

Land claim negotiations suffer blow

Class-action suit claims province excluded at least 10 Algonquin groups

BY MOHAMMED ADAM, OTTAWA CITIZEN JANUARY 16, 2012

At least 10 different Algonquin groups are now contesting ownership of the 36,000 square kilometres of Eastern Ontario that's the subject of a historic aboriginal land claim, further complicating already complex negotiations with the government.

The latest twist in the longrunning land claim saga is notice of a class-action lawsuit against the Ontario government filed by lawyers representing the off-reserve Ottawa Algonquin First Nation, the Algonquins of Kinouchipirini (Pembroke) and Metis of Ontario. These three groups and many others are challenging the legality of the land claim by the Golden Lake Algonquin, known as the Pikwakanagan, saying the provincial government is excluding them from negotiations over land that also belongs to them. The impending lawsuit also includes several individual aboriginals who say Ontario is interfering with their hunting and fishing rights, and want relief from the courts.

It is the latest blow to the negotiations that have been going on for 20 years between federal, provincial and the Golden Lake Algonquin over a vast swath of Eastern Ontario that includes the nation's capital. Six Quebec Algonquin communities led by the Kitigan Zibi of Maniwaki, who also claim the territory in question as part of their ancestral land, recently threatened a court challenge, saying they are being cut out of the negotiations. Two separate Quebec Algonquin communities are also opposed to the negotiations.

Further muddying negotiations that the parties involved believed would serve as a template for other settlements, several non-status Algonquins and Métis, who also claim a stake in the land, are opposed to the negotiations and considering their options. Ottawa lawyer Michael Swinwood, who filed notice of the lawsuit in November, told the Citizen that the law requires Ontario to be given a 60-day notice of any action, and proceedings will likely begin in March.

"The land claim negotiation currently underway was thought up by the government. They hand-picked certain people to be involved in that undertaking and they ignored the traditional hereditary people," Swinwood said.

"We are giving Ontario notice that we will not accept any agreement-in-principle that they might make with Algonquin negotiation representatives."

"We've been opposed to the negotiations from Day One. We are challenging the whole land negotiations because people the government is negotiating with are illegitimate," added Grant Tysick, chief of the Kinouchipirini.

The nub of the lawsuit is that since Canada has acknowledged that Algonquin territory, which cuts across Ontario and Quebec, was never ceded or surrendered, there is no reason to limit negotiations to a small group anointed by the government. The Ottawa and Kinouchipirini Algonquins say the Golden Lake Algonquin, the only recognized group that the federal and provincial governments are negotiating with, at best owns a tiny fraction of the land, and cannot act on behalf of the majority.

What's worse, they say, the government has allowed aboriginals who are not even Algonquin to take part in the negotiations, even as it cuts off true Algonquins from the talks. The negotiations are indeed bringing to the boil long-simmering tensions between those who live on the reserves and enjoy government support and funding, and non-status aboriginals like the Kinouchipirini and the Ottawa Algonquins, who often feel neglected.

"The land claim itself is not legal because we have several people who are sitting at the table who aren't even Algonquin. The majority of people who should be at the table are not at the table, " said Paul Lamothe, chief of the Ottawa Algonquin, who was part of the negotiations until he left five years ago in frustration.

"When I suggested that everybody should be included, they wanted nothing to do with it. We are taking this action to bring attention to what is going on."

Geneviève Guibert, a spokeswoman for Aboriginal Affairs and Northern Development Canada, was unaware of any notice of legal action, noting that "progress is being made in the overall land claim negotiations."

Phyllis Bennett, a spokeswoman for the Ontario Ministry of Aboriginal Affairs, would not comment, citing legal reasons.

"As the matter is before the courts, it will be inappropriate to comment," she said.

The land negotiations have been controversial since they began in 1991. The federal government recognizes 10 communities as being part of the Algonquin Nation. Of these, nine are in Quebec, including the largest of them all - the Kitigan Zibi. The only recognized band or community in Ontario is the Pikwakanagan of Golden Lake, with whom the land claim negotiations are being conducted.

The seven-member band council and representatives from nine other communities that the federal and provincial governments have agreed to include in the negotiations make up the Algonquin Negotiation Representatives (ANR).

A board decides who to accept as an Algonquin in order to participate, infuriating those who have been left out.

Over the years there have been accusations and counteraccusations of phoney Algonquins. In letters to the prime minister, Lamothe has complained to no avail about a "flawed and corrupt" process.

He told the PMO 18 months ago, that when his group left the negotiations in 2007 for lack of accountability and transparency, it was replaced by a "fraudulent Ottawa community." He says 27 people were "parachuted" in from Greater Golden Lake to create the new community.

"The process is very complicated and it is crooked," he said.

"It is corruption at the highest level."