

ONTARIO COURT (GENERAL DIVISION)

B E T W E E N:

CHIEF RICHARD KAHGEE AND BERNICE KAHGEE, HARRIET KEWAQUOM,
LORNE MANDAWOUB, MARIE MASON, JAMES RITCHIE, RITA ROOT,
MELVIN ROOTE, FRANK SHAWBEDEES, ARNOLD SOLOMON, CAROL SOLOMON
AND CARMAN ROOTE ON THEIR OWN BEHALF AND ON BEHALF OF THE MEMBERS
OF THE CHIPPEWAS OF SAUGEEN FIRST NATION

Plaintiffs

- and -

THE CORPORATION OF THE TOWNSHIP OF AMABEL,
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,
HER MAJESTY THE QUEEN IN RIGHT OF CANADA,
THE ATTORNEY GENERAL OF CANADA, BARBARA TWINING,
LARRY TWINING, DAVID DOBSON, ALBERTA LEMON,
SAUBLE BEACH DEVELOPMENT CORPORATION
ESTATE OF WILLIAM ELDRIDGE, AND ESTATE OF CHARLES ALBERT RICHARDS

Defendants

AFFIDAVIT OF DENISE LIGHTNING

I, Denise Lightning, Barrister & Solicitor, of the Saugeen First Nation, MAKE OATH
AND SAY AS FOLLOWS:

1. I am the band solicitor to the Saugeen First Nation and as such have personal knowledge of the matters hereinafter deposed to, except or indicated otherwise.

2. Attached hereto and marked as Exhibit "A" to this my affidavit is the Statement of Claim issued in these proceedings, and served upon all of the Defendants but for the Estate of William Eldridge and the Estate of Charles Albert Richards.
3. Attached hereto and marked as Exhibit "B" to this my affidavit is a true copy of the Order of Justice granted on _____, at Goderich, joining the Attorney General for Ontario as a party, pursuant to the terms and conditions as set out in the aforesaid order.
4. Statements of Defence have not been served by any of the Defendants.
5. The Statement of Claim herein incorporates certain portions of the Statement of Claim in court file number 44874/90, being proceedings by the Attorney General of Canada against the Corporation of the Township of Amabel, a true copy of the Statement of Claim being attached hereto and marked as Exhibit "C" to this my affidavit.
6. Attached hereto and marked as Exhibit "D" to this my affidavit is a true copy of the Statement of Defence and Counterclaim served and filed by the Corporation of the Township of Amabel in court file number 44874/90.

7. The proceedings herein and the proceedings in court file number 44874/90 relate to the recovery to the Saugeen First Nation of certain lands on the shore of Lake Huron near Sauble Beach.
8. The Saugeen First Nation and the Attorney General of Canada both contend that these lands were never surrendered by the Saugeen people, and accordingly constitute part of the Reserve of the Saugeen First Nation.
9. These proceedings and the proceedings in court file number 44874/90 involve questions of law or fact in common and arise out of the same transaction or occurrence or series of transactions or occurrences.
10. It is material to each action to determine the northerly point of land unceded by the Saugeen people along the shore of Lake Huron and the eastern boundary of the said lands in accordance with Treaty 72, a true copy of which is attached here to and marked as Exhibit "E" to this my affidavit.
11. It is probable, and indeed likely, that the northeast angle of the said unceded territory, known as the Saugeen Reserve, is at a point along the westerly boundary of Lot 31, Concession D, Township of Amabel.

12. Attached hereto and marked as Exhibit "F" to this my affidavit is a true copy of page one of the Abstract for Lot 31, Concession D, Township of Amabel, located at the Registry Office at Walkerton.

13. The aforementioned Abstract page indicates that the north half of Lot 31, Concession D, Township of Amabel was patented by the Crown on October 7, 1910 to William Eldridge and C.A. Richards.

14. The aforesaid Abstract page indicates that Plan 328, dated May 18, 1912, and registered September 24, 1919, subdivided some of the lands of the north half of Lot 31, Concession D, Township of Amabel, a true copy of the Plan being attached hereto and marked as Exhibit "G" to this my affidavit.

15. It is apparent that the lands west of the shore road, indicated in Plan 328, were not subdivided, in accordance with the aforesaid plan of subdivision, and I am advised by counsel for the Saugeen First Nation, and do verily believe, that there are no plans of subdivision registered at the Registry office at Walkerton purporting to subdivide the lands west of shore road, Sauble Beach, Ontario, adjacent to Lot 31, Concession D, Township of Amabel.

16. Also, I am advised by counsel for the Saugeen First Nation and do verily believe that there is no registration of any apparent transfer or deed of lands west of the shore road, as indicated on Plan 328, by William Eldridge and C.A. Richards, from a search of the Registry Office at Walkerton.

17. I am advised by counsel for the Saugeen First Nation and do verily believe that legal representatives of the Estate of William Eldridge and C.A. Richards cannot be located.

Sworn before me at the City of)
London in the County of)
Middlesex this ^{6th} day)
of February, 1997.)



DENISE LIGHTNING

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A Commissioner, etc.