

CHRONOLOGY OF EVENTS

THE LEASING OF KAHNAWAKE LAND FOR A 315 KV POWER TRANSMISSION LINE (LINE 1)

ABBREVIATIONS:

ADM	Assistant Deputy Minister of Indian Affairs
BCR	Caughnawaga Band Council Resolution or Resolution of Mohawk Council of Kahnawake (an <u>MCR</u>)
DIA	Department of Indian Affairs
H-Q	The Québec Hydro-Electric Commission
IR	Caughnawaga Indian Reserve No. 14
MCK	Mohawk Council of Kahnawake (formerly Caughnawaga Band Council)
OC	Order-in-Council
PC	Privy Council
QLS	Quebec Land Surveyor
r/w	right-of-way
SG	Surveyor General
SLSA	The St. Lawrence Seaway Authority

1955-1956 OCs pass in September 1955, February 1956 and October 1956 authorizing taking of about 1,350 acres of IR land for construction of St. Lawrence Seaway. During planning stages, MCK passes resolution that any lands not used for seaway purposes should be returned to reserve status.

1964-1965 SLSA, DIA and MCK have discussions about returning lands surplus to needs of SLSA to IR status. SLSA indicates that lands on north side of canal will not be returned. They explain that they have made a commitment to Province of Quebec in relation to a proposed hydro development on the Lachine rapids which may flood lands on north side of canal. As a result, MCK puts forward position that SLSA could only take lands for seaway purposes and does not have right to turn lands over to province.

1966
September OC passes whereby about 250 acres, being SLS lot numbers 1, 2 and 3, are transferred from SLSA to DIA.

1970 H-Q plans a 315 kv line which will enter eastern boundary of Kahnawake lands which were expropriated by SLSA, run along south side of navigation canal, then cross over canal and the St. Lawrence River.

1971
June 12 BCR passes resolving to approve H-Q erecting the 315 kv power transmission line on approximately "18 acres of land in the Caughnawaga Reserve and adjacent thereto".

1972
May 12 Permit executed by MCK and H-Q whereby H-Q permitted to use and occupy part of IR "together with land in respect of which the Band has interests and rights for the purpose of erecting towers and power lines." Lands are described as the parcels etched in red and green on Plan 0431-60102-005-01-0-TR-S of March 1970.¹ Permit is for 50 year term, at annual rental of \$8000, the rental to be revised after 25 year period. Permit states that Minister of Indian Affairs is granting H-Q right to use and occupy lands under Sec. 28(2) of Indian Act; however, Minister does not sign agreement. *The permit covers lands which were not part of IR at that time.*

June 16 DIA Admin. Officer at Caughnawaga sends permit to Land Transaction Section, DIA, and recommends its acceptance.

June 27 Legal counsel for MCK writes ADM of DIA inquiring whether agreement approved.

¹ It should be noted here that although the permit refers to lands etched in red and green on plan 0431-60102-005-01-0-TR-S of March 1970, it is unclear why the lands etched in red (being the northern half of the 315 line) would be included in the permit between MCK and H-Q. The lands etched in red lie within the SLSA's minimum 100' allowance on south shore of seaway canal. In December 1972, SLSA gives H-Q a licence to erect and maintain the 315 kv line on this "red" portion.

- July 6 SG issues instructions to C. L. Mercier, QLS, to survey SLS lots 7 to 15 inclusive. Mercier told to survey the power line r/w shown on plan forwarded with instructions (not 315 kv line but rather two 120 kv lines known as Line 2).
- July 24 ADM of DIA informs MCK legal counsel that "Right-of-Way Agreement" forwarded for approval in June cannot be executed by DIA. Reasons given include that it grants rights over lands which are not yet part of IR and also crosses over lands which SLSA plans to convey to H-Q. Portion of land etched in red on Plan 0431-60102-005-01-0-TR-S of March 1970 referred to in permit will remain SLSA land.² The r/w granted by permit should be surveyed under SG's instructions but this cannot be done until lands conveyed by SLSA.
- October 30 ADM notifies MCK legal counsel that he approves "in principle", on behalf of Minister, "the transaction anticipated by this agreement. It is understood that formal completion will not take place until the plan of survey and suitable description of the lands affected have been registered."
- November 17 Lands Transaction Section of DIA told by Asst. Regional Director, Economic Dev., DIA, Quebec, that survey work in connection with Quebec Hydro r/w completed but plans not ready (presumably referring to work being done by Mercier).
- December 14 SLSA grants Licence No. 63-47 to H-Q for 315 kv line over expropriated Kahnawake lands *and* over lands in Municipality of Ste. Catherine.³ Annual rental is to be paid to SLSA by H-Q under licence. Lands in Ste. Catherine were later removed from licence and annual rental was decreased.⁴ [The area under the permit is now about 14.7 acres or 17.3 sq. arp.] Licence refers to an "authorizing" OC PC# 1966-195, dated Jan. 31, 1966. This OC approves leasing by SLSA of any lands or property held by the SLSA for any term not exceeding 10 years. Stipulates that: a) leases can be terminated upon 6 months notice in event that land required for public purpose, b) value of the land leased cannot exceed \$100,000, and c) lease will not provide for payment of compensation by SLSA to lessee for improvements, rents, etc.

1973

- May 28 SG issues supplementary instructions to C. L. Mercier for survey of SLS lots 18 to 25 inclusive. Mercier's survey plans for this survey work and for the work he did in the fall of 1972 show the lands on which the 120 kv lines (Line 2) are situated as being under a servitude to H-Q. His survey plan also shows a servitude lying north of seaway canal, between SLS Lots 22 and 23; this for the 315 kv line which is under Licence No. 63-47 from SLSA to H-Q. However, the plans do *not* show the 315 kv line and its supporting towers on SLS Lots 7, 8, 9 and 10 (all south of seaway canal) which are under 1972 permit from MCK to H-Q.

1976

- August 24 Internal DIA memo notes that before certain Caughnawaga lands can be returned to DIA from SLSA, a small parcel first has to either be transferred to H-Q or an easement granted.
- October 28 OC 1976-2662 transfers more than 553 acres taken for seaway purposes back to DIA. Lands transferred back are SLS lots numbers 4 through 26 inclusive. The OC states that SLSA reserves a servitude across SLS 4 for a power line. *This is not related to Line 1.* The servitude for the 315 kv line between SLS Lots 22 and 23 north of the seaway canal is excluded from the transfer to DIA, as are the servitudes for the two 120 kv lines which are also shown on Mercier's survey plans and are under a licence (#63-51) between SLSA and H-Q.

1977

- August MCK legal counsel inquires whether servitude mentioned in OC 1976-2662 was registered [over SLS 4]. DIA's reply indicates that they believe that November 1972 report from Quebec Region, which stated that survey work in connection with a Hydro Quebec r/w (Mercier's work) was completed, somehow relates to servitude mentioned in OC 1976-2662.

² Refer to footnote 1 for comments on the lands etched in red.

³ Once again, reader may wish to consult footnote 1.

⁴ As of January 1, 1995, \$66,090 had been paid to SLSA by H-Q under Licence No. 63-47. Note that this was for lands in Ste. Catherine as well as Kahnawake.

- September 30 DIA Ottawa writes to DIA Quebec inquiring whether plan referred to in November 17, 1972, memo completed so that servitude referred to in OC 1976-2662 can be registered.
- October 5 DIA tells MCK legal counsel that survey of servitude completed but they have not yet received copy of plan and servitude has therefore not been registered. Matter to be followed up.
- November 28 DIA internal memo states that when SLSA was to transfer back lands which were surplus to their needs, all hydro r/w would be included in the lands to be transferred. DIA would then negotiate with H-Q directly for servitudes. Memo notes that 1972 permit between MCK and H-Q was for servitude over lands which SLSA has not yet transferred back by 1966 and 1976 OCs. *[This is not actually correct, lands under permit between MCK/H-Q were in SLS Lots 7, 8, 9 and 10, all of which were transferred to DIA by 1976 OC.]* Further states that survey of hydro servitude needed, so land can be transferred from SLSA to DIA, then DIA can grant a servitude to H-Q. Once done, lands under servitude and SLS Lots 1 to 25 can all be returned to IR status.
- December 16 DIA writes to SG stating that they are negotiating with SLSA for transfer of lands to DIA which are encumbered by a servitude to H-Q and when transfer made, DIA will make a r/w agreement with H-Q.

1978

- January SG's office makes description of lands to be included in a servitude to H-Q. Said description states that lands total about 35 acres and are shown on particular CLSR plans as being adjacent to SLS lots 8 to 13 and SLS lots 22 to 25 inclusive. The CLSR plans mentioned are those done by Surveyor C. L. Mercier. *[The lands shown as being under a servitude to H-Q are for two 120 kv lines (under Licence No. 63-51), along with a small portion of land north of the seaway canal between SLS 22 and 23 for the 315 kv line, which is under Licence No. 63-47.]*
- February DIA writes SLSA inquiring if SLSA has granted a servitude to H-Q over the approximately 35 acres excluded from transfer to DIA in OCs of 1966 and 1976. DIA asks if SLSA prepared to transfer lands to DIA. SLSA replies that H-Q holds licence *[referring to Licence No. 63-51 for the two 120 kv lines]* from SLSA covering right to erect and maintain the transmission line and that H-Q has refused to sign any servitude agreement. SLSA makes no reference to Licence No. 63-47 for 315 kv line.
- October 12 Lands transferred to DIA by OCs in 1966 and 1976, namely SLS lots 1 through 26, are returned to IR status by OC 1978-3105.⁵ Servitudes located between lots 18-13 and 22 to 25 are *not* included in the lands returned to IR status.

1979

- November 28 DIA writes to Quebec Region (DIA). Substance of letter clearly indicates DIA's confusion about the transmission lines within the lands expropriated by SLSA. Specifically, DIA under impression that 35 acres referred to earlier covers the same property as a 1972 permit between MCK and H-Q. DIA's confusion apparently stems from fact that they lost plan submitted with said 1972 permit.

⁵ OC stated that SLSA was reserving a servitude across SLS 4 for a power line. Again, this is not related to Line 1.