

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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THE ONONDAGA NATION,

Plaintiff,

v.

Civil Action No. 05-CV-314  
(LEK/DRH)

THE STATE OF NEW YORK, *et al.*,

Defendants.

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**DECLARATION OF TADODAHO SIDNEY HILL,  
ONONDAGA NATION:**

**TADODAHO SIDNEY HILL**, hereby declares the following to be true and correct under penalty of perjury that:

1. I am Tadodaho, one of the leaders of the Haudenosaunee. As such, I am familiar with the facts and circumstances pertaining to the Haudenosaunee's and the Onondaga Nation's spiritual, cultural and historic practices concerning the land, the water and the creatures of the Natural World. I am a member of the Onondaga Nation's Council of Chiefs and have been present for and participated in numerous meetings when the matters of the Nation's land rights have been discussed. Further, I am familiar with the oral traditions of the Onondaga Nation and the Haudenosaunee relative to our lands and how they were lost.

2. The Onondaga Nation is one of the member nations of the Haudenosaunee, also

known as the Six Nations Iroquois Confederacy. The Onondaga Nation is a sovereign nation and has entered into treaties with many other nations. The Onondaga Nation is a distinct political entity with inherent, sovereign rights of self-determination and governance.

3. I make this Declaration in opposition to the two motions to dismiss, one by New York State and the other by the non-state Defendants, which were filed on August 15, 2006 in the Nation's land rights action.

4. The Onondaga Nation is the central fire and the fire keepers of the Haudenosaunee. Onondaga convenes the meetings of the Grand Council, the governing body of the Haudenosaunee. The other Nations of this Confederation are the Mohawk Nation, the Oneida Nation, the Cayuga Nation, the Seneca Nation and the Tuscarora Nation.

5. It remains the tradition and practice of the Haudenosaunee that major decisions about land are made by the entire Haudenosaunee, in the Grand Council. The Onondaga Nation brought this action on its own behalf and on behalf of and with the authority of the Haudenosaunee. (Amended Complain: ¶ 6.)

6. Further, it is the tradition and practice of the Haudenosaunee leaders to make all major decisions about land on behalf of the future generations, those "whose faces are looking up from the earth."

7. We govern ourselves under the Great Law of Peace, a message brought to us by the Peacemaker to end the fighting among the original Five Nations. We buried our weapons of war and came together to form the Haudenosaunee. The Onondaga Nation has maintained

its original form of government despite constant pressure from outside governments to interfere with and replace our original government.

8. The Nation's government functions with a Council of Chiefs, who are nominated by their Clan Mothers. After a careful process which includes consensus at different stages by the Clans, by the Nation and finally by the Haudenosaunee Grand Council, each Chief is then installed by the entire Six Nations of the Confederacy.

9. All decisions by our Council of Chiefs are by consensus. This consensus decision making process is deliberate and it is essential to Haudenosaunee law. This system has preserved our democracy, which dates back to the formation of the Haudenosaunee by the Peacemaker, long before the landfall of the Europeans in the Western hemisphere.

10. The Onondaga Nation continues to reside on a small area of our original land. Our homeland has been reduced from millions of acres to our current homeland of a few thousand acres, which has always been original Onondaga Nation land, under the jurisdiction of our Onondaga Nation government.

11. The Revolutionary War was fought across the Haudenosaunee lands. The Sullivan/Clinton/Van Schaick raids of April, 1779 caused the temporary dispersement of our people. These extreme conditions caused a small number of the Onondaga people to leave this area during the 1780s, 1790s and early 1800s. Land speculators and the attempt to enforce the removal policy of New York State were major threats to our people during this period. However, the great majority of our people currently live here. We have never left

our homelands.

12. The United States government was specific in promising to protect our lands, as shown by the 1790 Trade and Intercourse Act and President Washington's commitment to Haudenosaunee leader, Cornplanter in December of 1790:

[T]he General Government only has the power to treat with the Indian nations, and any treaty formed, and held without its authority, will not be binding.

Here, then, is the security for the remainder of your lands. No State, nor person, can purchase your lands, unless at some public treaty, held under the authority of the United States. The General Government will never consent to your being defrauded, but will protect you in all your just rights.

Hear well, and let it be heard by every person in your nation, that the President of the United States declares, that the General Government considers itself bound to protect you in all the lands secured to you by the treaty of fort Stanwix, the 22d of October, 1784, . . . (*American State Papers: Indian Affairs*, vol, 1, p. 142.)

13. President Washington wanted to secure and maintain peace with and the neutrality of the Haudenosaunee in 1790, because he saw these as essential to the fledgling federal government, which at that time was losing the Ohio Indian wars.

14. Our people continue to make use of much of the lands that the Creator had provided for us, for purposes of hunting, fishing, and gathering of plants for medicinal and

cultural uses. We still exercise our original rights to hunt, fish and gather at various places throughout our original lands; not just in our current homeland. We remain deeply concerned about the degraded condition of the land and waters throughout our original land.

15. Our sacred Onondaga Lake is a prime example of this degradation and it is a national disgrace. Our history teaches us that the formation of the Haudenosaunee by the Peacemaker took place on the shores of Onondaga Lake, where our people lived and relied on the natural resources of the Lake and this area. It is for this historic and cultural reason that Onondaga Lake is sacred to the Onondaga Nation and the Haudenosaunee.

16. There are other locations within the original lands of the Onondaga Nation that are sacred to the Nation and the Confederacy. These sacred places include other areas visited and used by the Peacemaker, as well as other locations where we used to live, hunt and fish and where important events in our history took place.

17. One of the mandates that is given to our leaders is that we are the caretakers of the land and waters. It is our duty to protect and preserve the land and waters for the future generations, those yet to come. Our obligation is now focused on restoration of the land and waters to their original conditions, for the benefit of the coming seven generations.

18. Our entire way of life and culture is tied to the land, the water and the natural world of the plants and animals. Our clan system is integral to our culture and government and our Clans are named after creatures of the natural world: the deer, the wolf, the turtle, the heron, the snipe, the eel, the hawk, the beaver and the bear. To this day, whenever one

of our citizens identifies herself, she will say, for instance: “I am from the Turtle Clan of Onondaga Nation.”

19. Within the Onondaga Nation’s culture, laws and government, the way that we view “land ownership” is fundamentally different from the European system. All land of the Haudenosaunee was, and still is, collectively owned, under what we term the “one bowl” concept of all people sharing the land.

20. We also share the lands and waters with all creatures in the natural world. We do not think of ourselves as separate from or “above” the natural world. We have a saying that: “We are the environment.”

21. Historically, we struggled against outside influences to preserve this system of collective, Nation control of all lands. Particularly, we resisted vigorously the attempts by New York State and the United States to allot our lands in the late 1800s.

22. The Onondaga Nation has continued this unique, collective relationship to the lands and waters to this day. We are stewards of the lands and waters, with a duty to preserve them for the future generations.

23. Our relationship to the land, the waters and the entire natural world is spiritual, cultural and fundamental to our way of life and governance. For instance, whenever we gather we always recite “the words that come before all else”, which is our way of acknowledging all the gifts of the natural world. In this opening address, we always list and acknowledge all of the plants, animals, waters and other aspects of the natural world which

sustain life.

24. Because our people have been deprived of our access to so much of our former land, water ways and the wildlife, our culture, health and well-being as a people have suffered. The Onondagas see our relationship to the land, the waters and the natural world as mutual, life sustaining and healing.

25. It was this principle of healing that caused our leaders to instruct our attorneys to begin our land rights action with a clear statement that this legal action was not meant to be disruptive to our non-Indian neighbors, but that it was meant to bring about a healing of past wrongs. These historic wrongs include both New York State's illegal taking of our homelands and the horrific and life threatening environmental damage that has occurred on our original lands.

26. For generations, our Nation's leaders have strived to live in harmony with our new neighbors and to welcome them into our land under the spirit of our Great Law of Peace. It was in this spirit that we instructed our attorneys to begin this legal action with the first paragraph of the Complaint, which reads:

The Onondaga people wish to bring about a healing between themselves and all others who live in this region that has been the homeland of the Onondaga Nation since the dawn of time. The Nation and its people have a unique spiritual, cultural, and historic relationship with the land, which is embodied in *Gayanashagowa*, the Great Law of Peace. This relationship goes far beyond federal and state legal concepts of ownership, possession, or other legal rights. The people are one with the land and

consider themselves stewards of it. It is the duty of the Nation's leaders to work for a healing of this land, to protect it, and to pass it on to future generations. The Onondaga Nation brings this action on behalf of its people in the hope that it may hasten the process of reconciliation and bring lasting justice, peace, and respect among all who inhabit this area.

27. Our instructions to begin this legal action in this healing, non-disruptive manner were given well before either the *Sherrill* decision by the Supreme Court, or the dismissal of the Cayuga Nation's land claim by the Second Circuit.

28. It was in this spirit of working with our non-Native neighbors in Central New York that we also instructed our attorneys not to name any individual land owners as defendants in this land rights action, to never seek any evictions of the current land owners, and to never seek any money damages against any individuals.

29. Since I was a child, I have always heard our elders talk about the illegal taking of our lands and how, one day, we hoped to address this wrong. Further, our elders always discussed that our Nation lands had been merely leased, not sold to New York State. Our decision about how to attempt to correct the illegal taking of our original lands and the subsequent environmental destruction of those lands has been discussed by our Council of Chiefs in our Nation's Longhouse. Further, from talking with our elders, I have learned that the Onondaga leaders have always talked about how these historic injustices could be addressed. This has not been an easy or quick decision making process for our leaders or our people; we have struggled with it for generations.



30. For generations, our leaders attempted to exercise our rights, as preserved in our federal treaties, to resolve any differences that would come between our peoples. It was only after we concluded that our rights were being ignored and that the natural world was being further and further desecrated that we reluctantly decided that we had no alternative other than to file this land rights action.

31. One of the aspects of our long discussion and decision making has been that we are a sovereign Nation, with treaties with the United States in 1784, 1789 and 1794. As a sovereign Nation, until now we have generally felt that it was not proper for our Nation to go into the federal or state courts, because these are institutions of separate governments.

32. Since our first encounter with Europeans, we have always maintained government-to-government, diplomatic relationships with successive colonial governments. Our first treaty, with the Dutch in the early 1600s, was the “Two Row Wampum”. It was our practice to record our historic treaties with successive European governments in wampum belts. The Two Row has a background of white wampum beads, with two, separate and parallel rows of purple wampum. These two separate rows symbolize the distinct governments, one the Haudenosaunee and the other the Europeans, traveling down the river of life together, side-by-side and agreeing never to interfere with the other by passing laws that would attempt to govern the other. We still conduct ourselves in accordance with the Two Row.

33. This spirit of separate and distinct sovereigns is still very much a part of the

current Haudenosaunee and Onondaga systems. We still believe that diplomatic interactions are the best way to resolve any differences with either the federal government or New York State. Our elders always told us that we are to use direct, government-to-government interactions, rather than going into the courts of another government.

34. This traditional commitment to diplomacy is also completely supported in our treaties. For instance, in the 1794 Treaty of Canandaigua with the United States, Article VII sets forth the proper method of resolving differences with the United States:

Lest the firm peace and friendship now established should be interrupted by the misconduct of individuals, the United State and Six Nations agree, that for injuries done by individuals on either side, no private revenge or retaliation shall take place; but, instead thereof, complaint shall be made by the party injured, to the other: By the Six Nations or any of them, to the President of the United States. . . .”

35. The leaders of the Onondaga Nation have always used this diplomatic vehicle of direct contact with the President, or his designee, to resolve differences, and we continue to use Article VII to this day. We have repeatedly gone to the President with our concerns that New York State took our lands illegally, and the Canandaigua Treaty tell us that this is the correct way to address this problem.

36. Article VII of the Canandaigua Treaty was invoked by the United States government in 1974, when they sent a letter to the Haudenosaunee, asking for our assistance in resolving a conflict in the Adirondack Mountains. A copy of this November 22, 1974

letter from the Bureau of Indian Affairs to the former Tadodaho, Leon Shenandoah, is attached to this Declaration, as Exhibit “A”. This letter clearly invokes and makes reference to Article VII, so that “our peace and friendship [shall be] unbroken.” *Id.*

37. This strong traditional preference for diplomacy also caused us to meet repeatedly with the New York State Governor’s office and the State’s lawyers, at least since the mid-1980s, to discuss how these historic takings of our lands could be resolved. Eventually, in the late 1990s, one of Governor Pataki’s lawyers and the Governor himself informed us that we could not continue to meet to discuss a possible resolution of our land rights and that we would have to take the state to court.

38. Throughout this same period, we have repeatedly requested the United States to file suit in support of the Nation’s land rights action. We have had innumerable meetings with representatives of the federal government, particularly high ranking officials in the Departments of Interior and Justice, to discuss our requests. These meetings have been to request specific litigation assistance, such as funds to pay for experts or the provision of separate, federal experts, for this legal action. Many other meetings were held to repeatedly remind the federal government of its obligation to join with us in suing New York State for its violations of the United States Constitution, the treaties and the Trade and Intercourse Acts. Despite dozens of such meetings in Washington, DC, we still are waiting for a favorable response from the federal government to our litigation request.

39. We have also had scores of meetings with the Nation’s lawyers, to discuss

whether or not to file a land rights action, and if so, what form it should take. Over the past several decades, the Nation was carefully assessing whether such law suits were legally viable, and for this purpose we have monitored the progress, or lack thereof, of other Nations' suits. We were aware that these suits had not yet been successful and had not been finally legally validated by the federal courts. Until the *Oneida* Supreme Court decisions, it was not possible to go to court.

40. We were also very concerned when the court ruled that money damages were the only form of relief available to other Nations for the historic illegal takings of their lands. The Onondaga Nation has been primarily concerned with protecting the lands and seeking justice. Seeking money damages has never been a priority. Our decision to come to federal court to attempt to find justice for the State's illegal taking of our land was made more difficult and was delayed because of the court's decision to give money damages as the exclusive remedy.

41. Another hurdle for our leaders in reaching any consensus decision about going into federal court was our Nation's oral history that the Nation's lands were merely leased to New York State, not sold. This is particularly true of the area that is now the City of Syracuse and the immediate area around Onondaga Lake.

42. The Nation has historically been resistant to contingent fee contracts with attorneys, relative to land rights issues, because such contracts reinforced the tendency on the part of attorneys to seek money damages rather than settlements that more fairly

addressed the need for justice for New York State's historic and current wrong-doings. It was not until recently that we identified attorneys who would represent us on a non-contingent bases; who were knowledgeable about our history, culture and legal rights; and who were also capable of carrying out the needed research and advising our Council of Chiefs.

43. As we observed the suits by the Oneidas and Cayugas over the years, we decided that, in order to minimize the possible impact on our neighbors, we should embark on a communications campaign to increase public understanding about the Nation and its land rights. As part of this campaign, our leaders have gone out into the neighboring communities to speak to civic groups and at public meetings to explain the Nation's interests in its lost lands and why the Nation would be filing this land rights action. Our leaders have spoken at hundreds of such meetings and to the media, and the results have been very positive, with each side learning from the other. We have observed an almost complete absence of the severe tension that has occurred elsewhere in the state in reaction to the other Nations' suits.

44. From these meetings, we have learned that our neighbors recognize that this area was the original land of the Onondaga Nation; that this realization is not necessarily threatening to our neighbors; and that most of our neighbors welcome and share our concerns about the environmental destruction that has taken place. They welcome our assistance in working to heal the land, the waters and the difficulties caused by New York's illegal takings of our original land.

45. Our ancestors are buried, in unmarked graves, throughout our original lands. It is the duty of our current Nation leaders to protect these numerous resting places from being disturbed. Our ancestors' graves deserve to be protected and that they should remain undisturbed. The Nation has attempted to work with outside governmental agencies to protect these graves. However, this preservation has not always occurred and our concerns over this problem has been another motivating factor in seeking to exercise our rights throughout our original land.

46. In the 1700s our ancestors worked cooperatively with the leaders of first the colonies, and then the emerging federal government. In 1754, the Albany Plan of Union was the result of Benjamin Franklin and others having met with our leaders. The Haudenosaunee leaders shared the lessons of the structure and balance of our democracy.

47. After 200 years, in 1988, the United States Congress recognized the important contributions of the Haudenosaunee to the foundation of the American democratic system. Attached hereto, as Exhibit "B", is a copy of the House of Representatives Concurrent Resolution, 331, which was passed on October 3, 1988 and which states, in part:

To acknowledge the contribution of the Iroquois Confederacy of Nation to the development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution.

Whereas the original framers of the Constitution, including, most notably, George Washington and Benjamin Franklin, as known to have

greatly admired the concepts of the Six Nation of the Iroquois Confederacy;

Whereas the confederation of the original Thirteen Colonies into one republic was influenced by the political system developed by the Iroquois Confederacy as were many of the democratic principles which were incorporated into the Constitution itself;

48. When our European visitors first came into our lands, we were generous and hospitable. Now, simple justice should prevail, Washington's promises should be kept, and our federal treaties should be honored.

I have read this statement and hereby declare that all of the statements contained above are the truth, to the best of my knowledge.

Dated: November 15, 2006.

  
**TADODAHO SIDNEY HILL**