

Sent as email attachment

December 17, 2012

Steve Miazga, Chief Administrative Officer
Hamilton Conservation Authority
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Ancaster, ON
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Dear Mr. Miazga,

I have carefully read all relevant documents and publications pertaining to the annual deer hunting that takes place in the west end of the Dundas Valley Conservation Area in late fall and at the beginning of winter. This included the original texts of the Nanfan Treaty (The Treaty of Albany, 1701) as well as documents demonstrating related historical facts and legal implications of this particular treaty.

I understand that the Hamilton Conservation Authority is obliged to follow national and provincial policies regarding Aboriginal Rights. However, I believe that the HCA is also entitled to initiate a political and/or legal process in cases where national and provincial policies affecting Dundas Valley Conservation Area are historically flawed, politically biased, and therefore should be legally invalid.

One such case is the validity of the Nanfan Treaty. This issue is described in detail in the article published on the Dundas Valley website - (<http://dundasvalley.wordpress.com>). The title of the article: "Haudenosaunee deer hunting in Dundas Valley - history and legal aspects". Currently, this is the third article on the front page.

In short, there exists clear historical evidence that, in 1701, the Crown accepted the Five Nation's one-sided declaration, later called The Nanfan Treaty, as this was giving the British a claim to part of French Canada. Please note that in 1701 the land currently administered by the HCA was part of New France and that the Nanfan Treaty was signed by John Nanfan, the lieutenant governor of the Province of New York which at that time was one of the 20 British American colonies "south of the border."

The Five Nations Confederacy lost the land in question to the Ojibwa Mississauga nation a year earlier, in 1700, and did not occupy or control this land at the time of signing the Nanfan Treaty. After losing the war with the Ojibwa and New France, the Five Nations' sachems made this declaration in order to seek protection of the British that would ensure their future hunting rights in lands that they had already lost earlier.

Hence, on both sides the Nanfan Treaty was historically flawed and legally fraudulent.

After the 1763 Treaty of Paris, when the British took over from the French at the conclusion of the French and Indian War, and after the British declared sovereignty over what is now Ontario with King George's Proclamation of 1763, the Crown did not need the Nanfan Treaty anymore and did not consider it valid. In fact, part of the land surrendered to the British under the Nanfan Treaty, the tract of land along the Grand River valley, was purchased from the Mississaugas, on behalf of the Crown, by the British Governor of the Province of Quebec Frederick Haldimand, in May of 1784. In October 1784, Haldimand granted this land to the Iroquois who had served on the British side during the American Revolution - (see: Haldimand Proclamation). This proves that the British themselves did not consider the Nanfan Treaty and the alleged ownership of land under the terms of this treaty as binding. If they did, they would not have to purchase the land from the Ojibwa.

Mr. Miazga, these are historical facts that are well documented and do not need to be proven. More details and examples are listed in the article mentioned above. It is simply impossible to deny the validity or credibility of these facts. I am including this summary as an introduction to my questions because the Nanfan Treaty seems to be the central and main official factor in the HCA policies regarding the deer hunting in Dundas Valley Conservation Area.

I also want to mention that during the last five years I have been involved in a study of deer movement in and around the DVCA, including parts of Dundas, Ancaster, Mineral Springs, and Hamilton, as far as Cootes Paradise in the east and Paddy Greene Road in the west. I am therefore familiar with the passages, feeding areas, and shelter areas of the deer, as well as with their daily and seasonal movement patterns, distribution, and approximate numbers. Based on my data, I have noticed a large reduction in deer numbers and deer sightings over the last three years.

Attached, please find my questions related to the deer hunting in Dundas Valley Conservation Area. Individual questions may be accompanied by comments explaining additional circumstances related to particular questions. Please understand that your answers may be quoted in future publications.

I would like to thank you for your time and help in answering my questions. Other questions related to this matter may follow in the future. In the best interest of our local community, I hope that the HCA will in good faith provide specific and meaningful answers.

Sincerely,

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QUESTIONS :

1. The Protocol Agreement of November 2011 between the Hamilton Conservation Authority and the Haudenosaunee Wildlife and Habitat Authority indicates that the HCA shares with the Haudenosaunees all the justifications for the deer hunting in DVCA.
 - Does the HCA share the Haudenosaunees belief that the Nanfan Treaty is flowless, right, and justified?
 - If yes, why does the HCA ignore true facts proving that the Nanfan Treaty is historically flawed, politically biased, and therefore, legally invalid?
 - If not, is the HCA taking steps to challenge the existing status quo related to the hunting claims under the Nanfan Treaty? Is the HCA planning to take such steps in the future?
2. Does the HCA accept the status of the Haudenosaunee Wildlife and Habitat Authority as “Authority” over the wildlife and ecosystem in Dundas Valley Conservation Area?
 - If yes, on what basis?
 - If yes, what rights does this “Authority” have in our Dundas Valley?
 - If not, what is the HCA doing about it?
3. Is it true that the Ontario Ministry of Natural Resources had ordered the HCA to reduce the deer population in Dundas Valley? (This was indicated to me by one of the DVCA superintendents.)
 - If yes, how does the MNR determine the need to reduce the deer population in this area?
 - It was indicated to me that the MNR had flied with a helicopter over a portion of the DVCA, had counted the deer they could see from above, and then had used this number as average for the entire DVCA. Given the fact that deer migrate east or west following available food sources and this seasonal migration differs from year to year, and given the fact that due to this migration deer are never distributed uniformly over the Dundas Valley area, do you believe that the method used by the MNR to determine the deer population in the DVCA was accurate?
 - If yes, based on what data?
 - If not, what have you done about it?
 - When was this overfly count conducted by the MNR?
4. Do you believe that there is deer overpopulation in the DVCA at the present time?

- If yes, based on what data?

5. Is it true that local residents are lobbying the HCA to reduce the deer population in DVCA?

6. Is it true that one of the reasons for the deer hunt is that the deer chew on a bark of one particular specie of tree present in the DVCA? (Again, this was mentioned to me by the HCA employees at two separate occasions.)

- If yes, what tree is it? Is this tree an endangered specie? Is it native to Southern Ontario?
- Do you believe that killing deer in order to save a plant is a right priority? I think that it is not. It is like killing people to save the pigs, because people eat pork. Or, like killing hunters to save the deer...

7. Given the fact that the deer are constantly on the move, often moving in and out of the Dundas Valley Conservation Area, how is the HCA justifying its right to sanction the hunt for transient deer that are not permanent “residents” of the DVCA and are not a property of the HCA? Obviously, the fact of being in the DVCA does not mean that the HCA has the right to kill individual deer. If I kill my neighbour’s dog that just happened to wander into my front yard, I would be charged and convicted.

8. I understand that the annual limit of deer that may be taken by the Haudenosaunee hunters is 80. How do you determine this number? How do you monitor the number of deer taken on daily basis? I was told that the Haudenosaunee Wildlife and Habitat Authority shares these numbers with the HCA after the hunt is over for the season. Do you believe them? Do you trust them, given that reporting lower than actual numbers of deer taken benefits the hunters by causing increased limits and prolonged hunting time the following year?

- I was told by one of the DVCA superintendents that the HCA does not intend to count the numbers of deer taken by the hunters. He actually said that the more deer the hunters take, the better. Is this true?
- If yes, how do you justify such position?
- If not, where is this attitude of your employees coming from?
- Do you recognize that this lack of control and this attitude of your employees encourage the hunters to take more deer than allowed under the protocol? What are you going to do about it?

9. I have seen (and photographed) hunters with exposed bow and arrows walking down Martin Road in Ancaster. This road is open to public and is outside of the actual hunting area. If I walked on the street with exposed bow and arrows, I would be arrested. Why are the natives allowed to do it?

10. The hunters park their cars on roads closed to traffic (i.e.: Martin Road) and in places marked with “No motorized vehicles” signs - (for example off the Paddy Greene Road). Why are the native hunters allowed to do so while all other citizens, taxpayers and annual HCA members are not? As far as I know, parking privileges were not included in the 1701 Nanfan Treaty.
11. Why are the native hunters not required to pay entrance fee for parking their cars in the DVCA, while all other citizens have to comply with the fee regime? I believe that this was not part of the Nanfan Treaty, either.
12. Are you aware of incidents of hunting on other than allowed days (when the police was called in by local residents), of the incident of taking apart a stolen Hummer car in the spot where the hunters park their cars off the Paddy Greene Road, and of the finding of a beheaded deer body, where only the head was cut off and taken? The last finding was actually photographed and (I am told) will be presented to you during the meeting with local hunters on December 20th. Have you investigated these incidents? What are the results of your investigations? Are you prepared to close the hunt, if the hunters are proven to break the law or violate the protocol?
13. What is the status of the HCA? Is it a private corporation? Is it an “Authority” - appointed by who? On what basis? Elected? With what range of “authority” over the local matters affecting the public?
14. Is the HCA using taxpayers money to supplement its budget? (For example, from the Ministry of Natural Resources, from the City of Hamilton, from other public sources?)
15. If yes, what are the sources of public money transferred to the HCA, what are the actual amounts and what part of the HCA budget comes from the public purse?
16. Are any employees of the HCA on public payroll? - (i.e.: MNR, City of Hamilton, etc.) How many and what is the total amount of public payroll for the HCA employees? What part of the overall HCA payroll is covered by public sources and the taxpayers’ money?
17. Who is the HCA accountable to? What, if any, is the mechanism of HCA’s accountability to the public? To the taxpayers? To the local community?