

IN THE MATTER OF THE IPPERWASH INQUIRY

WRITTEN SUBMISSIONS OF  
THE UNION OF ONTARIO INDIANS  
PART II

To: Honourable Justice Sydney Linden, Commissioner Ipperwash Inquiry

July 28, 2006



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## **Background and Introduction**

1. The Anishinabek Nation incorporated the Union of Ontario Indians (“UOI”) in 1949. The UOI is a political advocate and secretariat for 41 First Nations across Ontario. The UOI is the oldest political organization in Ontario and can trace its roots back to the Confederacy of Three Fires, which existed long before European contact.
2. The 41 First Nations that the UOI represents comprise approximately 1/3 or 42,000 of the First Nation population within Ontario. Geographically, the area encompassed by member First Nations of the UOI extends from Fort William First Nation (Thunder Bay), along the north shore of Lake Superior, Lake Nipigon, the north shore of Lake Huron, Manitoulin Island, east to Algonquins of Pikwakanagan located 150 km west of Ottawa, and through the south central part of Ontario to Aamjiwnaang First Nation (Chippewas of Sarnia First Nation).
3. As first proposed in our application for standing in Part II of the Ipperwash Inquiry (“Inquiry”), the goal of the Union of Ontario Indians is as follows:

***“The goal of the Union of Ontario Indians in its participation in the Ipperwash Inquiry is to develop recommendations that will lead to the building of healthy relationships between Anishinabek First Nations, government and police services.”***

4. In order to reach that goal, the UOI focused on gathering first hand accounts, perspectives and recommendations of Anishinabek people, on the three subject areas of part II of the Inquiry:
  - a) Relationships between police and Aboriginal people;
  - b) Relationship between police and government;
  - c) Interaction between the police and protestors.
5. Community consultations were held in Fort William First Nation, Garden River First Nation and Toronto in 2005 in support of the above issues.
6. These consultation activities also assisted in the community healing process by providing concerned community members with an opportunity to have a voice on the issues addressed in the Inquiry and to have that voice carried forward to the Inquiry in the format of this submission.
7. These submissions are also based on three specific subject matter papers completed by the UOI entitled:

- a) Anishinabek Perspectives on Roundtable Forums that Support Issue Resolution;
- b) Anishinabek First Nation Relations with the Ontario Government and Enforcement Agencies;
- c) Anishinabek Perspectives on Resolving Rights Based Issues and Land Claims in Ontario.

These papers included recommendations in the three areas related to the title of their respective papers.

8. The following written submissions are based on the consultations and papers outlined above. These submissions are organized into short term activities that, we respectfully submit, should be implemented within the next twelve months and long term activities that we submit, must be implemented over the next twelve to twenty-four months.

**Submissions - Short Term**

- 1) ***The Ontario government, in coordination with First Nations, must identify, prioritize and address outstanding treaty issues of each individual First Nation.***

a) The Ontario government and First Nation Provincial Treaty Organizations (“PTO”) should initiate a process to identify treaty issues that remain outstanding with each First Nation. Every PTO should be able to provide a preliminary list of issues for almost every First Nation member community within a three-month period.

Appendix “C” – Anishinabek Perspectives on Resolving Rights Based Issues and Land Claims in Ontario, p.p. 33.

b) Practical problems that can be resolved quickly by all parties should be prioritized in each treaty area and resources put forward to resolve them in an agreed upon timeframe. The PTO’s have a strong grasp of the issues. The newly formed federal-provincial-First Nation roundtable is the most appropriate forum for this exercise.

Appendix “C” – Anishinabek Perspectives on Resolving Rights Based Issues and Land Claims in Ontario, p.p. 33.

- 2) ***The Ontario Government must increase police officer and conservation officer understanding of Aboriginal history, culture, rights and contemporary issues.***

a) Participants in regional consultations indicated that greater understanding of aboriginal and treaty rights must begin by increasing Aboriginal specific history, culture, rights and contemporary issues curriculum in Ontario’s education system.

Appendix “A” – Ipperwash Inquiry Part II Community Consultations  
Final Report, p.p. 23

b) Participants in regional consultations indicated that the various enforcement agencies including Ontario Provincial Police, Ministry of Natural Resources and Anishinabek Police Services have inconsistent interpretations and understanding of Aboriginal and Treaty rights. This has led to both First Nation and non-First Nation First Nation misunderstandings on the scope of aboriginal and treaty rights.

Appendix “A” – Ipperwash Inquiry Part II Community Consultations  
Final Report, p.p. 25

c) Participants indicated that there is a need to increase police officer training and awareness of history, traditions and cultures of a First Nation communities so that the healing process can occur after an incident. Participants indicated that as a result of police practices they were not allowed to practice their own cultural activities upon the occurring of a death. While participants acknowledged that there are valid reasons for police practices, there must be a means to satisfy the interests of both the police and First Nation member practices.

Appendix “A” – Ipperwash Inquiry Part II Community Consultations  
Final Report, p.p. 24 and 27

d) Ontario government line ministries and the Ontario Provincial Police should be mandated to ensure First Nation participation in cross-cultural training at the local and regional levels. First Nation communities across Ontario are unique in their cultures. This will ensure that local concerns and issues are addressed through training processes.

Appendix “B” – Anishinabek First Nation Relations with the Ontario  
Government and Enforcement Agencies, p.p. 36

e) Police and the Ministry of Natural Resources Enforcement Branch should develop mechanisms that evaluate the effectiveness of current cross cultural training programs and tie that training to indicators and targets. Management should be evaluated based on the effectiveness in meeting these indicators and targets.

Appendix “B” – Anishinabek First Nation Relations with the Ontario  
Government and Enforcement Agencies, p.p. 36

- 2) ***The Ontario Government must improve communications between Ontario Provincial Police and First Nation communities.***

a) Participants indicated that there needs to be protocols for law enforcement agencies who enter onto First Nation communities. For example, the police should have a main contact within the community so that if community members have questions concerning the police, they know who amongst their community members they can contact. Also, this would assist in First Nations communities becoming aware of changes in police personnel, which is frequent in some First Nation communities.

Appendix “A” – Ipperwash Inquiry Part II Community Consultations  
Final Report, p.p. 22.

b) Participants wanted to see more use of community based police committees which are helpful in building relationships with police. Although the committee should be separate from Chief and Council, a Councillor should sit on the committee to promote communications with the Chief and Council. Participants indicated that this will also help to reduce power and control issues between police and communities. Further, this would help address relationship building in light of the high turn over of police personnel.

Appendix “A” – Ipperwash Inquiry Part II Community Consultations  
Final Report, p.p. 25 and 26

c) Participants indicated that discussions between police, protesters and First Nation must begin at the earliest stages. Addressing the situation at its earliest stages will help to prevent the situation from becoming more complicated and contentious.

Appendix “A” – Ipperwash Inquiry Part II Community Consultations  
Final Report, p.p. 29

d) Programs that support increased interaction and involvement between First Nations youth and law enforcement agencies in positive circumstances, such as the Ontario Provincial Police Bound program, should be developed and strengthened. This assists in relationship building and communications of both Police and First Nation youth.

Appendix “B” – Anishinabek First Nation Relations with the Ontario  
Government and Enforcement Agencies p.p. 36.

3) ***The Ontario Government must support First Nations in training and resources to develop an Anishinabek Emergency Response team to address First Nation emergency situations.***

a) Participants in consultations indicated that Anishinabek police officers are most aware of the communities they police and community members are also more

comfortable with Anishinabek people, as a result situations are less likely to escalate.

Appendix “A” – Ipperwash Inquiry Part II Community Consultations Final Report.

b) Community participants want there own Anishinabek emergency response team so that conflicts are approached in a way that would not prevent culturally appropriate activities.

Appendix “A” – Ipperwash Inquiry Part II Community Consultations Final Report, p.p. 24

4) ***The Ontario Government needs to include a First Nation’s Council into the process of policy, regulation and law development where they directly impact First Nations.***

a) Participants indicated that there needs to be a First Nation council or panel of Elders and experts to assist the Ontario government in policy, regulation and law development. First Nations are under represented in legislative bodies and a council would assist in ensuring that policy, regulation and laws reflects First Nation interests.

Appendix A – Ipperwash Inquiry Part II Community Consultations Final Report, p.p. 26.

5) ***The code of ethics for police and conservation enforcement officers must include respect for constitutionally protected aboriginal and treaty rights.***

Appendix “A” – Ipperwash Inquiry Part II Community Consultations Final Report, p.p. 28.

a) Police and conservation officers currently do not have any reference to aboriginal and treaty rights in their code of ethics.

**Our Submissions – Longer Term**

6) ***The Ontario Government, in coordination with First Nations, must carry out a critical examination of treaty obligations and initiate a treaty implementation process for those obligations.***

a) A critical examination of treaty obligations must be carried out in coordination with First Nations. This examination must include land and resource sharing. This examination must also include a review of relevant natural resource policies and

legislation to identify areas where policies and legislation does not take into account and respect treaty rights.

Appendix “C” - Anishinabek Perspectives on resolving Rights Based Issues and Land Claims, pp. 33.

b) A treaty implementation process must ensure that gaps, omissions and conflicts in policy, legislation and treaty rights are addressed. Further, the Ontario government should acknowledge that First Nations, by virtue of their rights and treaties, must be recognized as partners in the management of natural resources.

Appendix “C” - Anishinabek Perspectives on resolving Rights Based Issues and Land Claims, pp. 33.

c) Land claim settlement processes should be strengthened and supported to provide certainty to all parties involved. Ontario must begin to view the settlement of land claims not only as settlement of historic grievances but as investments in the future development of First Nation communities and local economics, particularly in northern Ontario.

Appendix “C” - Anishinabek Perspectives on resolving Rights Based Issues and Land Claims, pp. 33.

d) Mechanisms to address long-standing issues like the implementation of Condition # 77 and Condition # 34 of the Timber Class Environment Assessment which involve the sharing of economic benefits of timber management, should be immediately instituted by the Ministry of Natural Resources. The focus must be on measurable targets that bring meaningful benefit to First Nation communities whose traditional territories are being directly affected by resource extraction.

Appendix “C” - Anishinabek Perspectives on resolving Rights Based Issues and Land Claims, pp. 33.

e) Culturally appropriate diversion programs must be developed to prevent issues from going to expensive court processes. These issues include charges that relate to the exercise of Aboriginal and treaty rights, inter-treaty harvesting and land disputes. Provincial Treaty Organizations (PTO), the Ministry of Natural Resources and the Ministry of the Attorney General are positioned and currently discussing the development of such a program. This work must be completed within this political mandate of the Ontario government.

Appendix “C” - Anishinabek Perspectives on resolving Rights Based Issues and Land Claims, pp. 34.

7) ***First Nations must be provided access to natural resources and be involved in all natural resource management in their traditional territories.***

a) First Nations must be provided access to natural resources in their traditional territories to build their economies and participate in the overall economy of Ontario. Wherever possible access to natural resources should be provided in suitable amounts for First Nations to plan and build their economies.

Appendix “C” - Anishinabek Perspectives on resolving Rights Based Issues and Land Claims, pp. 35

b) At a minimum, First Nations should be provided the opportunity to participate in all matters of resource management activities at a level greater than that which is provided to third party interests. Ontario’s new approach to Aboriginal Affairs must be interpreted liberally by policy staff within Ministry of Natural Resources and implemented at the field level by enforcement and technical staff.

Appendix “C” - Anishinabek Perspectives on resolving Rights Based Issues and Land Claims, pp. 35.

c) First Nation resource management activities should be facilitated and supported by the Ministry of Natural Resources at the field level. There must be recognition of First Nation traditional knowledge, particularly as it relates to natural resource management and land use planning. This may include the joint development of a First Nation conservation officer program.

Appendix “C” - Anishinabek Perspectives on resolving Rights Based Issues and Land Claims, pp. 36.

d) Both the federal and provincial governments should support First Nations that want to increase their capacity to manage natural resources in their traditional territories. This may include measures such as the development of a First Nation Conservation Officer program in Ontario. This program should be developed jointly with First Nations and Provincial Treaty Organizations. This may be viewed as an interim step until First Nations develop the capacity to fully manage the exercise of aboriginal and treaty rights.

Appendix “B” – Anishinabek First Nation Relations with the Ontario Government and Enforcement Agencies p.p. 37.

8) ***First Nations must play a central role in policy development that impacts their lives.***

a) The Statement of Political Relationship (SPR) signed on August 6, 1991, by the government of Ontario and First Nations representatives, should be updated and

renewed. The Premier and Minister responsible for Native Affairs, as well as the First Nation Grand Chiefs, must play a central role in accomplishing this task within the political mandate. The SPR should be incorporated into planning processes within relevant line ministries, not just ONAS.

Appendix “C” - Anishinabek Perspectives on resolving Rights Based Issues and Land Claims, pp. 34-35.

b) The tripartite process in Ontario should be renewed and properly resourced by the governments of Canada and Ontario. There is a need for a formal process with a properly resourced work plan and budget.

Appendix “C” - Anishinabek Perspectives on resolving Rights Based Issues and Land Claims, pp. 35

c) First Nation consultation guidelines should be adopted jointly by the Ontario government, the government of Canada and First Nations. This can alleviate delays in decision making, ensure that First Nations are properly consulted and enhance planning processes.

Appendix “C” - Anishinabek Perspectives on resolving Rights Based Issues and Land Claims, pp. 35.

d) The Ontario Government must consult and seek consent from First Nations in Ontario on a new enforcement policy related to the harvesting of fish and wildlife by Aboriginal people. Ontario must honour its 1991 obligation to develop proper agreements with First Nations on harvesting issues as outlined in the Interim Enforcement Policy of 1991.

Appendix “C” - Anishinabek Perspectives on resolving Rights Based Issues and Land Claims, pp. 35.

e) The tripartite process to discuss jurisdictional and Aboriginal and treaty rights issues in Ontario must be restored and renewed.

Appendix “B” – Anishinabek First Nation Relations with the Ontario Government and Enforcement Agencies p.p. 37.

9) ***Natural resource conservation and police enforcement must be accountable to First Nations public in terms of enforcement activities and its costs.***

a) Following an enforcement action by a tactical unit, First Nation leadership should be provided with a briefing on the actions and their outcomes whenever possible.

Appendix “B” – Anishinabek First Nation Relations with the Ontario Government and Enforcement Agencies, p.p. 35-36

b) Through a joint process, a review of effectiveness of past Ministry of Natural Resources enforcement operations should be undertaken. For example, a study of the success or failure of “Operation Rainbow,” that took place on Manitoulin Island could prove beneficial for all parties involved. This review should include the cost, the number of investigators involved, the rationale for the investigation and if the investigations met their goals. The lasting impact on First Nation/Ministry of Natural Resources relations following these operations should also be reviewed.

Appendix “B” – Anishinabek First Nation Relations with the Ontario Government and Enforcement Agencies, p.p. 36.

c) Police and Conservation Officers complaint processes must be more clearly communicated to Anishinabek First Nation people. Participants at consultations indicated that Anishinabek First Nation people are unaware of complaint processes against police and conservation enforcement officers.

Appendix “A” – Ipperwash Inquiry Part II Community Consultations Final Report, p.p. 23.

d) A First Nation law enforcement oversight process must be developed in Ontario that can review the activities of any police service working in First Nation communities. Existing law enforcement oversight processes do not adequately address the needs of First Nations. This process can build on past successes and examine shortfalls that led to the closure of the Ontario First Nation Police Commission.

Appendix “B” – Anishinabek First Nation Relations with the Ontario Government and Enforcement Agencies p.p. 36.

e) The Ministry of Natural Resources should be compelled to make readily available upon request (without having to go through a freedom of information request,) on a Ministry of Natural Resources district by district basis, the amount of resources expended on enforcement activities related to natural resources management. Further, these reports should outline how much the Ministry of Natural Resources spends on investigations, enforcement activities and prosecutions of First Nation harvesters. This transparency provides a level of information for First Nations and the Ministry of Natural Resources to begin dialogue on specific issues and natural resource management activities. It also holds the Ministry of Natural Resources accountable for the expenditure of public funds.

Appendix “B” – Anishinabek First Nation Relations with the Ontario Government and Enforcement Agencies p.p. 36-37.

**10) *The Ontario Government must provide more resources for First Nation police services.***

a) Increased resources are required for First Nation police services in Ontario. Both the federal and provincial governments must commit additional resources to First Nation policing and provide clear negotiation mandates to their negotiators.

Appendix “B” – Anishinabek First Nation Relations with the Ontario Government and Enforcement Agencies p.p. 37.

b) The Ontario government must develop an Aboriginal policing policy. An exceptional opportunity exists to develop this policy in partnership with First Nations and Provincial Treaty Organizations.

Appendix “B” – Anishinabek First Nation Relations with the Ontario Government and Enforcement Agencies p.p. 37.

**11) *First Nation and Government Roundtable forums should be incorporated into legislative and policy development processes.***

a) To assist in addressing fundamental and larger policy and legislative issues that affect First Nations, there is a need to create a linkage between First Nation and Government roundtables (discussion forums) where these issues are discussed to Ontario government policy and legislative development processes.

Appendix “D” – Anishinabek Perspectives on Roundtable Forums that Support Issue Resolution, p.p. 20.

**12) *First Nation and Government Roundtable forums should be incorporated into government strategic planning processes.***

a) To assist in a more strategic approach to addressing larger more complicated goals that require multiple steps to achieve, there must be movement towards incorporating First Nation and Government roundtable processes into strategic planning processes. This includes incorporation of direction from roundtables into the strategic planning processes of provincial government departments.

Appendix “D” – Anishinabek Perspectives on Roundtable Forums that Support Issue Resolution, p.p. 20.

b) Better promotion and communications on the role, opportunity and limitations of First Nation and government roundtables must be completed internally in Provincial government departments and First Nation communities.

Appendix “D” – Anishinabek Perspectives on Roundtable Forums that Support Issue Resolution, p.p. 20.

**13) *A joint public education program about treaties, First Nation history and contemporary issues must be developed and implemented.***

a) Public education must start within elementary and secondary school curriculum. Teacher associations and First Nation organizations are well-positioned to develop guidelines and teaching tools for the development of curriculum that reflects local First Nation customs, history and language.

Appendix “C” – Anishinabek Perspectives on Resolving Rights Based Issues and Land Claims in Ontario, p.p. 34.

b) A joint public education program should be relevant to the local communities and treaty areas that it is delivered in. Each PTO should be provided with a level of resources to carry out this work within their respective treaty areas. This is particularly important in areas where there are contentious or complicated issues and the general public needs to stay informed.

Appendix “C” – Anishinabek Perspectives on Resolving Rights Based Issues and Land Claims in Ontario, p.p. 34.

c) Support should be provided for existing processes (like the Nijii Circle in North Bay – Nipissing First Nation) that promote media awareness and opportunities for First Nation to tell their own stories.

Appendix “C” – Anishinabek Perspectives on Resolving Rights Based Issues and Land Claims in Ontario, p.p. 34.

ALL OF WHICH IS RESPECTFULLY SUBMITTED