

# “Water is Her Life Blood”

## The Waters of Bkejwanong and the Treaty-Making Process

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### Abstract

This paper, originally presented over thirty years ago at a conference at Walpole Island, examines the waters of Bkejwanong, as reflected through the Treaty-making process, since the issuance of the Royal Proclamation of 1763. Drawing on extensive historical research and documentation, the paper offers a unique insight into Treaty negotiations surrounding Indigenous water rights and title in Canada and the United States. In doing so, it helps explain the profound importance water holds in Walpole Island First Nations' culture, heritage, and economy, not only as a crucial natural resource, or an essential aspect of Indigenous territorial sovereignty, but moreover as the life blood of Mother Earth, the beginning and the end of life.

### Keywords

Indigenous history of water, Treaty-making, water rights, Bkejwanong, Walpole Island First Nations

The story of water is a significant one for First Nations, Metis Nations, and their communities. This story was, and still is, one of profound importance, of nourishment of the land, of creation and purification.<sup>1</sup> The late Anishinabe scholar, Edward Benton-Banai (1931-2020), wrote that

When Ah-ki' (the Earth) was young, it was said that the Earth had a family. Nee-ba-gee'-sis (the Moon) is called Grandmother, and Gee'-sis (the Sun) is called Grandfather. The Creator of this family is called Gi'-tchie Man-i-to' (Great Mystery or Creator).

The Earth is said to be a woman. In this way it is understood that woman preceded man on the Earth. She is called Mother Earth because from her come all living things. Water is her life blood. It flows through her, nourishes her, and purifies her. On the surface of the Earth, all is given Four Sacred Directions—North, South, East, and West. Each of these directions contributes a vital part to the wholeness of the Earth. Each has physical powers as well as spiritual powers, as do all things. When she was young, the Earth was filled with beauty.<sup>2</sup>

The story of the water is the story of beauty and peace and life. It is the beginning and the end of life.<sup>3</sup>

This article will examine the waters of Bkejwanong, as reflected through the Treaty-making process, since the issuance of the Royal Proclamation of 1763. These Treaties include the framework of Gus Wen Tah, the Covenant Chain of Silver, the Treaty of Niagara of 1764, the Treaty of Detroit of 1765, the Treaty of Lake Ontario of 1766, Treaty #2 or the McKee Treaty of 1790, the Simcoe Treaty of 1794, the St. Anne Island Treaty of 1796, among others.

The waters of Bkejwanong are non-negotiable. In these Treaty negotiations, it should not be surprising that there are a few specific references to water. Both the land and the water cannot be alienated; it can only be shared. Water is not to be sold; it was too important to the traditional way of life. Water had to be protected or the land and the people would die.<sup>4</sup> For example, the solemn commitments of the Crown made at the Council Meeting of August 30, 1796 constitute the terms of the Treaty of St. Anne Island. Water and water rights were not for sale. In fact, they were once again in 1796 re-affirmed as part of the Bkejwanong Territory.

All of these Treaties were negotiated, and agreed to, at significant places of ancient Council Fires. They were also held by First Nations waters, for example, the Niagara River, the Detroit River, Lake Ontario, the Chenail Ecarte River, and Lake St. Clair. The Council Fires were held on both sides of the waters which purported to become the international boundary between Canada and the United States sometime after 1815. Many of the boundaries of their Territories and their Reserves were water boundaries. Water and water rights were then, as now, a significant part of the way of life and the history of the people of Bkejwanong, the Walpole Island First Nations; “Water is indeed Her Life Blood”.<sup>5</sup>

Water is also essential for First Nations and Metis communities’ economies and trade. It provides food and abundance to the First Nations (Anishinabe, Odawa and Potawatomi) of Bkejwanong—meaning in English, “the place where the waters divide”. Canada, or Kanata, means the Places, i.e., villages, where the waters, the rivers and lakes, meet the lands (islands). The French and British imperial colonizers had it the other way around since they only valued the land and often took the waters for granted, except for the fisheries. Until fairly recently, the histories, Indigenous story(ies), of water have not been well told in Canadian history.<sup>6</sup> To be sure, much has been written on some of the uses of the water, particularly fishing. However, this part of the story has been told largely from the perspective of the written record.<sup>7</sup> Apart from Richard Bartlett’s path-breaking legal study, Indigenous Water Rights in Canada, comparatively little has been written on the Indigenous history of water or on the significant relationship between water and the Treaty-making process.<sup>8</sup> Admittedly, this historiography of water has changed over the last quarter of a century as

a result of the work of Indigenous scholars as well as non-Indigenous scientific studies of climate change. However, that is a different subject and far beyond the scope of this article.

It should also be highlighted that the Indigenous perspective of water is a holistic one. The European written tradition separates land and water as well as the uses of water from the waters themselves. Indigenous perspectives do not. As a result, when land is often referred to by Indigenous people, water is also included. And yet, a few perceptive, non-Indigenous people have observed its importance within the Bkejwanong Territory. In July 1836, Anna Jameson, the wife of the Upper Canadian Attorney General, and an Irish writer, lyrically described the waters of Bkejwanong:

Leaving the channel of the river and the cluster of islands at its entrance, we stretched northwards across Lake St. Clair. This beautiful lake, though three times the size of Lake Geneva, is a mere pond compared with the enormous seas in its neighbourhood. About one o'clock we entered the river St. Clair, (which, like the Detroit, is rather a strait or channel than a river,) forming the communication between Lake St. Clair and Lake Huron. Ascending this beautiful river, we had, on the right, part of the western district of Upper Canada, and on the left the Michigan territory. The shores on either side, though low and bounded always by the line of forest, were broken into bays and little promontories, or diversified by islands, richly wooded, and of every variety of form. The bateaux of the Canadians, or the canoes of the Indians, were perpetually seen gliding among these winding channels, or shooting across the river from side to side, as if playing at hide-and-seek- among the leafy recesses.<sup>9</sup>

The Walpole Island First Nations have always lived by, and from, the waters of their Territory. It is their life blood. On what is now seen, by some, to be the Canadian side, it extends from Lake Erie in the south to Lake Huron, northward. It includes the watershed of Lake St. Clair and the Thames River as well as the St. Clair and Detroit Rivers. Bkejwanong is truly a place of water. Here the muskrats live and the fish and the fowl have been bountiful. It is a protected place. It is a sacred place. It is the soul of Indian Territory.<sup>10</sup>

The people of Walpole Island have used their waters within Bkejwanong for many purposes. Their Treaties reflect this fact as well as their tenacity regarding Indigenous rights and title. Fishing, hunting, and gathering as Indigenous land rights are primary parts of their culture and their heritage. They hunt on the marshlands, a rich, sustainable resource. They have developed traditional ways to sustain their fishery resource for many purposes, including personal, communal, and ceremonial uses, for barter, for trade and commerce. Today their natural resources remain a primary component of their culture and heritage as well as their economy.<sup>11</sup>

Bkejwanong was protected by the Crown, as part of the larger "Indian Territory" in the Royal Proclamation of 1763. The Indigenous title and rights of the Walpole Island First Nations to its Territory were re-affirmed and protected as part of the "Indian Territory" by the Royal Proclamation of 1763.<sup>12</sup> The waters of Bkejwanong were part of the Indian Territory, if not the most important part. They were never the subject of the Treaty-making process that was begun long before the British Crown issued the 1763 Proclamation. The waters were protected under Gus Wen Tah, the Covenant Chain of Silver, initiated at the Treaty of

Albany in 1664.<sup>13</sup> The significance of the Covenant Chain of Silver cannot be underestimated in terms of the Indigenous Nations' waters, lands, and sovereignty.

Sir William Johnson, the British Crown's Imperial appointee to the Indian Department in 1755, highlighted its magnitude in 1764. This statement was made by Johnson after the Royal Proclamation of 1763 and after the Treaty of Niagara of 1764 through which the Western Confederacy became a party to the Covenant Chain:

... as I know it has been verry [very] customary for many People to insinuate that the Indians call themselves Subjects, although I am thoroughly convinced they were never so called, nor would they approve of it. Tis true that when a Nation find themselves pushed, their Alliances broken, and themselves tired of a War, they are verry [very] apt to say many civil things, and make any Submissions which are not agreeable [agreeable] to their intentions, but are said meerly [merely] to please those with whom they transact Affairs as they know they cannot enforce the observance of them. but you may be assured that none of the Six nations, Western Nations [including the Western Confederacy] &ca. ever declared themselves to be Subjects, or will ever consider themselves in that light whilst they have any Men, or an Open Country to retire to, the very Idea of subjection would fill them with horror.

Johnson was keenly aware of the complexities of Indigenous languages and knowledges:

Indeed I have been just looking into the Indian Records, where I find in the Minutes of 1751 that those who made ye Entry Say, that Nine different Nations acknowledged themselves to be His Majesty's Subjects, altho' I sat at that Conference, made entries [entries] of all the Transactions, in which there was not a Word mentioned, which could imply a Subjection, however these matters (notwithstanding all I have from time to time said on that subject) seem not to be well known at home, and therefore, it may prove of dangerous consequence to persuade them that the Indians have agreed to things which (had they even assented to) is so repugnant to their principles that the attempting to enforce it, must lay the foundation of greater Calamities than has yet been experienced in this Country.

It is necessary to observe that no Nation of Indians have any word which can express, or convey the Idea of Subjection, they often say, 'we acknowledge the great King to be our Father, we hold him fast by the hand, and we shall do what he desires' many such like words of course, for which our People too readily adopt & insert a Word verry [very] different in signification [signification], and never intended by the Indians without explaining to them what is meant by a Subjection.

He was also aware of Indigenous sovereignty as well as its implications:

Imagine to yourself Sir, how impossible it is to reduce a People to Subjection, who consider themselves Independant [Independent] thereof by both Nature & Scituation [Situation], who can be governed by no Laws, and have no other Tyes [Ties] among themselves but inclination, and suppose that it's explained to them that they shall be governed by the laws liable to the punishments for high Treason, Murder, Robbery and the pains and penaltys [penalties] on Actions for property or Debt, then see how it will be relished, and whether they will agree to it, for without the Explanation, the Indians must be Strangers to the Word, & ignorant of the breach of it.<sup>14</sup>

In July, 1764 at the Treaty of Niagara, held at the "crooked place", the Western Confederacy, among other Indigenous Nations, met Johnson, the Superintendent General of Indian

Affairs, and other officials of the Crown. At that time the representatives of the Western Confederacy (also known as the Lake(s) Confederacy) were told, among other things, that their Territory, including their waters, was confirmed and protected by the Crown. Johnson, the Crown's representative, gave the Indigenous Nations, including the Lake(s) Confederacy, "the great Covenant Chain, 23 Rows broad & the year 1764 worked upon it." This belt has been kept by the Indigenous Nations.<sup>15</sup>

These solemn Treaty promises were re-affirmed in the next two years at the Treaties of Detroit (1765) and of Lake Ontario (1766). Specific reference to water is found in the latter Treaty in connection with trade and trading rights, as spoken by Chief Pontiac:

Father. We thank you for the goodness you have for us in sending plenty of Merchandise to Detroit this will be a great means of promoting a good understanding between us as it will enable us, as we shall always have it in our power, to clothe our Children well. We likewise heartily thank you for not letting the Traders to straggle through the Woods to our Villages, but to trade only at the Posts under the Inspection of the Commissary (at the different Posts, that causes great mischief for them to be able to go through the Villages) and if they came up their Rivers they shall be protected (meaning the Commissary of the Different Posts). It was not prudent to let them ramble where they pleased but as you have settlements there will be no danger along the Waters to the Forts and there we shall be fairly dealt with.

A Belt of 6 Rows<sup>16</sup>

Johnson passed away in 1774, eight years later. After that, things began to fall apart.<sup>17</sup> The Treaty documents were lost and then the Treaties themselves were forgotten by the Indian Department by the 1790s. In the years that followed, the Crown failed to keep the solemn promises that Johnson had made on its behalf in 1764-1766. These solemn promises remain outstanding to this day to the Western Confederacy of Nations.

On May 19, 1790 the Treaty #2, also known as the McKee Treaty, was entered into by the Crown and the ancestors of the Walpole Island First Nations.<sup>18</sup> Gifts from the Western Confederacy were subsequently transferred into unfulfilled promises, alienation of Indigenous lands and surrenders.<sup>19</sup> It is clear from the geographic description in it that the waters of Bkejwanong was not included or referred to in that Treaty, including, most significantly, the Thames River.<sup>20</sup> At the time, the Crown's representative, Alexander McKee, reiterated the solemn promise, among other Treaty promises, made in the 1760s by Johnson, his predecessor, on behalf of the Crown, to the Walpole Island First Nations. Certain waters and lands within Bkejwanong, including the islands in Lake St. Clair and the Rivers St. Clair and the Thames, would be especially protected by the Crown. Moreover, the Walpole Island First Nations would never have to surrender or relinquish these waters and islands. They were to be reserved and protected for their exclusive use.<sup>21</sup>

The St. Anne Island Treaty of August 30, 1796 included the following terms which were made by Alexander McKee on behalf of the Crown. These terms can be summarized as: 1) The Crown re-affirmed its care and protection of the Indigenous Nations, as in the Covenant Chain and at the Treaty of Niagara in 1764. The Covenant Chain contemplated water. 2) The "rights and independence of all the Indian Nations" are recognized. These rights included the waters. 3) The Indigenous Nations "are to be perfectly free and unmolested in their Trade". This trade was wholly dependent on the waters of Bkejwanong. 4) The Indigenous

Nations “are to be perfectly free and unmolested” in their “hunting grounds”. The hunting grounds included both lands and waters. 5) The Indigenous Nations are to be free “to pass and repass freely undisturbed to trade with whom they please”, which is referring to the International border between the U.S.A. and the remaining British colonies and the rights under Jay’s Treaty. This border between the British Empire (later Canada) and the United States was, of course, then as now, a water boundary and a highway of the Indigenous Nations for their international trading and trade.<sup>22</sup>

It is clear from the oral tradition of the Walpole Island First Nations that the St. Anne Island was a significant Treaty with the British Crown for the matters discussed at the Council meeting on August 30, 1796. This oral tradition states, in part, that

When he [Alexander McKee] came to see us on St. Ann’s [St. Anne] Island down Baldoon [Chenail Ecarte] River, he built a fire in front of his Red children and said, “I do not build this fire before you to take the land from you. It is the fire of friendship. The hands are so strongly put together that no man can part them asunder, and no person shall extinguish it.” [the St. Anne Island Treaty of 1796]

When we surrounded the fire of friendship that he had kindled, he again told us that the land was to remain ours, that the words which he now spoke was heard by Him who made us and would be sent to our great father over the waters. As some of our young men were not present, they might come whenever they please and enjoy all that was promised us; and again told us that this land should forever belong to the three tribes. Moreover, he told us that this land is good; even the marshes will yield you [plenty]. The great River is full of living animals for your use and the Prairies will give you something; therefore, keep it for the use of your three tribes and never part with it.

He moreover told us that the lands we had given him was of a great benefit to him; if you attempt to come upon it we would tell you to stand aside. “Now your marshes are as good as the land is to us; if any of our people come to take your game, make a strong arm against them. Let us know, and we will prevent it. Therefore, keep this place for yourselves and children.”

He again told us that some of his young men might come and fancy the good land of [ours]; but do not sell it, do not give it away, but keep it for the benefit of [our] children. Moreover he told us that he had a great many young men, that they had smooth tongues. They may tell you a fine story and try to cheat you out of your lands, but do not let them have it. Let me know. My eye cannot see them but I have great command over them and I will prevent them from getting the lands from you.<sup>23</sup>

The power of this oral tradition has survived to this day to safeguard the Covenant Chain of Silver, the ancient Treaties and the St. Anne Island Treaty of 1796. The Walpole Island First Nations, respecting and trusting the solemn commitments made at the Treaty of Niagara in 1764 and at other places on other occasions for the King’s Bounty, both regarding their presents and their Territory, began to see that these Treaty commitments were not always being kept.<sup>24</sup>

The Walpole Island First Nations kept the Covenant Chain of Silver bright and untarnished. They continued to reside in their traditional places at the confluence of the waters of Bkejwanong and moved seasonally to obtain the abundance of the natural resources from the waters and the lands of Bkejwanong. These places included, for example, the Reserves at Walpole Island, Chenail Ecarte and the ancient village of Kitigan on the banks of Big Bear

Creek, among other locations. They also continued to occupy and use all of their Territory, including the Lake St. Clair and the St. Clair and the Chenail Ecarte Rivers, the Reserve of that name and its waters, in their seasonal round of traditional activities.<sup>25</sup>

In 1807 the Walpole Island First Nations entered into a Treaty, again at Detroit, with the government of the United States. In this Treaty, the waters on the American side of the international boundary, were to be shared as well as some lands in Michigan. A number of Reserves were excepted from this Treaty along the St. Clair River and Lake St. Clair. However, the uses of these waters, including fishing, were not relinquished by this Treaty. And, moreover, no islands were surrendered.<sup>26</sup>

During the War of 1812-14, along with the famous role played by Tecumseh, they defended the “Indian territory” against another American invasion, assisting in the defense of Upper Canada and thereby the maintenance of it as a colony within the British Empire. Yet that War changed fundamentally the military balance in North America. The American threat was effectively removed and the Indigenous Nations were, from the perspective of the British imperial government, no longer required as military allies. After the War, the British Imperial government gave them medals and gave their waters and lands to the white settlers for little or no consideration. The peace, called the Treaty of Ghent, signed on Christmas Eve, 1814, ended this conflict between Britain and the United States. But this Treaty did not include the Indigenous Nations.

This 1815 Treaty had long-term unfortunate consequences since the Treaty provided for the settlement of the boundary questions between the two countries. This resulted in the survey of the boundary thereafter as a water boundary through the Great Lakes. By 1822, thanks to the “generous magnanimity of the British Government”, this survey led to the bifurcation of part of the unceded Walpole Island Reserve. For example, the waters and Harsen’s Island in Lake St. Clair, were no longer seen to be part of the Reserve without a Treaty being signed for either waters or the islands.<sup>27</sup> Significantly, the solemn commitments made by the Crown at the Treaties of Niagara (1764), Detroit (1765), Lake Ontario (1766), the McKee Treaty (#2) at Detroit (1790), the Simcoe Treaty (1794) and the St. Anne Island Treaty at the Council Meetings at the Chenail Ecarte in 1796, were either forgotten or dismissed by the Indian Department in the years after the American Revolution and in the War of 1812-14.

In the years from 1815 to 1840, more than two million British and American emigrants arrived in Upper Canada to settle and take the waters and lands of the Indigenous Nations, often without regard for the precise terms of the Royal Proclamation of 1763 and the promises made in the Treaty of Niagara, one year later. But the Nations of Bkejwanong did not forget the solemn terms of their Treaties. They continued to protect their lands and their waters.<sup>28</sup>

In 1825 a provisional agreement was made for this land and in 1827 the Treaty was concluded at Amherstburg overlooking the Detroit River. It is difficult to discern, given the “Council Minutes” or notes taken either in 1825 or in 1827, what lands were to be subject to the Treaty and what was the understanding of the Walpole Island First Nations concerning their Indigenous title and rights.<sup>29</sup> The Treaty area specifically did not include waters; nor did it include the surrender or the relinquishment of water rights. Since these matters

were not explicitly referred to, the understanding of the Walpole Island First Nations is that their Indigenous title as well as water rights remained intact.<sup>30</sup> Moreover, the Crown made a solemn promise at the Treaty negotiations that never again would the Crown seek to obtain any additional lands and waters from the Walpole Island First Nations. The Reserves, including the waters in them, which were excepted from the Treaty area, were also to continue forever. The Crown promised never to ask the Indigenous Nations to share more lands or more waters. This solemn promise was not kept either.

In 1867, about one month after the Confederation of Canada, the ancestors of the Walpole Island First Nations wrote a “Memorial” (a letter from the First Nations in the form of a petition) to the Governor General of Canada, dated August 5, 1867. This “Memorial” was reiterated in a further petition to the Superintendent and Deputy Superintendent of Indian Affairs, dated November 14th of that same year. The Walpole Island First Nations stated in both Memorials that they were the “rightful proprietors of the Peninsula between Lakes Huron, St. Clair and Erie”, including their waters, the Lakes, the Islands in them, and the connecting waters within that Territory. This “Memorial”, and another one in 1869, were presented to the Crown’s representative in Canada, the Governor General, to re-affirm the Walpole Island First Nations’ relationship with the Crown flowing from the Royal Proclamation of 1763 and in the Treaties of Niagara (1764), Detroit (1765) and Lake Ontario (1766). It also again served to remind the Crown of the extent of Bkejwanong, the Walpole Island Territory and the significance of their lands and their waters.

There is no evidence that the Crown, as represented by the Governor General of Canada or any other official representing the Crown, has ever responded to these “Memorials”. However, in internal Department of Indian Affairs reports in 1869-70, officials of the Crown, notably William Spragge, then Deputy Superintendent General of Indian Affairs, acknowledged the validity of the Indigenous title and the rights to the waters and the lands of Bkejwanong without apparently communicating these views to the people of Walpole Island.<sup>31</sup>

Since the 1870s the Walpole Island First Nations has vigorously protected its waters and marshes. Through the negotiation of various leases, the First Nations asserted its rights and title to the waters and marshlands, and to protect the resources on them. In doing so, they resisted the intrusion in its affairs of the Indian Agent and “Headquarters”, the Department of Indian Affairs in Ottawa, the Prime Minister of Canada and non-Indian users of the marshlands. It successfully negotiated leases directly with private interests, on its own initiative. These leases were in their long-term interests. The leasing of the waters and the marshlands by the Walpole Island First Nations was a significant departure from the nineteenth century treaty-making process. Yet, at the same time, it was wholly consistent, as we have seen with the Walpole Island First Nations’ position on their waters and water rights within the framework of the Covenant Chain and the Treaty-making process.<sup>32</sup>

One of the casualties of the Treaty-making process has been the waters and the water rights of the Walpole Island First Nations. Many of their waters have been taken over by the white settlers since the 1820s. Colonisation has meant a history of water degradation and pollution at least since the early 19th century. Commercial, and then sports, fishermen have overcaught and destroyed the valuable fishery. The commercial fishery of Lake St.



Clair, and elsewhere, was closed in 1970 as a result of mercury pollution. Governments have sanctioned pollution of the waters by private industry in the twentieth century and destroyed the quality of the waters on the lakes and the rivers. Spills from Chemical Valley were still almost a daily occurrence in the 1990s. Pollution from the St. Lawrence Seaway continues to destroy the waters and the natural resources in the St. Clair River and Lake St. Clair, part of the unceded Walpole Island Reserve.

In 1766 Sir William Johnson asked the Western Confederacy to keep the Treaty of Lake Ontario “fresh in their memories”.<sup>33</sup> Oral tradition is a powerful tool of their history. The representative of the Bkejwanong First Nations told the head of the Indian Department in the early 19th century that “We have no words of ancient treaties to refer to, we have no books handed down to us by our ancestors to direct us in our speech; we have but our hearts and the traditions of our old men; they are not deceitful”.<sup>34</sup> “We have but our hearts” and our “traditions”. One of these traditions is the story of the waters of Bkejwanong. Surely this a theme worthy of exploration for historians. This is the beginning of the story of water; it is not the end. “Water is her life blood”, for without water, Mother Earth will not survive. Without water, and Mother Earth, the Indigenous Nations of Bkejwanong will not survive.

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#### **Conflicts of Interest**

The research was conducted in the absence of any conflicts of interest.

#### **Notes**

1. This paper was originally presented at a conference at Walpole Island in 1994, now over three decades ago, and then published as, “‘Water is Her Life Blood’: The Waters of Bkejwanong and the Treaty-Making Process”, *Earth, Water, Air and Fire: Studies in Canadian Ethnohistory*, (Nin.Da.Waab.Jig., ed.), Waterloo: WLU Press, 1998, 35-63.
2. Edward Benton-Banai, *The Mishomis Book: The Voice of the Ojibway*, Saint Paul, Minnesota, Red School House, July, 1988, 1-2.
3. In 2022, I learned first-hand recently about the significance of “Water is Her Life Blood” when I fell at home in Toronto—at Mississauga Place on the shores of Lake Ontario where the Don River flows. Disabled, as a sixteen-plus year stroke survivor, I suffered two hair-line fractures in my pelvis on my right side. I could not stand and it was painful, so I went to an emergency ward of one of Canada’s largest hospitals. Given the Ontario provincial policies on the paucity of funding to the healthcare system and especially of nurses, I had to spend, as is the case for most emergency wards, four days there before I was admitted to the hospital. I had an x-ray, CAT scan and finally an MRI to discover that I had not broken my ten-year old artificial hip or caused other damage. For some reason, at emergency wards, they do not offer or even provide the patient with a minimum amount of food or water. I was offered only minimal food or water for three days, since I was in an Emergency Department. On the fourth day, one emergency room doctor found me severely dehydrated and hungry. He admitted me directly into the hospital as a patient and put me on an IV to recover and hydrate for three days. After receiving water and food, I recovered. This situation was not unusual during the Pandemic and similar situations were happening every day in Ontario.

4. 1987, *Nin.Da.Waab.Jig.*, Walpole Island, *The Soul of Indian Territory*, *Nin.Da.Waab.Jig.*, Bkejwanong, Chapters 1 and 2, 1-26. An Indigenous historian has remarked on the significance of the lands and the waters. In this context, land means water, as well as land under the water. They are inseparable:

The loss of land, the selling or ceding of land, was a foreign idea to the Indian mind. Under the influence of the new commercial ideas and practices from the later Middle Ages onwards, Europeans had come to regard land largely as a commodity. As a commodity, it could be bought and sold and held in exclusive ownership by one proprietor. Indians had certainly recognized territorial boundaries pertaining to Indian nations. Wars had been fought over territory and control over territory had passed from one Indian nation to another. However, no Indian nation regarded land as a commodity. The general Indian concept of land, as contrasted with that held by Europeans, was held by all Indian peoples. Land with the waters, trees, plants, and animals has a spiritual dimension. Through that spiritual dimension human beings live in relationship with the land that supports them. The land is permanent, while the life of a human is transitory. A human cannot 'own' the land. Land was often referred to as a 'mother'... There was an obligation to care for the land which nurtured the people as a child grows up and cares for its mother." (*Nin.Da.Waab.Jig.*, 1987, pp. 19-20)

Frederick Hamil, a regional historian, in his *The Valley of the Lower Thames*, Toronto: University of Toronto Press, 1951, has also remarked on the significance of the waters of Bkejwanong:

The great marshes and plains of Dover and Tilbury spread eastward along the banks of the river for six miles from Lake St. Clair. Then the trees began, but on the south the plains continued almost to the Forks at Chatham, at a distance of less than a mile from the stream, and with an average width of three or four miles. On the north the prairies extended along the shore of Lake St. Clair and the Chenail Ecarté to the River Sydenham and for several miles inland. The grasses there grew rank and luxuriant to a height of four or five feet, presenting a level sea of verdure broken only occasionally by small islands of shrubs and dwarfish willows, and by streams of sluggish water. Herds of elk roamed through these thousands of acres, where eagles and hawks circled in quest of prey, and where blackbirds, meadowlarks, and thrushes nested among the reeds. In the fall wild ducks and geese swarmed on the waters, which were filled with turtles, frogs, crayfish, and venomous snakes. For the Indians it was a hunter's paradise, and a place where in the drier portions they could plant their corn.

The remainder of the Lower Thames area was covered with a dense forest, intermixed with bogs and swamps, and open beaver meadows. In the depth of the woods the overhanging foliage shut out the sunshine and most of the daylight. The black mould produced little underbrush or herbage there, except for a reedy grass which sheltered deadly rattlesnakes. The great trunks of the forest giants and the vaulted boughs which closed like a roof far above created the impression of an enormous cathedral. These were, in general, hardwood trees, oak and walnut and maple and ash; white pine grew only on Pointe aux Pins at Rondeau Bay. The birds and the animals lived in the clearings, which abounded in sumach and flowers, and in grapes and berries. (1951, pp. 14-15)

5. For these Treaties see the following: July 9-14, 1764, Treaty of Niagara, *The Papers of Sir William Johnson*, Prepared for publication by Milton W. Hamilton, Vol. XI, Albany: The University of the State of New York, 1953, pp. 262-333; the Treaty of Detroit, August 27-September 4, 1765 in *Documents Relative To The Colonial History of the State of New York*, edited by E. B. O'Callaghan, Vol. VII, Albany:

Weed, Parsons and Company, Printers, 1856, 775-788, Letter, "Sir William Johnson to the Lords of Trade. Plantations General, XXV., (K. 7.), Johnson Hall 16th Novbr [November] 1765." The enclosure containing the Treaty of Detroit, is with this letter, "Journal of Colonel Croghan's Transactions with the Western Indians. [Plantations General Papers, XXV., "Journal & Transactions of George Croghan Esqr Deputy Agent for Indian Affairs with the several Indian Nations on his Journey to the Illinois as delivered by him to Sir William Johnson Baronet on his return." The Treaty is on pages 782-784; July 22-30, 1766, Treaty of Lake Ontario, National Archives of Canada (NAC), Record Group 10, Volume 1829, pps. 1-36; *Documents Relative to the Colonial History of the State of New York*, edited by E.B. O'Callaghan, Vol. VII, Albany: Weed, Parsons and Company, Printers, 1856, 854-867, "Proceedings of Sir William Johnson with Pontiac and other Indians. [Plantations General Papers, Vol. 26, T. No. 5], Proceedings at a Congress with Pontiac [Pontiac, War Chief of the Ottawas, b. c. 1712-1725, d. 1769] & Cheifs [Chiefs] of the Ottawas, Pautawattamies [Potawatomi], Hurons and Chippawaes begun Tuesday, July 23. 1766." See also 1979, "Sir William Johnson", *Dictionary of Canadian Biography*, Toronto: University of Toronto Press, Volume IV, Julian Gwyn, 394-398. It should also be highlighted that the Aboriginal perspective of water is a holistic one.

6. There is no history of water, ice, or snow in Canada from the perspective of the European written tradition. There are only regional histories of the uses of the waters or legal studies see for example, *Bibliographia Canadiana*, Claude Thibault (compiler), Toronto: Longman Canada Limited, 1973, pps. 625-628. See also the bibliography by Shepherd Krech III, *Native Canadian Anthropology and History, A Selected Bibliography*, Revised Edition, Winnipeg: Rupert's Land Research Centre, 1994. Although older, Frederick Hamil's *The Valley of the Lower Thames* is useful. Hamil pays special attention to the waters of the Thamesd River and its tributaries. However, more attention is being paid to the significance of the water in recent years. For example, see Barry M. Gough, *Gunboat Frontier*, Vancouver: University of British Columbia Press, 1984, which shows the conflict on the waters between the gunboats of the Royal Navy and the aboriginal Nations in the Pacific Northwest. Gunboats were also used on the waters of Bkejwanong for a variety of purposes. Aboriginal people, of course, have their own "history" of their waters.
7. See Brittany Luby, *Dammed: The Politics Loss and Survival in Anishinaabe Territory*, Winnipeg: University of Manitoba Press, 2020. See also the work of the Metis historian Michelle Murphy, (with Max Liboiron, Natasha Myers, Dayna Scott, Reena Shaadan), *Pollution is Colonialism* (Endocrine Disruptors Action Group and CLEAR, September 2017) and by the Anishinaabe legal scholar, Aimée Craft, "Navigating Our Ongoing Sacred Legal Relationship with Nibi (Water)", in J. Borrows, L. Chartrand, O. Fitzgerald and R Schwartz (eds), *Braiding Legal Orders: Implementing the United Nations Declaration on the Rights of Indigenous Peoples* (Centre for International Governance Innovation, 2019) pp.101-110; "Neither Infringement nor Justification – the SCC's Mistaken Approach to Reconciliation", in B. Gunn and K. Drake (eds), *Renewing Relationships: Indigenous Peoples and Canada* (University of Saskatchewan Native Law Centre, 2019) Chapter 3, pp. 59-82; "Giving and Receiving Life from Anishinaabe Nibi Inaakonigewin (Our Water Law) Research", in J. Thorpe, S. Rutherford and A. Sandberg, *Methodological Challenges in Nature-Culture and Environmental History Research*, (Routledge, 2017) pp. 105-119; "Living Treaties, Breathing Research". *Canadian Journal of Women and The Law*. 26:1-22, 2014; "Anishinaabe Nibi Inaakonigewin", Report on Elders Gathering, Winnipeg: Centre for Human Rights Research, 2014.
8. See, for example, Robert Doherty, *Disputed Waters, Native Americans & the Great Lakes Fishery*, Lexington, Kentucky: The University Press of Kentucky, 1990. Professor Laurence Hauptman has done some excellent work on the use of the waters for the St. Lawrence Seaway in his *The Iroquois and the New Deal*, Syracuse: Syracuse University Press, 1981 which spans both sides of the Canadian-American international border. For Canadian work, see the publications by Leo Waisberg, Victor Lytwyn and Tim Holzkamm on fishing in the Treaty #3 area in Krech, *Native Canadian Anthropology and History*. The only work on Indigenous people, water and water rights which covers all of Canada, and only from a legal perspective is Richard H. Bartlett's *Aboriginal Water Rights in Canada: A Study of Aboriginal Title to Water and Indian Water Rights*, Calgary: The Canadian Institute for Resources Law,

The University of Calgary, April, 1988.

9. Anna Jameson, *Winter Studies and Summer Rambles in Canada*, London: Saunders and Otley, Conduit Street. 1838, Coles Canadiana Collection, Toronto: Coles Publishing Company, 1970, 1972, Volume 3, 5-6.
10. 1987, Nin.Da.Waab.Jig., *Walpole Island, The Soul of Indian Territory*, Bkejwanong, especially 1-26. Richard Bartlett has observed that there are three legal sources of Aboriginal rights to water: 1) Aboriginal title, 2) Treaties, and 3) Riparian rights which flow from Reserve land ownership under English common law. See also his *Aboriginal Water Rights in Canada*, 1-6. Aboriginal title and rights to water also are protected under Section 35 (1) of Canada's Constitution as "Existing Aboriginal and Treaty rights". The latter is significant for federal and provincial legislation (which is often in direct conflict with Aboriginal water rights) since most waters in Canada have not been the subject of a Treaty.
11. 1987, Nin.Da.Waab.Jig., *Walpole Island, The Soul of Indian Territory*, Bkejwanong, especially 1-26.
12. October 7, 1763, Royal Proclamation of 1763, *As Long as the Sun Shines and the Water Flows: A Reader in Canadian Native Studies*, edited by Ian A.L. Getty and Antoine S. Lussier, Vancouver: University of British Columbia Press, 1983, 29-37.
13. National Archives of Canada (NAC), Record Group 10, Volume 1822, 35.
14. *The Papers of Sir William Johnson*, Volume XL, 395-396. See also 1979, "Sir William Johnson", *Dictionary of Canadian Biography*, Toronto: University of Toronto Press, Volume IV, Julian Gwyn, 394-398.
15. July 9-14, 1764, Treaty of Niagara, *The Papers of Sir William Johnson*, prepared for publication by Milton W. Hamilton, Vol. XI, Albany: The University of the State of New York, 1953, 262-333.
16. July 22-30, 1766, Treaty of Lake Ontario, National Archives of Canada (NAC), Record Group 10, Volume 1829, 1-36. Another later copy of this Treaty is in *Documents Relative to the Colonial History of the State of New York*, edited by E.B. O'Callaghan, Vol. VII, Albany: Weed, Parsons and Company, Printers, 1856, pps. 854-867, entitled "Proceedings of Sir William Johnson with Pontiac and other Indians. [Plantations General Papers, Vol. 26, T. No. 5]. This latter document is noted to be "... a true copy of Sir William Johnsons Transactions at Ontario compared with the Records." See also 1979, "Sir William Johnson", *Dictionary of Canadian Biography*, Toronto: University of Toronto Press, Volume IV, Julian Gwyn, 394-398; 1974, "Pontiac", *Dictionary of Canadian Biography*, Toronto: University of Toronto Press, Volume III, Louis Chevette, 525-531; 1987, *Atlas of Great Lakes Indian History*, Norman: University of Oklahoma Press, Helen Hornbeck Tanner, (editor), 52-53.
17. 1987, Nin.Da.Waab.Jig., *Walpole Island, The Soul of Indian Territory*, Bkejwanong, especially pps. 1-26; 1979, "Sir William Johnson", *Dictionary of Canadian Biography*, Toronto: University of Toronto Press, Volume IV, Julian Gwyn, 394-398.
18. 1979, Biography of "Alexander McKee", *Dictionary of Canadian Biography*, Toronto: University of Toronto Press, Volume IV, Reginald Horsman, 499-500.
19. The best examples are Pelee and Bob Lo Islands, both of which are currently the subject of specific land claims before the federal government. Neither of these islands has ever been surrendered to the Crown.
20. May 19, 1790, Treaty #2, (otherwise known as the McKee Treaty of 1790). Canada, *Indian Treaties and Surrenders*, Vol. 1, Ottawa: Queen's Printer, 1891, (Reprinted by Fifth House Publishers, Saskatoon, 1992), 1-5.
21. 1797, Upper Canada Land Petitions, Bundle A, 1796-1840, Petition of Sarah Ainsie, NAC, Public

Records Division, RG 1, L 3, VOL. 3, A Bundle 4, 1796-1798, NO. 45, (Microfilm Reel C-1609), 45c-45d. See also 1964, *Matthew Elliott, British Indian Agent*, Detroit: Wayne State University, 113-114. See also for a modern study, 1987, Colin G. Calloway, *Crown and Calumet, British-Indian Relations, 1783-1815*, Norman: University of Oklahoma Press, especially 51-76.

22. *Ibid.*, The copy of the document quoted here is from RG 10, Volume 785, 181477-181480.
23. National Archives of Canada (NAC), Record Group 10, (RG 10), Indian Affairs Records, Vol. 58. 59,412-59,812.
24. For example as early as 1798, Alexander McKee reported that a Shawnee Chief had told him that they had met in council and decided to send a delegation to England to place their views before King George III. On May 24, 1804 Wetawninse, likely also Wittaness, "Chief of the Chippawa's" of the Walpole Island First Nation, who was at the 1795-96 Council meetings and who had signed the alleged Treaty #7 document in 1796, wrote to Alexander McKee's son, Captain Thomas McKee. The latter had married one of John Askin's [a trader and land speculator of Detroit] daughters and was thus part Indian. Wetawninse reported, from the "River St. Clair" that

Brother

As you always told me to let you know when any person or persons, molested us in regard to Our Lands. And in compliance with your friendly request, I now take the Liberty to inform you of the same.

I went yesterday with Captain [Alexander] Harrow [the naval commander at Amherstburg] to Chenail Ecarte to see those people that are now settling there and to observe whether they were encroaching on our Grant which if you remember, you told me, that it was allotted for us and our Children and to remain so. I found they had not encroached any as yet, but Captain A. Harrow then and there told me that we had not one Inch of Land in these parts and that which belongs to us lies a great ways to the westward of this.

Such language as that, held forth, is not very agreeable to us and hope my Brother will take it into Consideration and if possible put a stop to such proceedings. And will much oblige your Friend and Brother.

At the bottom of this letter, after drawing his totem, Chief Wetawninse wrote: "N.B. Brother I have now acquainted you of it, I heard a bad Bird speaking and makes me feel very Ugly and my heart is very sore." Only eight years after the Councils of 1795-96, which established the Chenail Ecarte Reserve, officials were denying that such a Reserve ever existed. Captain Thomas McKee's response to this letter has not been found.

25. 1987, Nin.Da.Waab.Jig., *Walpole Island, The Soul of Indian Territory*, Nin.Da.Waab.Jig., Bkejwanong, Chapter 3, "Enaaknigewinke geeshoog Treaty Making 1790-1827", 17-26.
26. Treaty of Detroit, 1807.
27. *The Unfortified Boundary, A Diary of the first survey of the Canadian Boundary Line from St. Regis to the Lake of the Woods by Major Joseph Delafield American Agent under Articles VI and VII of the Treaty of Ghent*, edited by Robert McElroy and Thomas Riggs, Privately printed in New York, 1943, 62-63; see also for its effect on the Walpole Island First Nation, 1987, Nin.Da.Waab.Jig., *Walpole Island, The Soul of Indian Territory*, Nin.Da.Waab.Jig., Bkejwanong, Chapter 3, "Enaaknigewinke geeshoog Treaty Making 1790-1827", 17-26.
28. For example, on June 18, 1821, the spokesmen of the Walpole Island First Nation, (the "Chippawas of River St. Clair", as reported by the Indian Department), delivered a Speech (the "Substance" of which has been recorded) in the presence of "Captain Reed 68th Regiment Commandant Lieutenant

Jackson 68th Regiment and Superintendent, Clerks and Interpreters of the Indian Department”:

Father

Our Just Father/Mr. Askin [Senior, (1739-1813), the Detroit trader and land speculator]/ told us that part of the Shawansee Township should be ours, it was on this condition that we agreed to sell our Lands. You know that We hesitated a long time before We would consent to let our Great Father have them but when we were promised to be allowed to settle in this Township we then consented, we have since been ill treated by the Settlers who are now there. Many of us have had our Corn destroyed and our Camps set fire to.

Father

It is Customary among the White people to exact Interest from their debtors if the amount is not paid when due, it is now four [1817?] years since We have been in treaty about our Lands [Treaty #21 (1819), the Longwoods Reserve, among other Aboriginal lands] and we require some remuneration for the losses we have sustained in not receiving our payments at the proper time, if you do not intend to pay us, return us our Land and say Nothing more about it, but as we have signed the agreement you probably will insist upon keeping it, if so, pay us, why have we not been paid before.

Father

The People on the other side do not tell you that we are deceived, but they tell us—do we say they make promises which we do not fulfill. Do we not pay you for our Lands the moment the payments become due look at the difference. Your Father promises but does not perform. This they tell us and we have good reason to believe them.

29. “Treaty #27 1/2 and #29”, *Canada, Indian Treaties and Surrenders*, Vol. 1, Ottawa: Queen’s Printer, 1891, (Reprinted by Fifth House Publishers, Saskatoon, 1992), 65-7, 71-5.
30. April 26, 1825, Treaty #27 1/2, and Treaty #29, July 10, 1827, *Canada, Indian Treaties and Surrenders*, Vol. 1, Ottawa: Queen’s Printer, 1891, (Reprinted by Fifth House Publishers, Saskatoon, 1992), 65-7; 71-5. It should be noted that the provisional agreement, Treaty #27 1/2, contains no reference to waters and Treaty #29 states, without any further discussion, that the Treaty area includes “waters, watercourses”. This inconsistency is obviously an error in the Treaty #29 document which certainly had not been discussed with the First Nations in the negotiations. On this subject see also McNab, “Treaties and an Official Use of History”, *The Canadian Journal of Native Studies*, Vol. XIII, No. 1, 1993, 139-43.
31. August 5, 1867, “Memorial of the Chippeway, Potawatomy and Ottawa Indian Nations of Walpole Island, touching their claim of the Huron Reservation, Fighting and Bois Blanc Island” to Lord Monck, Governor General of Canada. Hand delivered by William N. Fisher at Ottawa, Nin.Da.Waab.Jig. Files; May 30, 1869, “Memorial”, Walpole Island First Nation, to Sir John Young, Governor General of Canada, NAC, RG 10 Volume 787, (Microfilm Reel # C-13,499), 12-20.
32. McNab, “The Walpole Island Indian Band and the Continuity of Indian Claims: An Historical Perspective”, Nin.Da.Waab.Jig, *Occasional Papers*, 1985. The solemn Treaty promises have not been fulfilled to this day despite official pronouncements by the federal government since the resistance movement at Kanehsatake in the summer of 1990. The Crown’s relationship with the Aboriginal Nations has been put into jeopardy and severely damaged. The Covenant Chain, always unbroken, has not been “recast”; it has been tarnished and bent since the 1820s.
33. July 22-30, 1766, Treaty of Detroit, National Archives of Canada (NAC), Record Group 10, Volume 1829, 1-36.

34. Jarvis Family Papers, Metropolitan Toronto Reference Library, Toronto, Ontario, Baldwin Room, pp. 378-380. A copy is also in Nin.Da.Waab.Jig.'s files.

**About the Author**

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