



*To - Mr. Cannon*  
*From - L.A. Aschenbrenner*

## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

Mr. Purcell Powless  
Tribal Chairman  
Oneida Business Committee  
Oneida Tribe of Indians of Wisconsin, Inc.  
Route 4  
De Pere, Wisconsin 54115

APR - 7 1980

RECEIVED

APR 9 1980

N. A. R. F.  
WASHINGTON

Dear Mr. Powless:

This is intended to address your letter of April 25, 1979, to President Carter regarding the land claims of the Oneida Indian Nation in the State of New York. As former Interior Department Solicitor Leo M. Krulitz and Tim Vollmann of his staff explained at the November 9, 1979, meeting here with Oneida representatives, it was thought that Mr. Krulitz' letters of May 1, 1979 (which apparently crossed your letter in the mail), and August 8, 1979, had adequately addressed the issues raised in the Business Committee's letter to the President. Nevertheless, Mr. Krulitz then personally promised Mr. Francis Skenadore and Mr. Howard Cannon of your tribe a direct reply to the April 25 letter. This is in keeping with that commitment. We regret any misunderstanding.

Initially, I wish to point out that the President is personally familiar with the general problem of the eastern Indian land claims and that he has provided direction to government officials in the handling of these claims. However, because of the President's daily press of business the Secretary of the Interior has been specifically delegated the primary responsibility for developing solutions to these claims.

This Department has dealt with all tribes which are making such claims in essentially the same manner. Our policy is to strive to achieve amicable legislative settlements of these claims, if that is at all possible. In pursuit of this goal we have met with tribal leaders and their attorneys in an attempt to negotiate fair settlements. Unfortunately, this approach has not yet begun with respect to the claims of the Oneida Nation, because of the intratribal turmoil within the Oneida Indian Nation of New York. We have not sought to begin formal settlement negotiations with self-appointed spokesmen of that tribe for fear that this might be viewed by that tribe's membership--and the outside world--as an arbitrary enforcement of one faction as the official leadership of the tribe. We have sought instead a clearcut indication of the actual desires of the New York Oneida people in this regard. Nevertheless, much time has passed without a final solution to that intratribal controversy, and we realize that a settlement process must now begin. Our strategy for commencing such a settlement process is contained in our March 3, 1980, letter to your attorney, Mr. Lawrence A. Aschenbrenner of Native American Rights Fund. You have been provided with a copy of that letter and we will therefore not repeat in detail the points made therein.

In short, we wish to speak directly with official representatives of the Oneida Tribe of Indians of Wisconsin toward settlement of all Oneida claims in New York. We will attempt to bring representatives of the State of New York into these discussions, and we are willing to invite other Oneida spokesmen to whose participation you have no objection. However, if some interested parties are unable or unwilling to participate in general discussions, we intend to meet with you and then to seek the others' views individually to insure that all viewpoints have been aired. Insisting upon the attendance of all parties at a single meeting is also logistically impractical. Please note that we were first able to convene a meeting of all Oneida factions and tribes on November 9, 1979, over six months after the May 1, 1979, letter proposing the commencement of settlement negotiations. The pendency of several lawsuits and the hardship resulting from the clouding of the titles in the claim areas make further delay unjustifiable. Our trust responsibility to the Oneida Nation also requires that we begin this process immediately.

To handle these important discussions I have personally appointed Mr. Tim Vollmann, Assistant Solicitor for Indian Land and Minerals. Mr. Vollmann is experienced in these matters, having chaired negotiations of the land claims of the Cayuga Indian Nation and the St. Regis Mohawk Tribe in New York State. Of course, Mr. Vollmann will not have the final say for the government in any settlement discussions, any more than your lawyers will be able to speak finally for the Oneida Tribe. Positions of the government must be approved by the Secretary; final agreements must be reviewed and approved by the Office of Management and Budget and any other involved agencies; and settlement legislation must be passed by both houses of Congress and signed by the President.

I hope the coming discussions will prove to be fruitful.

Sincerely,

(Sgd) Cecil D. Andrus

SECRETARY

cc: Lawrence A. Aschenbrenner, Esq.



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

APR 3 1980

Honorable Morris K. Udall  
Chairman, Committee on Interior and  
Insular Affairs  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Udall:

This is to advise you of this Department's position with respect to H.R. 5619, "A bill to clear titles of Indian claims in the counties of Madison and Oneida, New York," which was introduced in October and referred to your committee.

H.R. 5619 is designed to extinguish the land claims of the Oneida Indian Nation in Madison and Oneida Counties by ratifying all previous transfers of land made from, by, or on behalf of any Indian, Indian nation or tribe of Indians. The Oneida Nation <sup>1/</sup> is presently pursuing monetary claims against the two counties in U.S. District Court, alleging that thousands of acres in those counties were conveyed to non-Indians between 1795 and 1846 in violation of the restrictions against alienation of the Indian Nonintercourse Act (R.S. §2116; 25 U.S.C. §177), and are therefore void. See Oneida Indian Nation v. County of Oneida, 434 F.Supp. 527 (N.D.N.Y. 1977). While the lawsuits do not now contain a prayer for present possession of the land, it is apparent that if the claims can be proved, the Oneida Nation may well have a valid legal claim to the land itself. The District Court has already ruled in favor of the Tribes on the issue of monetary liability, and that ruling is now on appeal to the U.S. Court of Appeals for the 2nd Circuit. Moreover, this Department has taken the position that the Oneidas have credible claims to as much as 250,000 acres in Madison and Oneida Counties.

<sup>1/</sup> Plaintiffs in these suits include the Oneida Indian Nation of New York, the Oneida Tribe of Indians of Wisconsin, Inc., and the Oneida of the Thames Band Council from Ontario, Canada. The District Court has ruled that all three Tribes are direct descendants of the original Oneida Indian Nation and are therefore entitled to assert these claims.

Because of the size of the Oneida claims and the fact that the mere pendency of the claims may cast a serious cloud over the titles of thousands of innocent landowners, the Administration has encouraged the negotiation of legislative settlements of these claims. The State of New York and Oneida leaders have by and large also endorsed the concept of amicable legislative settlements. Unfortunately, because of factionalism within the Oneida Indian Nation of New York no negotiations have begun. Both the State and Federal governments are understandably reluctant to attempt to negotiate with some Oneidas when others could disavow any settlement proposal and pursue the land claims in court. In view of this dilemma this Department has considered development of a legislative settlement proposal without the aid of formal negotiations. Nevertheless, we are still attempting to obtain input from all interested parties, including especially the Oneidas themselves.

Meanwhile, H.R. 5619 was introduced. We presume that the underlying reason for the bill is to protect innocent landowners from the assertion of the Oneida claims. However, unlike any legislative settlement of the claims, the bill provides no consideration for their extinguishment. It would merely deny the Oneida Indian Nation the opportunity to assert them. It is possible nonetheless that if the bill were enacted, the Oneidas would have a monetary remedy against the United States in the Court of Claims. But the amount of any liability is impossible to predict, and it is conceivable that it could be immense. We are unwilling to expose the United States Treasury to the risk of tremendous liability in order to resolve these claims. Any legislation designed to extinguish the claims should at the very least provide either for consideration for the extinguishment or for a specific and satisfactory remedy with a predictable realm of possible liability. H.R. 5619 provides neither.

On November 9, 1979, very shortly after the introduction of H.R. 5619, then-Solicitor Leo Krulitz met with Oneida spokesmen and attorneys representing every Tribe and faction of the Oneida Nation. While they could not all agree on a strategy for the commencement of negotiations, it appeared that the level of dialogue had improved substantially and that there might be some basis for soon discussing proposals for settlement of the claims. This dialogue is of course dependent upon a high level of good faith and understanding among all the participants in the legislative process. At the request of the Oneida leaders, and to demonstrate such good faith,

we are offering this early appraisal and opposition to the summary solution of H.R. 5619. We intend to work with concerned Members of Congress to develop an alternative solution in the near future.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,



Rick C. Lavis

DEPUTY ASSISTANT SECRETARY

- cc: Honorable James M. Hanley  
U.S. House of Representatives
  
- Honorable Donald J. Mitchell  
U.S. House of Representatives
  
- Honorable Jacob Javits  
U.S. Senate
  
- Honorable Daniel Patrick Moynihan  
U.S. Senate
  
- Oneida Nation Representatives