



CHIEF DELBERT RILEY  
HEREDITARY CRANE CLAN CHIEF, CHIPPEWA NATION



**TO:** Chief Bob Gloade <[chief@millbrookband.com](mailto:chief@millbrookband.com)>, Natasha Benard <[natashabernard@millbrookband.com](mailto:natashabernard@millbrookband.com)>, Anissa Blackmore <[anissablackmore@millbrookband.com](mailto:anissablackmore@millbrookband.com)>, Alex Cope <[alexcope@millbrookband.com](mailto:alexcope@millbrookband.com)>, Carley Gloade <[carleygloade@millbrookband.com](mailto:carleygloade@millbrookband.com)>, Garrett Gloade <[garrettgloade@millbrookband.com](mailto:garrettgloade@millbrookband.com)>, Chris Googoo <[chrisgoogoo@millbrookband.com](mailto:chrisgoogoo@millbrookband.com)>, Zachary Julian <[zacharyjulian@millbrookband.com](mailto:zacharyjulian@millbrookband.com)> Ward Markie <[wardmarkie@millbrookband.com](mailto:wardmarkie@millbrookband.com)>, Lisa Marshall <[lisamarshall@millbrookband.com](mailto:lisamarshall@millbrookband.com)>, Stephen Marshall <[stephenmarshall@millbrookband.com](mailto:stephenmarshall@millbrookband.com)>, James Stevens <[jamesstevens@millbrookband.com](mailto:jamesstevens@millbrookband.com)>, Dana Sylliboy <[danasylliboy@millbrookband.com](mailto:danasylliboy@millbrookband.com)>,  
**CC:** Thomas Durfee <[tkdurf@gmail.com](mailto:tkdurf@gmail.com)>, The Governor General of Canada Her Excellency the Right Honourable Mary Simon <[info@gg.ca](mailto:info@gg.ca)>, Minister of Crown–Indigenous Relations Marc Miller <[Marc.Miller@parl.gc.ca](mailto:Marc.Miller@parl.gc.ca)>  
**SUBJECT:** The constitutionally protected right of Thomas Durfee to establish a Truck house

**July 12, 2022**

Dear Chief Bob Gloade and Band Councillors Natasha Benard, Anissa Blackmore, Alex Cope, Carley Gloade, Garrett Gloade, Chris Googoo, Zachary Julian, Ward Markie, Lisa Marshall, Stephen Marshall, James Stevens, and Dana Sylliboy,

I am writing to you on behalf of Thomas Durfee, a member of Millbrook First Nation.

Mr. Durfee and his family have requested that I act as their representative to help achieve a resolution to some issues they are facing concerning the violation of their constitutionally protected Aboriginal and Treaty rights by your Band Council.

By means of introduction, I would like to inform you of my relevant qualifications as Mr. Durfee's representative. I am a Hereditary Chief of the Crane Clan of the Chippewa Nation, a former elected Chief of the Chippewas of the Thames First Nation, a former Land Claims Director and later President of the Union of Ontario Indians, and the last President of the National Indian Brotherhood (the forerunner to the Assembly of First Nations, which I helped to create). Among my many achievements as President of the National Indian Brotherhood was the development and negotiation of Sections 25 and 35 of the Canadian Constitution which enshrine the protection of Aboriginal and Treaty Rights in Canadian law.

Over the course of over 50 years of experience in Indigenous politics at a local, regional, national, and international level, I have become an expert in Aboriginal and Treaty Rights, the interpretation of the Canadian Constitution, and the nature of the powers delegated to *Indian Act* Chiefs and Councils such as yourselves.



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As you know, Mr. Durfee is building a drive way and establishing a business on the Andrew Ave. Cul de Sac in Cole Harbour on unceded Mi'kmaq land. His location is a small strip of land nestled next to his Uncle Chris Nasson's and his Grandmother Theresa Nasson's property. His family members support his venture as do the other residents on Andrew Ave that Mr. Durfee has canvassed.

The business that Mr. Durfee is establishing is a Truck house or trading post, for the purpose of selling cannabis, beadwork, drums, and other Mi'kmaq made products. In accordance with his inherent rights as a Mi'kmaq person living on unceded Mi'kmaq land and his constitutionally protected Section 25 and 35 Aboriginal and Treaty Rights, Mr. Durfee has every right to open his truck house without interference from the Federal Government, the *Indian Act* system, or its Band Council employees.

Mr. Durfee is an heir and beneficiary of the 1752 Peace and Friendship Treaty made between the Crown and Jean Baptiste Cope *et al.* Section 4 of this treaty specifically states that:

4. It is agreed that the said Tribe of Indians shall not be hindered from, but have free liberty of Hunting and Fishing as usual and that if they shall think a Truck house needful at the River Chibenaccadie, or any other place of their resort they shall have the same built and proper Merchandize, lodged therein to be exchanged for what the Indians shall have to dispose of and that in the mean time the Indians shall have free liberty to bring to Sale to Halifax or any other Settlement within this Province, Skins, feathers, fowl, fish or any other thing they shall have to sell, where they shall have liberty to dispose thereof to the best Advantage.

Mr. Durfee and his family find it needful and beneficial to their interests to open a Truck house on Andrew Avenue to sell the things they have liberty to dispose of to their best advantage, and they are doing so in accordance with their constitutionally protected Aboriginal and Treaty Rights.

In your "Stop Work Order" of July 7, 2022 you refer to "Millbrook By Law 2021-01" as a reason for Mr. Durfee to cease and desist in constructing his Truck house. Bylaws created by Millbrook First Nation – an institution of the Federal Government created by the *Indian Act* – do not override Mr. Durfee's constitutionally protected Aboriginal and Treaty rights on unceded Mi'kmaq lands.

While the "Millbrook First Nation" is an entity that can sue and be sued, it is not an "Indian." It did not make any treaties with the Crown, and it does not have any Aboriginal or Treaty Rights. The sovereign rights holders on Mi'kmaq lands are the Mi'kmaq people like Mr. Durfee who live in accordance with the customs and conventions of their people – not the institutions of the Federal Government which exist to discharge the Crown's fiduciary and treaty obligations to Indians. As employees of the Federal Government operating in accordance with its laws, you have the requirement to uphold the Minister's fiduciary responsibility to Mr. Durfee.



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It is my expert opinion that your “Construction and Development Moratorium Bylaw 2021-01” is unconstitutional. Your bylaw draws its legal claim from *Joe v. Findlay 122 D.L.R. (3d) 377* in which the Squamish Indian Band denied a band member access to reserve lands where he put his house trailer and other property. This court ruling was made in March of 1981, in the dark ages of Canada’s racist treatment of Indigenous peoples. The ruling in question came from the time before Canada gave protection to Aboriginal and Treaty Rights in Sections 25 and 35 of the Constitution and when the racist *St. Catherines Milling Co. v. Regina* interpretation of our rights held sway in the courts.

Because your bylaw violates Mr. Durfee’s constitutionally protected rights, it is null and void. Mr. Durfee is causing no harm to other rights holders by exercising his own rights, and he is willing to take action to ensure that this continues to be the case.

Matters such as the exercise of Mr. Durfee’s sovereign rights should be discussed in accordance with Indigenous customs and conventions and in settings involving the people as a whole – not through the racist *Indian Act* systems imposed by a colonizer who has committed – and continues to commit – cultural, physical, and economic genocide on our people.

There are clearly a number of issues which we need to discuss and resolve. I believe that these matters can best be handled by speaking together directly, and I am offering to provide my expertise to help resolve this conflict. I thus respectfully request the scheduling of a meeting to discuss your infringement of Mr. Durfee’s rights and fiduciary interests, and to decide how we will arrive at a satisfactory resolution of the matter.

Sincerely,

*Chief Del Riley*

Chief Del Riley, Crane Clan Chippewa Nation  
Former President, National Indian Brotherhood