

Backgrounder on Wiky Land Settlement

Early this summer GBA was contacted by the Ontario Ministry of Aboriginal Affairs to inform us of the progress that the Government of Ontario has been making in their negotiations with the Wiikwemkoong (Wiky) First Nation on the latter's long-standing land claim on Georgian Bay.

The Wiky claim that their Treaty with the Crown signed in 1836 recognized their right to islands between Penetanguishene and Sault Ste. Marie (i.e. the entire coast of the North Channel and eastern Georgian Bay). They claim that subsequent Treaties did not override that right. The Wiky filed a Statement of Claim with the Ontario Court in 1997, with an amendment in 1998. While a formal court hearing was not conducted at that time, the Judge who reviewed the Claim issued a Judge's order stating that, in the Court's opinion, the Wiky have an interest in all the islands in their Claim area and must be consulted on any sale, license or lease of land granted until a final settlement of the Claim is made.

In 2004 the Federal Government accepted the Wiky Statement of Claim based on a legal and historical analysis. By 2007 the Government of Canada and the Wiky agreed on a protocol on how to adjudicate the Claim. Formal negotiations began in August of 2008. The Ontario Government obtained an opinion from independent counsel that the Claim had legal merit, particularly the portion that was supported by the oral evidence provided by a Wiky Chief in 1896 which laid claim to the islands on the south and east sides of Manitoulin Island stretching as far as Killarney. The Government decided to try to reach an interim settlement with the Wiky, and for the past few years has been negotiating with them to arrive at a package of Crown land and cash. It should be noted that some of the islands in the claim area are privately owned and it is the policy of the Government of Ontario not to expropriate private land to settle land claims.

This brings us to the present. The Government of Ontario and the Wiky leadership have identified 17,000 acres of islands and several small blocks of mainland that are currently Ontario Crown land and that, combined with cash, might be acceptable to the members of the Wiky band to satisfy their Claim. See the Settlement map (below) showing the Crown lands proposed for settlement below. Philip Edward Island (PEI) and smaller islands around PEI make up a significant portion of the Crown land involved because a large island within the Claim area, Fitzwilliam Island (the large island in pink off the southern end of the Unceded 26 lands), is privately owned, the owner has indicated that he is not interested in selling, and the island cannot be expropriated to settle the claim.

PEI had been previously identified by the Ministry of Natural Resources and Parks Ontario as Crown land that should be developed into a park. Under the terms of the 1998 court order, MNR had already begun discussions with the Wiky about this park option to possibly be co-managed between Parks Ontario and the Wiky. It seemed to make sense to the Ontario Government to combine the discussions on settlement of the Claim with the discussions of making PEI into a park and offer PEI as a replacement for Fitzwilliam Island. The decision to include the PEI archipelago was made by MNR and MAA without public consultation, despite the fact that a number of these islands and parts of PEI had been severed many years previously, private lots sold and cottages built on them, and much of the area is used extensively by the public for both recreation and access.

The Northern Georgian Bay Association (NGBA), GBA's Member Association located in the Killarney area of Georgian Bay, is very engaged on this file because, if the proposed settlement is approved, their members will be surrounded by Wiky First Nation lands instead of Crown

land. Islands that NGBA's members' have used for recreation over the years, and in some cases parts of islands that are Crown land but which have cottages on the other parts, would become Wiky lands and no longer available to them. Future First Nation plans for PEI and the islands are unclear.

While this issue affects the NGBA's membership, it also affects other GBA members and stakeholders who use Philip Edward Island and its surrounding islands, Beaverstone Bay, Mill Lake and Collins Inlet as places to camp or moor a boat and explore along the small craft channel on the Georgian Bay coast. Furthermore, there could be implications from the terms of the proposed settlement on the larger Wiky Claim covering islands from Penetang to Sault Ste. Marie, as well as other potential First Nations land claims along eastern Georgian Bay.

The Government of Ontario states that it is committed to balance the rights and interests of all concerned. To that end they have held public information sessions in Killarney, Little Current and Toronto. These were opportunities for members of the public to learn more about the proposed settlement and express any concerns they may have on the impact of this settlement on their use of the lands in question. Public comments can be sent to richard.aniol@ontario.ca and must be received by October 16, 2015.

