

Backgrounder on Wolastoqey Nation Land Claim in New Brunswick

On October 5, 2020, the Wolastoqey Communities in New Brunswick gave notice under the *Proceedings Against the Crown Act* to the governments of New Brunswick and Canada that we will be filing a lawsuit seeking the Court's recognition of the Wolastoqey Nation's title to lands in New Brunswick (see the Map following).

We take this step after holding two large community meetings for all six Wolastoqey Communities earlier this year. This is the first step of many. Litigating an Aboriginal title claim takes several years. As we proceed through all of the "pre-trial" stages of the claim, we will be engaging community members to help shape the claim. We needed to file the claim now since the government can use what they perceive to be a delay in our filing to try to throw our claim out in court.

The announcement today had to be kept a secret because we did not want the provincial or federal governments getting ahead of the news story. By keeping the filing a secret, we were able to keep the story focused on our rights and title.

The map of the territory we are claiming represents the best knowledge we have at this time of the extent of Wolastoqey territory. We expect that further research over the course of the court case will help us refine our understanding of the extent of our territory. We also hope to be working with the Mi'kmaq and Passamaquoddy Nations to understand any overlaps with their territories. We have already reached out to leadership of those two Nations to begin these discussions.

We bring this claim on behalf of the Wolastoqey Nation, whose territory extends beyond New Brunswick into Maine and Québec.

Aboriginal title claims look to affirm the property interests of Indigenous peoples that have always been there. The Wolastoqey Communities do not intend to try to take back land from ordinary farmers and homeowners in this lawsuit. Instead, this lawsuit is about establishing that the underlying title to the lands we claim is Aboriginal title, which will give us the right to decide how our lands are used and the right to benefit from those uses.

The lands claimed in the lawsuit have been governed, protected, managed, used and occupied by the Wolastoqey from time immemorial. Our name means "people of the beautiful river" and we have always been here, in the watershed of the Wolastoq (St. John River) and surrounding area. We have never ceded or surrendered title to our land, and it has never been extinguished.

In spite of this and in spite of the Peace and Friendship Treaties, the Wolastoqey entered into with the Crown in the 1700s – Treaties that outlined the Wolastoqey's rights and the Crown's

obligations to the Wolastoqey – the Crown has unfortunately conducted itself for many years as if it has the right to manage, regulate and govern our lands. It does not.

Peace and Friendship Treaties

From 1725 to 1778, the Wolastoqey negotiated and entered into Peace and Friendship Treaties with the Crown. Unlike certain treaties made with First Nations in other parts of Canada that purport to cede land, the Peace and Friendship Treaties do not provide for the surrender of lands to the Crown. Instead, the Treaties were meant to outline each party's obligations to the other at the end of periods of conflict between the British and the Wolastoqey and our allies. The 1725/1726 Treaty explicitly acknowledges Wolastoqey title, by acknowledging the need for a lawful settlement process if colonists wanted to settle on Wolastoqey lands.

As noted above, Wolastoqey title to our lands has never been ceded, surrendered or extinguished and it continues to exist today.

Unfortunately, the Crown has consistently failed to honour the Treaties made with the Wolastoqey. To outline just a few examples: the document from the 1725/1726 Treaty outlining the Crown's promises to the Wolastoqey was lost by the Crown until its discovery in an archive in 1983 ; the Crown gave the Wolastoqey's land to colonists starting in the 1700s; and the Crown permitted colonists to extract resources from our lands starting in the 1700s.

The Wolastoqey have consistently fought back against the Crown's unlawful actions and have asserted and reasserted our rights and title. In the 1700s, this resistance involved defending our lands with force. For the last century, they have turned to the Courts.

The claim the Wolastoqey Communities in New Brunswick will put before the Courts seeks a Declaration of Aboriginal title. We are not seeking return of land, compensation or other remedies for the Crown's infringements on our title at this stage. Instead, if we are successful in this proceeding, we will consider their options going forward, including working collaboratively with the Crown towards remedies for its past conduct and recognition of Wolastoqey title to our lands.