



December 16th, 2022

Sergeant Phil Christopher,  
Detachment Commander,  
RCMP Eskasoni Detachment,  
4835 Shore Rd, Eskasoni, NS

**TO:** Sergeant Phil Christopher, Detachment Commander, RCMP Eskasoni Detachment  
**CC:** RCMP Assistant Commissioner Dennis Daley; Her Excellency the Right Honourable Mary Simon, Governor General of Canada; Albert Marshall.

Dear Sergeant Phil Christopher,

My name is Chief Delbert Riley. I am a Hereditary Crane Clan Chief 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 found). Among my many achievements as President of the National Indian Brotherhood was the creation 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 a recognized expert in Aboriginal and Treaty Rights, the interpretation of the Canadian Constitution, and the issue of cannabis as it applies to the *Indian Act* and “lands reserved for Indians” as defined by the Royal Proclamation of 1763.

On December 9th, 2022, the RCMP Eskasoni Detachment issued the Bear Buds Trading Post, located at 14 Noel Street, in Eskasoni, unceded Mi'kmaq territory (on “lands reserved for Indians”) a letter requesting “documentation issued by the Government of Canada and/or the Province of Nova Scotia that indicates and or authorizes Bear Buds Trading Post as an Authorized Seller of Cannabis.” Mr. Albert Marshall, the owner of Bear Buds Trading Post has asked me to reply to you on his behalf and to lend my expertise as a former National leader and treaty expert to help resolve these matters and to explain your fiduciary responsibility under the Canadian Constitution to uphold the Aboriginal and Treaty Rights of Mr. Marshall.

As a Mi'kmaq man, Mr. Marshall has an inherent Aboriginal right to support himself from the lands and waters that the Creator put his people upon and from the animals and plants the Creator provided. These rights include the right to engage in trade, to participate in the Mi'kmaq economy, and to provide medicines to people in need. Cannabis is now a legal product in Canada, and its medicinal applications have been recognized by the Canadian Supreme Court when it struck down the prohibition of cannabis. Mr. Marshall's Aboriginal rights are succinctly



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defined in the "[Declaration of First Nations](#)" produced by the Assembly of First Nations to define Aboriginal Rights after the "repatriation" of the Canadian Constitution in 1982.

As far as Canada and the RCMP is concerned, Mr. Marshall's rights in this regard are explicitly recognized by the Crown through the Royal Proclamation of 1763, and are protected by Section 25 and 35 of the Canadian Constitution.

Mr. Marshall's rights to operate a medicinal cannabis dispensary on unceded Indian lands and to trade legal products are further outlined in the so-called "Peace and Friendship treaties" the Crown made with the Mi'kmaq people. The [1752 Peace and Friendship Treaty](#) recognizes the rights of Mi'kmaq people to establish "truckhouses" at locations of their choosing and states that they have "free liberty to bring for 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."

This and other relevant Peace and Friendship treaties which recognize and describe the Aboriginal rights of the Mi'kmaq have been given constitutional protection by Section 35 of the Constitution which "recognizes and affirms" the "existing aboriginal and treaty rights of the aboriginal peoples of Canada." As officers of the Crown, you have a fiduciary responsibility to uphold these treaties and the honour of the Crown that made them.

Of note, none of the Peace and Friendship treaties surrendered any Mi'kmaq lands to the Crown, and nor were any Mi'kmaq lands ever surrendered to the French. According to the Nova Scotia Supreme Court, Appeal Division in [R. v. Isaac, 1975 CanLII 2416 \(NS CA\)](#) the Royal Proclamation of 1763 "applied to Nova Scotia including Cape Breton. Its recital acknowledged that in all colonies, including Nova Scotia, all land which had not been "ceded to or purchased by" the Crown was reserved to the Indians as "their Hunting Grounds." Any trespass upon any lands thus reserved to the Indians was forbidden." The Bear Buds Trading Post is situated upon these unceded "lands reserved for Indians."

After an examination of all treaties made between the Crown and the Mi'kmaq people, the R. v. Isaac decision stated that "No Nova Scotia treaty has been found whereby Indians ceded land to the Crown, whereby their rights on any land were specifically extinguished, or whereby they agreed to accept and retire to specified reserves." In the decision, Justice MacKeigan stated that "I have been unable to find any record of any treaty, agreement or arrangement after 1780 extinguishing, modifying or confirming the Indian right to hunt and fish, or any other record of any cession or release of rights or lands by the Indians."

Indeed, the Mi'kmaq have no record of having received any payment for the sale of their lands from Canada or the French or British Crowns, and have no record of ever surrendering any lands in accordance with the protocols described in the Royal Proclamation of 1763.



Mr. Marshall's inherent Aboriginal and Treaty right to make medicine and to provide that medicine to people in need is further outlined in Canada's "[United Nations Declaration on the Rights of Indigenous Peoples Act](#)" which received Royal assent on June of 21st, 2021. This law provides "a framework for reconciliation, healing and peace, as well as harmonious and cooperative relations based on the principles of justice, democracy, respect for human rights, non-discrimination and good faith" and adopts the United Nations Declaration on the Rights of Indigenous Peoples which "is affirmed as a source for the interpretation of Canadian law." According to its text, the "Act is to be construed as upholding the rights of Indigenous peoples recognized and affirmed by section 35 of the [Constitution Act, 1982](#)."

The Act further states that "The Government of Canada must, in consultation and cooperation with Indigenous peoples, take all measures necessary to ensure that the laws of Canada are consistent with the Declaration." There are multiple aspects of the Declaration which pertain to Mr. Marshall's Aboriginal and Treaty rights to provide medicine and to engage in trade and economic development. The following are a number of Articles of the Declaration which are now enshrined in Canadian law:

**Article 3:** Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

**Article 5:** Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

**Article 20:** Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

**Article 23** Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.



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**Article 24:** Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals.

Unlike the Provincially regulated cannabis dispensaries, Mr. Marshall's dispensary is medicinal in nature and falls outside of the scope of Provincial regulation. Nor do *Indian Act* Chief and Councils have any authority or jurisdiction over the issue of cannabis on Indian lands or anywhere else for that matter. My position on this matter is not only confirmed by the text of the *Indian Act* itself, but it is also the position of the Canadian Government. According to a statement made by Mr. William Olscamp, a spokesperson for Indigenous Services Canada, it is the position of the Government of Canada that "there are no specific authorities or definitions in The Indian Act for the regulation of cannabis."

*Indian Act* Chief and Councils are not an "Indian." They did not make any treaties with anyone, and they do not have any Aboriginal or Treaty Rights. The sovereign rights holders of the Eskasoni Mi'kmaw Nation are the Mi'kmaq people like Mr. Marshall who live in accordance with the customs and conventions of their people on their unceded lands – not the institutions of the Federal Government which exist to discharge the Crown's fiduciary obligations to Indians such as Mr. Marshall.

Despite their fine words about "reconciliation" and "consultation," the Federal and Provincial governments failed completely to engage with any Indigenous nations in the creation of their Cannabis Acts, a point which the Senate's Standing Committee on Aboriginal Peoples made in trying to delay the passing of the *Cannabis Act*. Instead of taking the time to make certain their laws upheld constitutionally protected Aboriginal and Treaty rights on Indian lands, Federal and Provincial politicians rushed through legislation to please their voters and to enrich the early shareholders of cannabis companies. As a consequence, there are now more than 350 sovereign Indigenous cannabis dispensaries in operation across unceded lands, and that number is growing.

In closing, I note that the RCMP Eskasoni Detachment previously raided the Bear Buds Trading Post almost exactly two years ago (on December 17th, 2020.) Mr. Albert defended himself by raising a constitutional question and retained my services as an expert witness. I was looking forward to addressing your unconstitutional actions in court, however, the charges were dropped on August 17th, 2022 as the RCMP lead investigator [failed to show up to the court](#).

As a result of the dropping of court charges, your detachment has since returned Mr. Albert's empty cannabis jars, and the cash you seized. If the RCMP truly believed that Mr. Marshall has no Aboriginal and Treaty Right to sell medicinal cannabis on unceded Indigenous lands, then may I ask why did you not participate in his trial and resolve the constitutional issue there?



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I hope that this letter has been helpful in getting you to understand your fiduciary responsibility to uphold Mr. Marshall's constitutionally protected Aboriginal and Treaty rights. As the national Indigenous leader who personally negotiated the inclusion of Sections 25 and 35 in Canada's Constitution Act, I know these matters inside out and I am willing to meet with you to discuss this matter further and to answer any questions you might have on the topic of Aboriginal Rights.

To arrange a meeting, you may contact me at 416-526-4255.

On behalf of Albert Marshall,

*Chief Del Riley*

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