo Township — 2
November 1796 Joseph Brant
was given a power of attorney
from the Six Nations to sur-
render "in trust" to the Crown
Blocks 1,2,3 & 4 to secure 900
year lease payments for the per-
petual care and maintenance of
the Six Nations people

7 **Block 1**
North & South Dumfries
Township — 2 November 2 1796
Joesphe Brant was given a
power of attorney from the Six
Nations to surrender "in trust"
to the Crown Blocks 1,2,3 & 4
to secure 900 year lease pay-
ments for the perpetual care and
maintenance of the Six Nations
people

8 **Gore of the Dumfries**
Part Gore of Dumfries Township

9 **Brantford No. 40**
No.40, dated 2 April 1835, Part
of Brantford Township

10 **Johnson Settlement**
Leased Lands — Lands reserved
for Six Nations to be leased
(includes Johnson Settlement).
Eagles Nest Tract and Oxbow
Bend, all in Brantford Township
and Martin's Bend Tract in
Onondaga Township), October
4, 1843

11 Brantford Town Plot No.30, dated April 1830, Brantford Town Plot

12 Eagles Nest Leased Lands — Lands reserved for Six Nations to be leased (includes Johnson Settlement). Eagles Nest Tract and Oxbow Bend, all in Brantford Township and Martin's Bend Tract in onondaga Township), 4 October 1843

13 Oxbow Bend Leased Lands — Lands reserved for Six Nations to be leased (includes Johnson Settlement). Eagles Nest Tract and Oxbow Bend, all in Brantford Township and Martin's Bend Tract in onondaga Township), 4 October 1843

14 Part of Brantford Township Parts of Brantford Township Parts excluded from Surrenders

15 Burtch Tract Six Nations Reserve — Lands reserved for Six Nations future residence (on the south side of the Grand River from Burtch Landing to Cayuga Township excluding Plank Road; and on the north side of the Grand River, Tuscarora)

16 Martins Tract Leased Lands — Lands reserved for Six Nations to be leased (includes Johnson Settlement). Eagles Nest Tract and Oxbow Bend, all in Brantford Township and Martin's Bend Tract in Onondaga Township), 4 October 1843

17 Onondaga Onondaga Township

18 Part of Onondaga Six Nations Reserve — Lots 10 – 14, Conc 2 and Lots 6-15, Conc 3 Onondaga Township, CNR, Right of Way, River Lots 45-61, Conc 3, River Range

19 Six Nations Six Nations Reserve #40 — Less than five percent of original Haldimand Tract

20 New Credit New Credit Reserve

21 Seneca Township Seneca Township

22 Plank Road Hamilton/ Port Drover Plank Road Lands. 16 January 1835, Six Nations Council, to be leased

23 Oneida Six Nations Reserve — Lands reserved for Six Nations future residence (on the south side of the Grand River from Burtch Landing to Cayuga Township excluding Plank Road; and on the north side of the Grand River, Tuscarora)

24 Cayuga/ Seneca Life Lease Conditional Life Leases/Mohawk Deed Lands. Seneca & Cayuga Townships, 26 February 1787, Deed

25 North Cayuga No 31, dated 19 April 1831, North Pt of Cayuga Township Talbot Road Lands

26 Cayuga North Reserve Indian Reservation — 28 September 28 1833, Chiefs reserved 2 miles back from Grand River, North Part of Cayuga Township

27 Cayuga South No 38. dated 8 February 1834, Township of Dunn and Parts of the Townships of Moulton, Canborough and Cayuga

28 Block 6 Canborough Township

29 Canborough Part No 38. dated 8 February 1834, Township of Dunn and Parts of the Townships of Moulton, Canborough and Cayuga

30 Dunnville No 38. dated 8 February 8 1834, Township of Dunn and Parts of the Townships of Moulton, Canborough and Cayuga

31 Dunn township No 38. dated 8 February 1834, Township of Dunn and Parts of the Townships of Moulton, Canborough and Cayuga

32 Block 5 Block 5 Moulton Township

33 Sherbrooke Sherbrooke Township

34 Ordinance Reserve Port Maitland Lots 25,26, Conc 5, Dunn Township

35 No.38 8 February 1834, Township of Dunn and Parts of the Townships of Moulton, Canborough and Cayuga

there a breakdown of collective control over land? How did income from these mortgages end up in trust?

PM: Our treaties are based on respect and sharing lands and resources. One of the earlier treaties among various First Nations is called the Dish with One Spoon. It states that we don't fight over the natural resources, but all agree that we are going to share. The dish basically covers a large part of Ontario. You've got to think back further to a time when survival depended on the beaver trade, the wildlife, and plants. You'd never take more than you needed, because you always left something for your neighbour, you took care of things. That's the principle of the dish, but we all ate from it with one spoon, so that was the principle of sharing. Land alienation was foreign to us, and that was the real difference between our principles and the newcomers to our territories.

We wanted people on what we now call Blocks 1-4 of the Grant—roughly 364,910 acres—but we couldn't sell it, because we couldn't sell our children's land. But we wanted people there, so that we could share it with them. We proposed a 999-year mortgage to be paid to us, Six Nations, which would create a revenue stream for our government, to run our affairs and to address our housing and health needs. That should have addressed all our needs.

But the money from Block 2, right where we are here today, ended up being used as a revenue stream for much of Ontario. The 999-year mortgage on Block 2 should have produced income for us until today and beyond. In 1796, Joseph Brant nominated interested persons, and the Crown entered into 999-year mortgages with these people on our behalf, for which we expected continual payments. But Six Nations didn't trust the government. So, in 1802, the chiefs said they wanted the money to be held where the king kept his money, which happened to be in London, England, with a firm called Coutts and Company. So, money was being paid. We weren't getting it, but it was away from the Crown. In the 1980s, when our research office traced the money to Coutts, we found that we agreed to mortgage Block 2 to Richard Beasley, James Wilson, and St. John B. Rousseau starting in 1798, and that payments were being made regularly to Coutts and were to continue for the life of the mortgage (999 years). We put a whole chronology together and sent it to them (Coutts and Company). There was this beautiful person there who on her own, went down and found our records. She put it all together, had it audited and notarized, and sent everything back to us. What this showed was that in the 1856 the Province of Canada petitioned that the money from Coutts and Company be returned for the use and benefit of Six Nations. So, Coutts sent the Six Nations money back to Upper Canada—the only caveat that they put on it was to make sure it went to the benefit of Six Nations, as they had said.⁷ We never did get it back. And we have no record of any further payments coming in for that Block, since it left Coutts. So, this is the issue, we want people there, but there's 700 some years left on this mortgage. So,

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we're asking Canada: where's the money coming in from this? Everybody knows what happens when you don't pay a mortgage. The real problem is that it's a big area of very valuable land. There would be a lot of revenue from it, from 1850s until today.

AB: So, it was paid for 48 years, from 1796 to 1844?

PM: Yes, somewhere around there. The mortgages were paid, up to a point, but then we don't know what happened to it. If it was ongoing, we would have our education covered, and many other things.

AB: Block 2 contains Kitchener, Waterloo, and Cambridge?

PM: Yes, right where we are sitting here today. You know this is the problem, but it's so enormous it's hard to resolve. You don't know this history, you didn't know this happened (that the Crown did this to us), but it has happened to us. Now, how do we get beyond this to a solution. That's what we're trying to do now, to create a solution. Justice needs to be served without breaking the National bank. Canada can't pay the outstanding amounts, they're so far in debt now. Nor is the solution to dispossess third parties who live here today of their interests. Two wrongs aren't going to make a right. So, we've got to get back to the table and find a solution we can all live by.

AB: You've talked about the source of the Grand River and the bigger blocks that were leased—Blocks 1 to 6—but the land that Six Nations settled on was appropriated in a more piecemeal way. How did that happen?

PM: Well here's another part of history that a lot of people don't know about. The War of 1812 was breaking out. Keep in mind the Grand River was all forested, Southern Ontario was nothing but forest. The Grand River was the highway into the area and that was the access route that was also used to float timbers down to ship out through the Great Lakes. When the War of 1812 was brewing, the Six Nations were allies of the British, so Sir Isaac Brock called on us to fight in the war. Much of the conflict had to do with the boundary between Upper Canada and the United States, and believe it or not it was still related to the fur trade and the duties placed on furs at the border in the Jay Treaty of 1794. The fur trade was still big business at the time and many people didn't like the boundary. That was one of the contributors to the war, and the one that affected us the most.

But when the war started, the Six Nations said no they wouldn't participate. By then, there were many trespassers coming into our land, and Six Nations needed to stay home and protect their lands from further trespassing, although it was the Crown's duty to do so. The British said they would take the trespassers off, but we said: wait, you've said that so many times. So, Brock made a special proclamation that trespassers were to leave Six Nations land. That was good enough for the Six Nations to say: ok, we'll fight in the War of 1812, and they put the word out to Kahnawake, Akwesasne, and Tyendinaga. We all went and fought on the Niagara frontier. But within the first week of the battle, Brock was killed and the

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proclamation wasn't carried out, so the trespassing continued.

In 1830, the Crown proposed another solution to stop the trespassing. They suggested that we set aside 600 acres for the trespassers, divide the land into quarter-acre lots, and ask each settler to pay 10 pounds per lot within six years. The Six Nations agreed, but big question was: would the trespassing stop? I think the mentality was to take all the non-natives and put them on a reserve. At least that's how I try to phrase it. We went through each lot and we developed a GIS system and tagged all the payments that were on record in the department of Indian affairs for every lot in the City of Brantford. Well, 600 acres mysteriously turned into 807 acres, the quarter-acre lots were all laid out, but the only ones properly paid and patented are shown in black on this map (Figures 4 and 5).

This is downtown Brantford as you know it today. What do you do? There's a lot of innocent people here that would be affected if we asked for these lots back. The same would apply to this land in Cambridge. If lease or mortgage payments stop, what do you do? Where did the money from these lots go? That's what we're asking Canada.

Callan Wilson-Delafield (Waterloo Architecture Graduate Student): Did you find individual titles that you traced back for each of these?

PM: We found every one. We went through all the records from Crown Lands, the Surveyor General, and Indian Affairs land records. We went through all of those records and found the transaction records for every parcel of land. What's good about Blocks 1-4 is that they're just large blocks, and we didn't have to go lot by lot. All the rest we pretty much mapped down to a quarter acre and sometimes smaller. The maps show which lots were paid for and which were properly patented. The discrepancies include whether the land was paid for, or whether the amount of land was properly allotted. Was it the allotted quarter acre, or was it actually two acres? We found numerous forms of discrepancies.

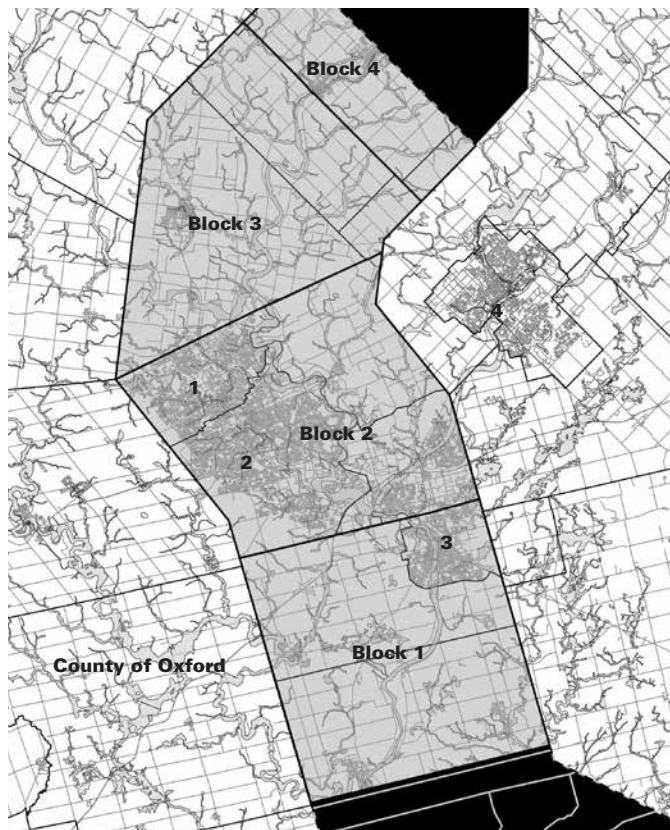
AB: When did the land claims research office start to use a computer. This kind of mapping doesn't require a computer, but did this type of drawing emerge with computers? Or were there drawings before?

PM: We did a lot of hand drawings beforehand. My presentations used to be screened on overhead projectors at one time. Now it's just on the computer.

AB: So, it all started by hand, and you were drafting these maps?

PM: We started making maps by hand and we had a draftsman drawing them out for us. We used the maps from the surveyor general's office which is actually the record keeper of the historical maps, and Ontario as well. Natural resources has a lot of Indian related records, because many land-use issues had to deal with natural resources. Those are the types of things that we went through.

Here is an example. In 1984, we started a court case on Block 5, which was supposedly mortgaged for 999 years to William Jarvis, but the mortgage failed.



So, another mortgage was taken out by the Earl of Selkirk in 1807. In 1909, Canada's finance department reported to parliament that nothing was paid on Block 5 since February of 1853. So, Canada knew this, this was the report of a government agency to parliament. In response to our claim, Canada made a take-it-or-leave-it offer of \$113.65 per acre, just because of the size of it: 30,800 acres. They just arrogantly said, if you don't like it just take us to court. So we did.

They later argued that the Earl of Selkirk had pledged security on all the lands he owned. Canada in all their wisdom said, well, maybe you should deal with that and the lands given in security, which happen to be in Etobicoke—why don't you go and seize their houses? This was Canada telling us this. That was the government's defense.

We filed a claim about the Brantford lands in 1995 and we told the judge that the courthouse in Brantford was on a land claim, to which he responded, "this is going to be a very interesting case." So free Crown patents were given, yet we had requirements for that land, 10 pounds per quarter acre lot, which in many cases were never fulfilled.

You have to keep in mind that we couldn't read or write, this was a foreign language to us, so what we're using against the Crown is simply their own written records. That was part of the battle in the court. They asked why there weren't any Indian documents, and of course we had to respond, "we don't know, we weren't there." They were trying every possible defense.

This was a trust agreement, now trust law was what we were getting into, which is really quite different from land claims. What we wanted to do was to make them accountable. Why would you give that

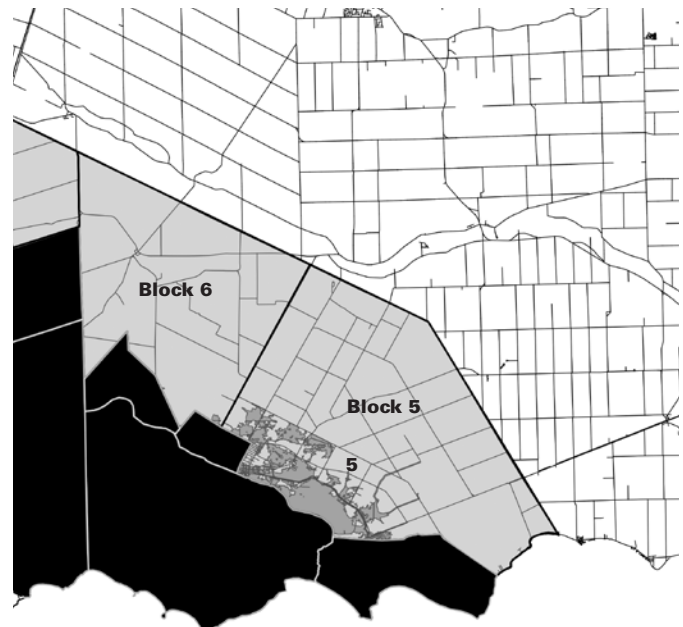


Figure 3.
1. Waterloo City, 2. Kitchener City, 3. Cambridge City, 4. Guelph City, 5. Dunnville Town
 • Nov 2, 1796 Joseph Brant was given a power of Attorney to surrender "In Trust" to the Crown, Blocks 1, 2, 3 and 4 to secure 999 yearly payments for Six Nations perpetual care and maintenance.
 • Feb 5, 1798, Joseph Brant exceeds his Power of Attorney & surrenders Block 1-6 "In Trust" to the Crown.
 Six Nations Lands and Resources Office, Redrawn by Marco Adly.

land away, when you already knew the condition for the sale of it? An agreement was made with Block 2, why were payments stopped? Where's that money today? All we are asking Canada is to account for what they did. Because we can prove a lot of these transactions. Those are the types of things that we're focusing on, and we want to be creative about the solutions.

Remember how I told you about the Grand River Navigation Company (Figure 6)? Well the Grand River was going to be navigable up to Galt. There was a grist mill was set up on our land in Brantford, and as part of the lease payment, an arrangement was made with Marshall Lewis, its operator, that Six Nations farmers could bring their grain up from the Mohawk flats (Eagles Nest Tract just south of Brantford, which was rich farm land) and that they would mill it for us.⁸ Well, when the Grand River Navigation Company started, land speculator Nathan Gage was just given this parcel of land by the Crown (Figure 7). He made a lot of promises about how he would benefit Brantford by bringing industry to the City if given land. He got those parcels (20 acres) of land for free, and Canada and Ontario both acknowledge that it wasn't paid for. Today the Brantford Elements Casino sits on those lands, and they were going to privatize that, two years ago. So, we intervened and were going to partner with one of the bidders, but were unsuccessful. When the winning bid came through, we were going to intervene with legal action, because they were making a deal on land that was never paid for. Both Canada and Ontario acknowledged this. This casino was a big pain in the ass for the previous chief, Ava Hill, because the city of Brantford was getting quarterly payments every year from the Casino and it would show up in the *Brantford Expositor*, and our people would see that.

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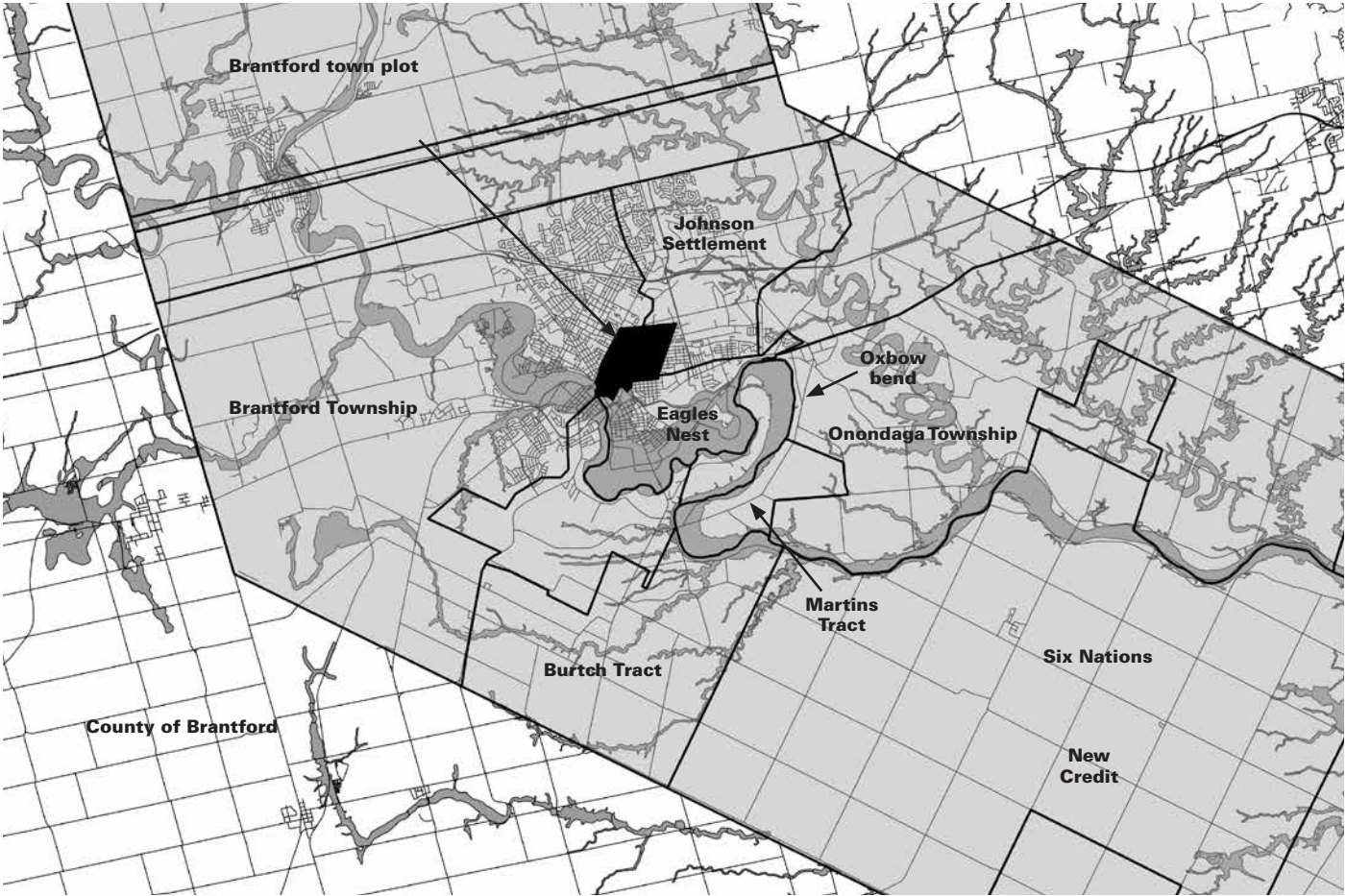
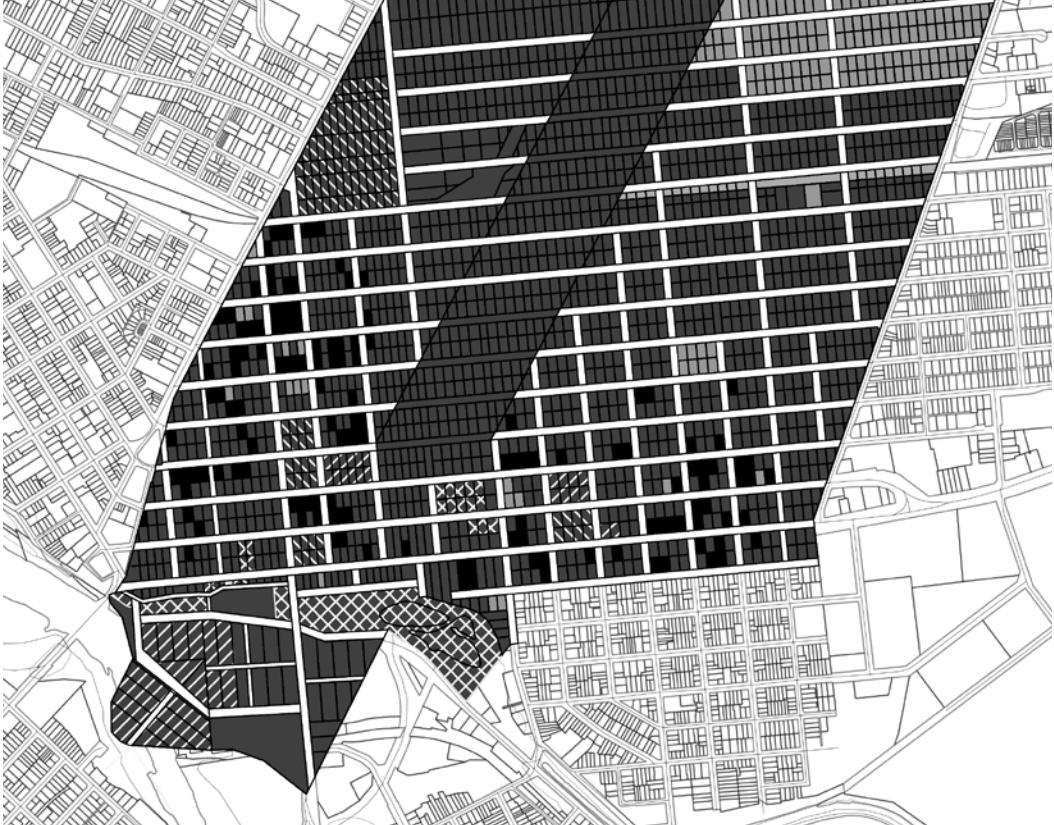
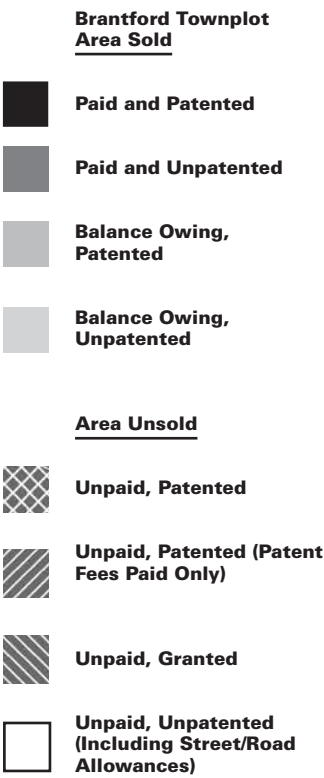


Figure 4.
Brantford town plot — 807 acres
— 19 April 1830 Purported Surrender #30, “in Trust” to the Crown
on condition the land would be sold for Six Nations use and
benefit and squatters removed from their lands.
— All land alienation requirements were not met; some lots were
free grants; all the principal and interest allegedly paid was not
credited to Six Nations Trust Accounts.
Six Nations Lands and Resources Office, Redrawn by Marco Adly.

Figure 5.
Brantford Town Plot showing areas sold and unsold
Six Nations Lands and Resources Office, Redrawn by Marco Adly.



5

The Ontario government made over a billion dollars on the lottery cooperation. We intervened and said, well where's our share? Both Canada and Ontario acknowledged in writing that the land was not properly paid for, yet the Municipal and Provincial governments are making revenue from it, despite their own law that consultations and accommodations for First Nations with outstanding issues that have to be resolved. So, by working through all this, we were able to negotiate an interim use agreement for that land for the next 20 years. The first payments have started, of which we'll get 4.5 million dollars a year for our use. We decided that a lot of it will be used to enhance our education programs. This payment won't prejudice our court case against Canada and Ontario. This is an arrangement that we've made, because—I'll be frank—a lot of our people go there and gamble.

AB: I think maybe that's a good segue into a more general description of the kinds of negotiations that you're interested in making. You've described the way that land was taken and not paid for, but given that you can't see moving people off most of this land, can you explain the solution you are proposing?

PM: The reality is in court. We've had it in court since 1995. We've got evidence of these monies being withdrawn from our trust funds. These are government of Canada Records that show what comes out. For example: Upper Canada Bank Stocks of \$750 in 1820, if you calculate that amount in today's money it's ridiculous. Yet the list is long. Our money was used to pay for war efforts, and to build the Welland Canal. The Law Society of Upper Canada used our money during a time when we couldn't even hire our own lawyers. This one really pisses me off. McGill went bankrupt and Six Nations money was used to bail them out and yet at home right now we've got 400 students every year who are qualified to go to university, they have the academic ability, but can't afford it, so they don't go. That's really unfortunate.

We went and talked to McGill in 1989 and we showed them our evidence. The former Governor General of Canada, David Johnston, was the principal of McGill at the time and we were sitting there telling him our story, while he sat surrounded by a bunch of lawyers who told him not to say anything. When he did speak, all he said was "we didn't know where that money came from." So, our claims are against Canada. We tried to work out a deal with McGill on moral grounds and asked him, can you open up 3 or 4 seats at McGill for our students? We need doctors; we need engineers (I don't think we need more lawyers). They responded that under their charter they're only allowed so many out-of-province students. That was their excuse, but of course, they want international students to fill that quota, because that's where they make big bucks. So, it never went anywhere. It's come up numerous times, and actually there are two McGill graduates who are working with us. One's a dental surgeon and the other is a principal at a school in Brantford. One was a good hockey player and one was a football player. McGill's only response so far

has been, we'll change the name of our sports team. So, they dropped the name "Redmen." They said, be happy with that. So, the battle goes on.

But these are arrangements we can make. Across the border at Syracuse University, we've got an agreement called the Haudenosaunee Promise, so our people can attend tuition-free, if you qualify academically. There're quite a few students from Six Nations that go there because that's a part of our traditional lands as well. Course, Syracuse is taking a lot of our boys for Lacrosse, but our guys and girls are getting an education, so good for them. So, these are the kind of things that we want to work out, if McGill could match something like that.

AB: So, are those negotiations a part of the land claim that you have right now or are they separate? Who are you negotiating with?

PM: We are negotiating with both Canada and Ontario. We started our court case in 1995, and we've gone through many steps over the years. In 2003, the council of the day was promised everything under the sun if they arbitrarily put the litigation on hold, which was a terrible, terrible mistake. Actually, to allow this to happen, I was fired without cause in 2002. They had to get the fly out of the ointment, I guess.

They put the court case in abeyance, so land development took off again because it became publicly known that our court case had stopped. The Douglas Creek Estates plan was approved in 2005, and in 2006 there was a big uprising by Six Nations in Caledonia over this project. When the Caledonia development started, they brought me back in, but I wouldn't come back as an employee, because I'd been fired once already. Other people who had lost their jobs wouldn't work for council either, but they would work for me. So that's why I started my own company, Nativelands Ltd. So, we've got the court case up again, and have Canada and Ontario back in court. Both Canada and Ontario have said they want to negotiate. But since the last Provincial election, Ontario representatives are seeking a mandate from their new government, so right now we're not sure where they stand. But it doesn't matter if they come to the table or not, because if they don't, we'll see them in court, that's our backstop. What we're talking about is coming up with creative solutions.

AB: Do these solutions involve other parties? Like McGill or the University of Waterloo?

PM: Yes, we absolutely want to involve all other parties. I'll give you an example, Samsung's Grand Renewable Solar and Wind farm in Haldimand County. Six Nations is a partner in almost a 1,000 megawatts of green energy with numerous Green Energy Companies. We've invested a lot of money in this initiative. Samsung's total investment in the project was about a billion dollars, and we're ten-percent owners in this. Once the loan is paid off, we'll get a secure and major return of revenue from this investment. Ontario had promised Samsung land in South Cayuga, between the town of Cayuga and Lake Erie. They said, come on over, everything's fine and all that. But we told Samsung we wanted to talk with them

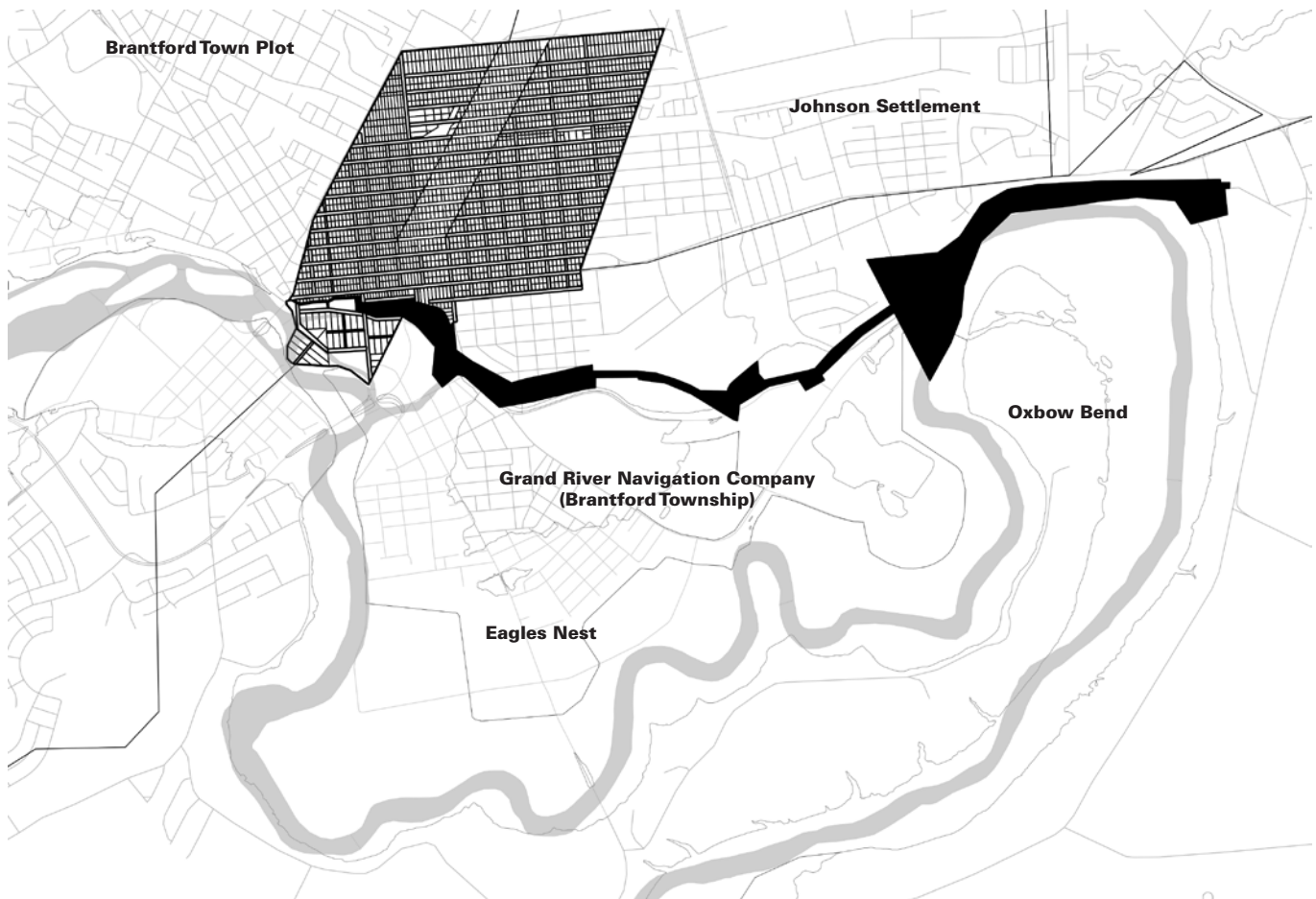


Figure 6.
Grand River Navigation Company Lands in Brantford.
 — Jan. 29, 1832 Statute, incorporated the Grand River Navigation Company (GRNC)
 — Nov. 18, 1837, free Letters Patent issued for 368 7/10 acres, which included 66' Tow Path
 — July 9, 1834 to March 13, 1845, Six Nations funds were used to purchase 6, 121 shares of GRNC stock valued at £38,256.5 (\$160,000.00)
 Six Nations Lands and Resources Office, Redrawn by Marco Adly.

about this land, because it was in dispute. We took the time and explained it to them, a lot of time. When they heard our story, they became good allies of ours, good friends. They questioned Ontario, asking them why they set us up without explaining the situation? So, we became partners in the project, which brings money into our community that has helped put down fresh water lines, improved education, and allowed us to buy trucks for the fire department. It's not that they gave it to us, we invested in it under the Green Energy Act. We like green energy, because just over twenty kilometres south of Six Nations was the Nanticoke coal-fired power plant; spewing black smoke over the reserve constantly for forty years, between 1972 and 2013. When the province finally closed it in 2013, it was good to get it out of the way. But with climate change today, green energy is something we all have to think about. We now have many other green energy partners coming to the table who want to continue doing business with us.

The land the solar farm was built on is a territory we've disputing with the province. In the 1960s, Ontario had plans for a big satellite city on about 6,000 acres in South Cayuga Township, but it was never built. It was a big embarrassment to them. So

they were trying to find a new use for this land. But the lease money that Samsung was asked to pay to the province now gets transferred to us as lease payments, and it helps subsidize our payments on our investment loan. When we went to the Six Nations community and they said: a ten-percent owner in a billion-dollar project—are you guys nuts? They thought we were way beyond our capacities and abilities. We had a cantankerous set of meetings. Then after a while, they saw the positives of it: when it was established and running and the money was coming in. Now they say, "what's wrong with you guys, why did you invest only ten percent?" It's been learning process for all of us, because now we're being included in the economy.

I think this a good example of the kind of creative solutions that we can come up with. We can work with partners like Samsung, or with cities like Brantford and we should be entitled to sharing the revenue streams that are coming out of these. So, at our discussion tables, Ontario and Canada have both said, let's come up with solutions, and we've established the principles of what we are going to talk about.

As mentioned, education is the top priority. There are seven federal schools left across all of Canada, and Six Nations has five of them. The reason we won't take them over is because they are totally underfunded. They're starving us into taking them over. Our schools need updating and there's a whole set of headaches tied in with that. We want to take them over, if they meet our actual needs. But we want this to be guaranteed, so it's tied "to them and

their posterity to enjoy forever.” The way we’re trying to set it up is so that our education is covered and that everyone in, say, Block 3 can have a healthy life, our healthcare is covered, and that everyone in Block 2 can have a healthy life. We can get safe drinking water on Six Nations, and everybody on Block 4 can have a happy life. These are merely examples, but that’s the kind of relationship that we want to establish.

So those are the kind of things that stand in contrast to Indian Affairs been across Canada. When they offered us \$113.00 an acre for Block 5, they asked us to extinguish any future interests we had in that block, even though it was intended for long-term mortgages for perpetual care and maintenance. The Haldimand Treaty states that the land was given to Six Nations for “them and their posterity to enjoy forever.” So, we thought, we don’t have any right to change that.

AB: So, you are interested in building relationships of reciprocity not just with the government, but with different partners and neighbours?

PM: We’ve got a cigarette manufacturing company in Six Nations called Grand River Enterprises, who do business all over the world; last year they paid over 260 million dollars in excise taxes to the Federal Government. You can just imagine how much business they do. So, while Grand River Enterprises pays this to the government, Six Nations got a total of 36 million dollars in Federal and Provincial transfer payments. Our community runs on around 80 million, so we need to raise the remainder. Who’s paying who

here? If you just use that as an example. If they let the excise tax stay in our community, our needs could pretty well be met. Who does that harm? Nobody—the smokers are paying for this.

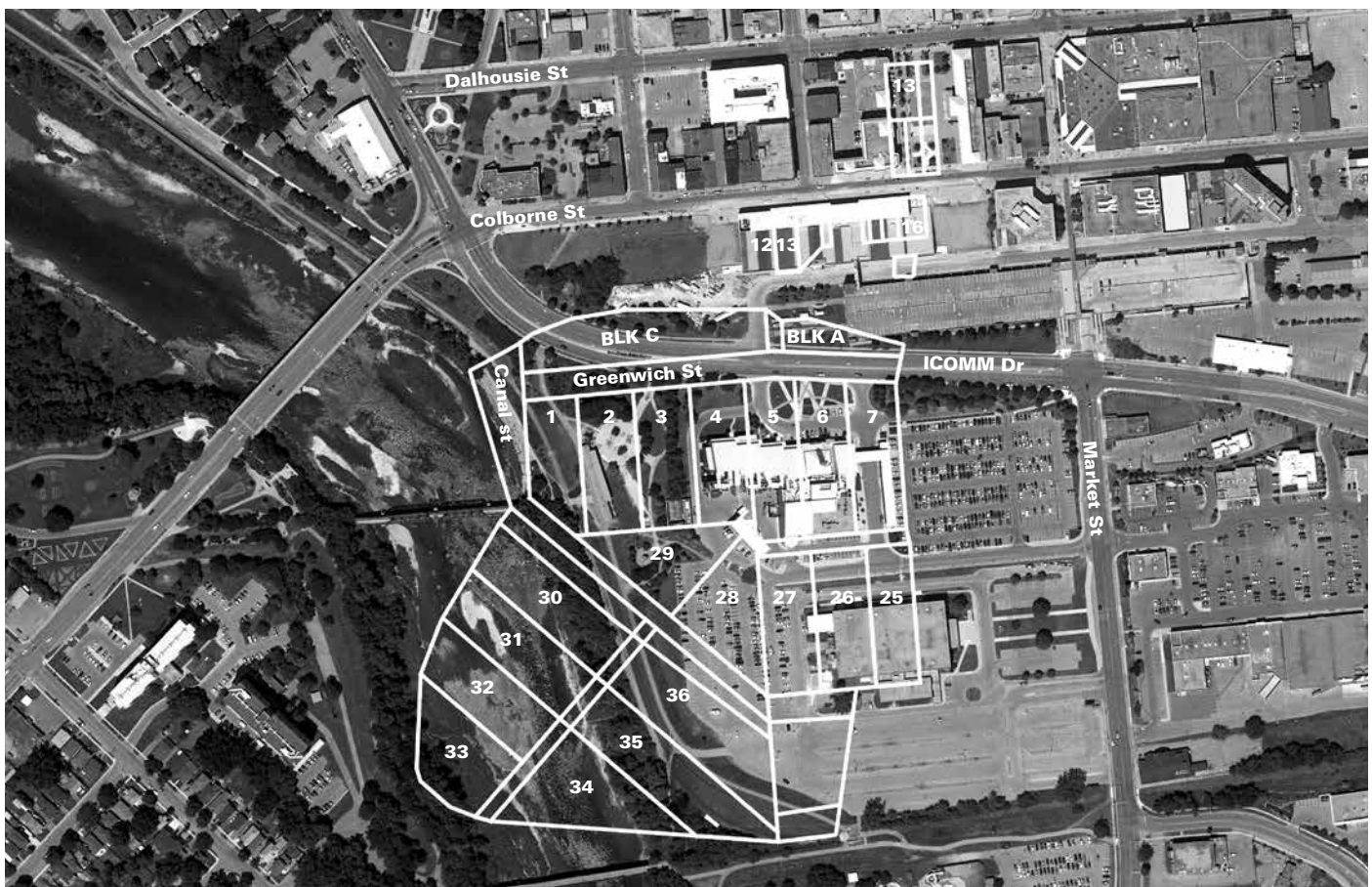
AB: Where is the case right now? What stage is it at?

PM: Monday, we go in for a case management meeting with our lawyers in Toronto, for an update on our case. So the judge can see how big this is. We still have to finish off the pre-trial discovery phase. We’re moving around and discussing the contents of about 36,000 documents, most of which we’ve produced, that describe our history. The strength we have is that our people have gained this knowledge, because they have done the research. They haven’t left. In 1995, Canada taught us a lesson by making deep cuts to our funding, because we took them to court. So, our research funding, and a lot of other funding, didn’t exist anymore. Not one of those people who were in our research office left—they stayed and worked during their unemployment, or they took courses to augment the skills they learned on the job. Our community now has the supplementary payments I’ve already described from the Casino and Solar energy, so we can now fund this research and fight it ourselves.

So our strength is our people. The government’s team is always turning over. It’s just a job to them, they’re here one day, gone tomorrow, then someone else starts. Same with their lawyers and their negotiators. I don’t know how many lawyers

Figure 6.
Nathan Gage Lands - Brantford Area

Six Nations Lands and Resources Office, Redrawn by Marco Adly.



we've outlived, but they've gone on. I've literally outlived some of them. Even the lawyer who started our court case in 1995 has retired, and the one who followed him will be retiring in three years. But we have a continuous chain of command in place, and what's unique about it is our people from Six Nations, mainly women, who are smart as hell. They're in control of the documents that our law firm uses. The way the case will set up is that the proceedings will be live linked back to Six Nations, so we can discuss the case as it unfolds and feed them documents as needed. Canada wants to negotiate; we want to negotiate. Ontario wants to negotiate. Municipalities want to negotiate. Business, we know, wants to negotiate, they all want certainty. We do too.

At the end of the day, I believe that Canadians are fair, and they want justice. It's how you get there: it doesn't have to be a winner or a loser, it goes back to our treaties founded on "peace, friendship and respect."

Endnotes

1 The Haldimand Tract is a piece of land lying 6 miles on either side of the Grand River in Southern Ontario, from Lake Erie to its source. The land was granted to the Six Nations of the Grand River by the British Crown in 1784, as part of a treaty signed by Frederick Haldimand, Governor in Chief of the province of Quebec. See Six Nations Lands and Resources, "The Haldimand Treaty of 1784," <http://www.sixnations.ca/LandsResources/HaldProc.htm>

2 Andrew Gordon Chisholm (1864–1943)

3 Ireland, Panama, Persia, and Estonia supported the Six Nations claim. See Robert G. Koch, "George P. Decker and Chief Deskaheh," *The Crooked Lake Review* (September 1=992).

4 In 1701, the Five Nations negotiated the Nanfan Treaty with the British Crown for a 400 mile by 800 mile hunting ground. Six Nations Lands and Resources, "List of Treaties" (Source: Iroquois Indians: A Documentary History [Reels 1-50], Newberry Library Chicago, Illinois - SNLR D-II-8), 2.

5 "Treaty with the Six Nations Shawanese and Delawares, Senecas of Ohio, and Dependancies held at Fort Stanwix on Monday the 24th day of October 1768." Six Nations Lands and Resources, "List of Treaties" (Source: Iroquois Indians: A Documentary History [Reels 1-50], Newberry Library Chicago, Illinois - SNLR D-II-8), 8-9.

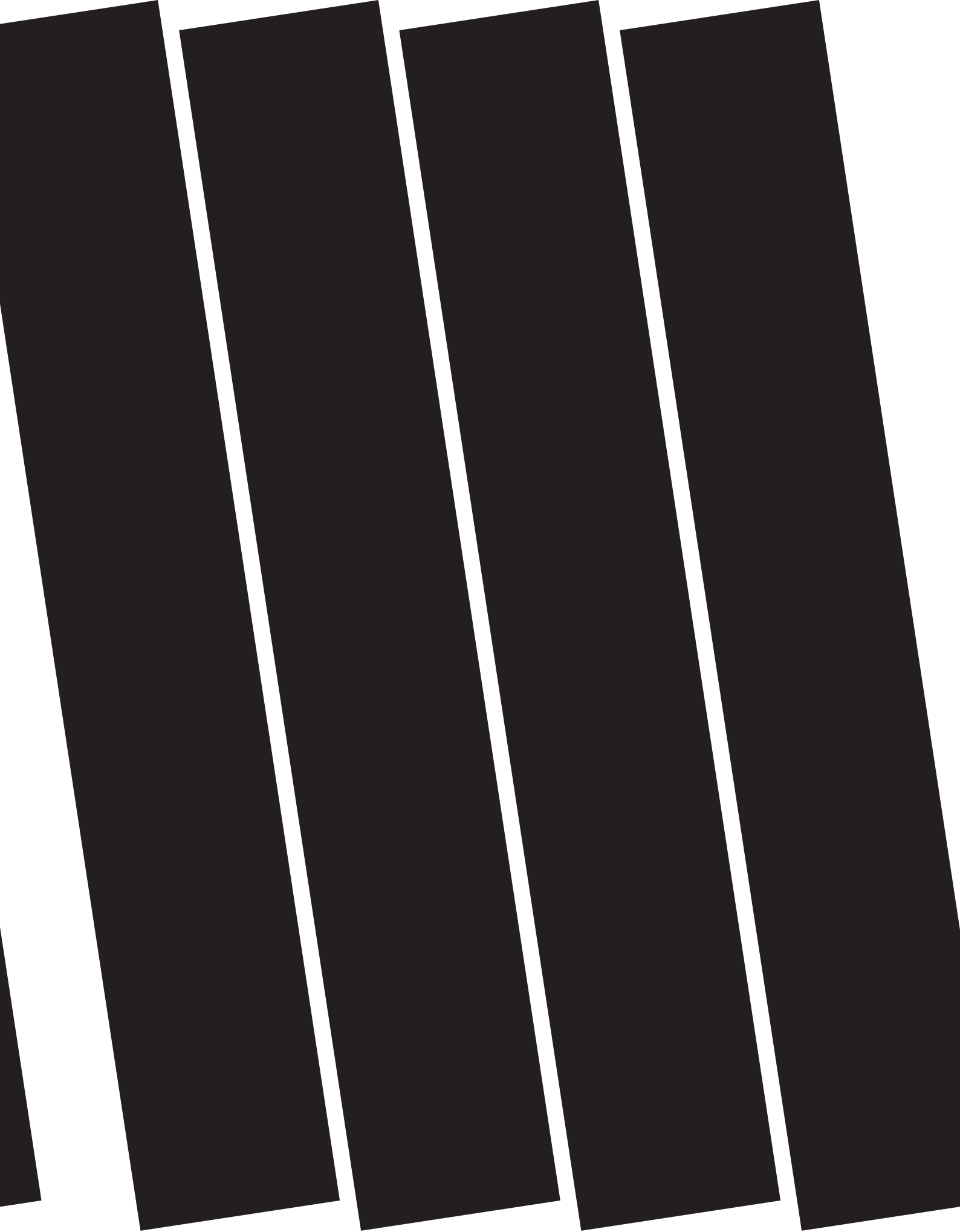
6 This is a quote from the Haldimand Treaty of 24 October 1784.

7 We also discovered that in the 1840s, when Canada was broke, our income from mortgages on Blocks 1, 3, and 4, which were held in other institutions, including the Bank of Scotland, was taken to run the country.

8 For more information see <http://www.sixnations.ca/LandsResources/cs1c28.htm>

The Puzzle of the Haldimand Tract:

45 Years of Land Claims Research at Six Nations



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