

# The Abenaki Seignourial Claims



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October 19, 2022**

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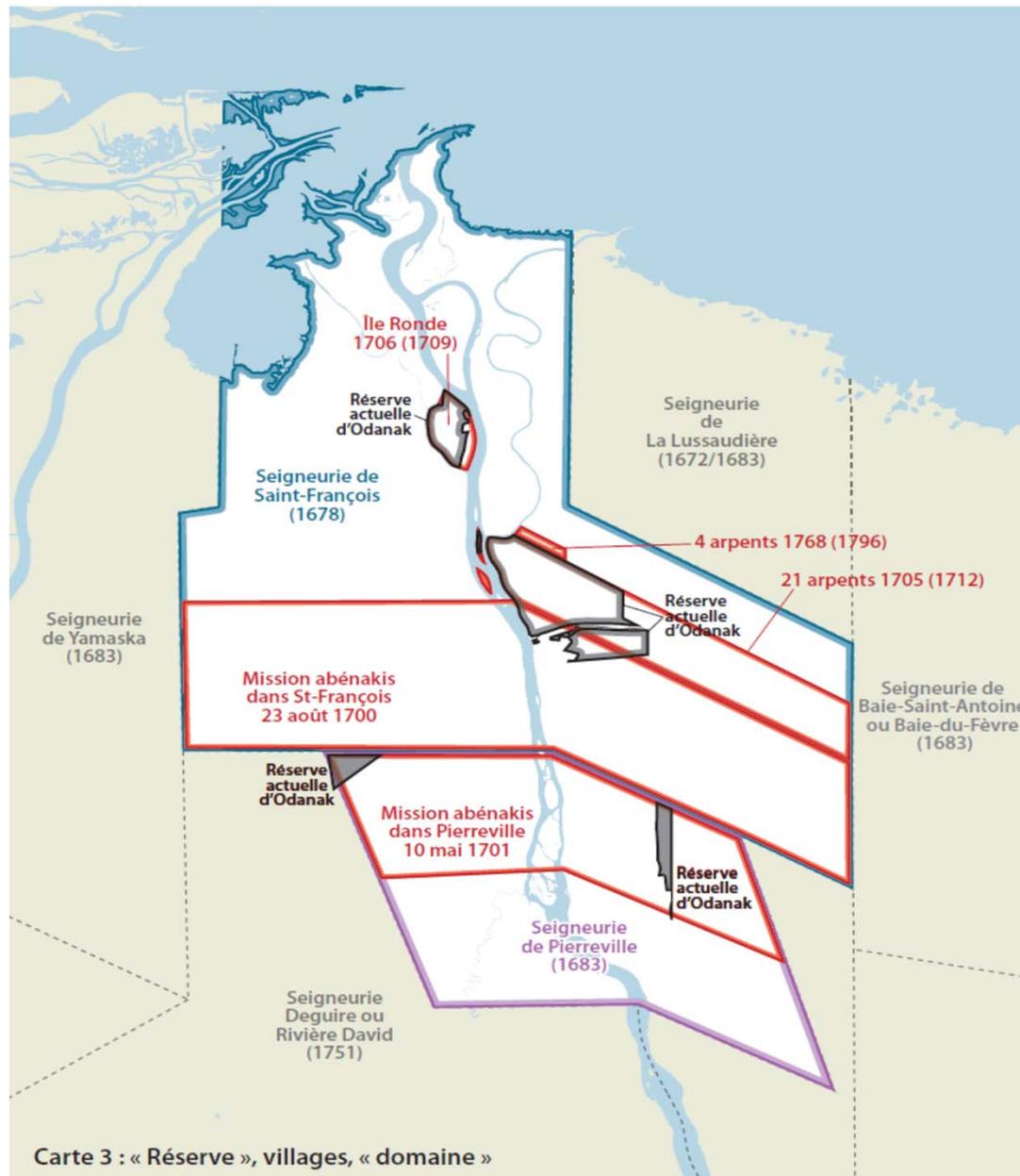
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## The St. Francis mission and the 38 lots (Odanak, SCT-2001-11, SCT-2003-11)

- Land grants to the Abenakis of Odanak mainly in 1700 and 1701, with extensions in 1706, 1705-1712, and 1768-1796, under pressure from the French authorities. Approximate area : at least 60 km<sup>2</sup> or 14,800 acres
- The Odanak reserve is still there but represents about 10% of the area of the original mission
- Claim no. 1: Territorial and monetary losses: Surveys and lawsuits by neighbouring seigneurs to the disadvantage of the Abenakis; effects of the abolition of the seigneurial system; uncollected rents
- Claim no. 2: Unlawful land surrender of several lots on the Odanak in 1868.



# The St. Francis mission (Odanak, SCT-2001-11)



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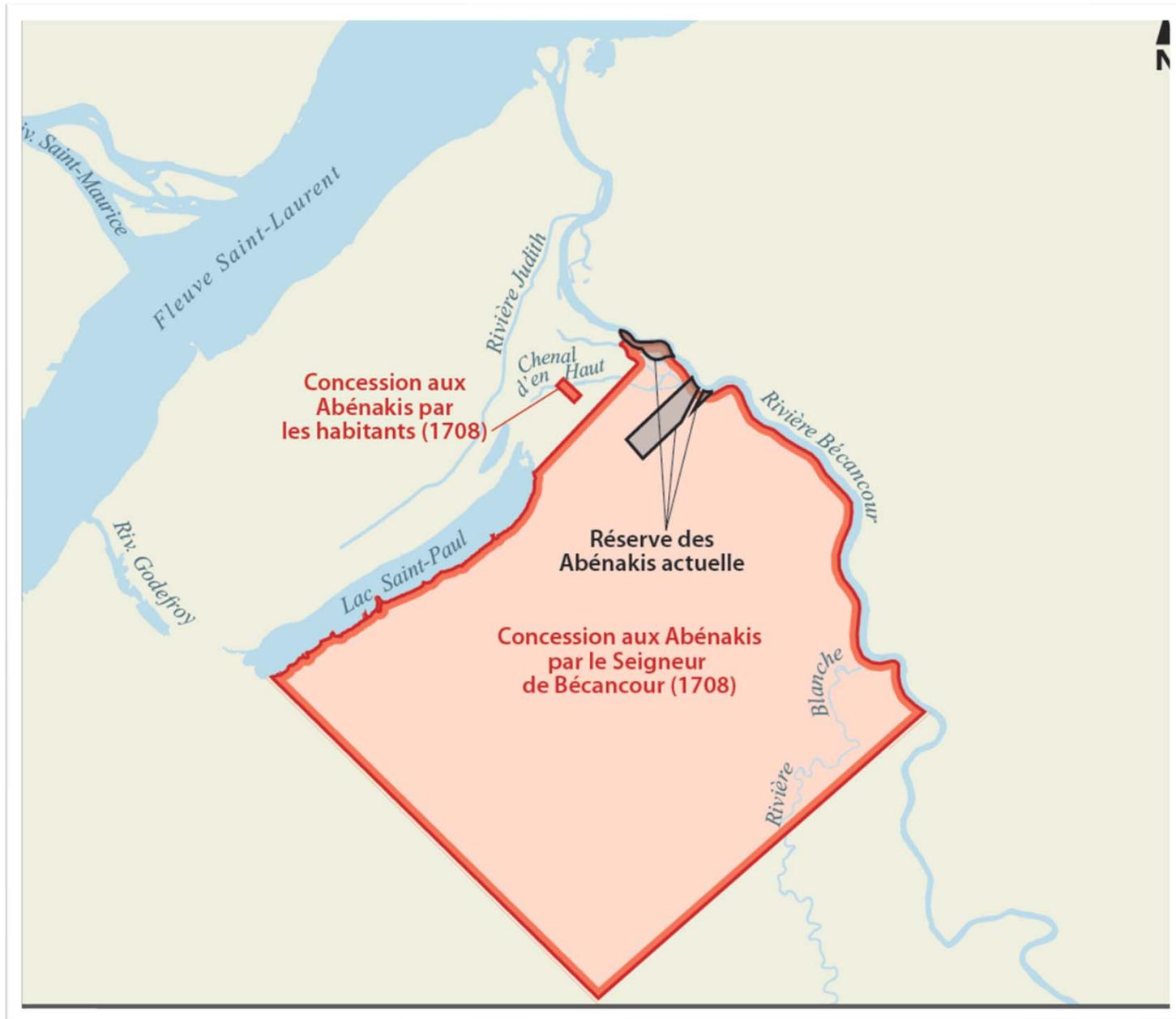
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Source: Stéphanie Béreau, August 2020

## The Bécancour mission (Wôlinak, SCT-2002-11)

- Land grants to the Abenakis of Wôlinak in 1707 and 1708, under pressure from the French authorities. Approximate area: 62 km<sup>2</sup> or 15,250 acres
- The Wôlinak reserve is still there but represents less than 1% of the area of the original mission.
- Land losses: encroachments by neighbouring seigneurs, unlawful land grants to Acadians

## The Bécancour mission (Wôlinak, SCT-2002-11)



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## The claims, in a nutshell

- Cover approximately **250 years** of history
- Legal Instruments invoked: Capitulation of Montreal (1760), Treaties of Oswegatchie and Kahnawake (1760), Royal Proclamation of 1763, various 18th century imperial instructions and orders, 19th century statutes and orders
- Claims refused for negotiation in 2011, filed in **2012** with the Specific Claims Tribunal
- **14** reports and additional expertise (historians, notary)
- **41** full days of expert testimony (fall 2020 and spring 2021), completely by Zoom
- Over **900pp** of legal arguments by First Nations

# Claims before the Tribunal

## Document management

- Permission to dispense with SCT rules requiring all evidence in both paper and electronic forms: everything filed electronically, and paper provided only at the request of the judge.
- FileMaker Pro database for filing the evidence (about 7500 exhibits)
- Need for two clerks during virtual hearing: (i) to record the hearing and (ii) to manage the evidence on Zoom
- Importance of filing transcriptions of handwritten documents

# Challenges encountered and trends observed

## Virtual hearing

### *Pros*

- More flexibility
- Less expensive

### *Cons*

- Symbolic importance to hold hearing in the community
- Less interest in attending virtual hearing
- Zoom fatigue

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# Challenges encountered and trends observed

## Funding and indemnity

- Meager funding, especially past 2 years, which have been the most active (less than 20 %)
- Some activities not funded
- \$150 million-cap for each claim – challenge to pre-Confederation claims and older historical claims

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# Challenges encountered and trends observed

## Judge's mandate

- *Specific Claims Tribunal Act* limits judge's mandate: two terms, maximum of 5 years each (art. 7)
- Limit of 120 days extension on mandate (art. 9(2))
- Challenge to large-scale claims for judge to hear evidence, arguments and render judgment within limited mandate
- Little chance that the same judge can preside over the compensation phase of claim
- Only member of the Tribunal trained in Quebec civil law

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# Next steps

Memoranda of facts and law to be filed by Canada

Hearing on oral arguments in the communities (Dec. 2022-Janv. 2023)

Decisions on the merits by Sept. 2023 (expiration of judge's mandate)

**Questions?**

**Wliwni (*thank you*)!**

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