

The Tobacco Wars: Corporate tobacco spawned the industry it fights

By Lynda Powless
Editor

TYENDINAGA- Shawn Brant is a Mohawk activist who has been involved in the Haudenosaunee tobacco industry for a decade.

He says, at some point all the Haudenosaunee communities were involved to varying degrees when it all started.

And ironically the very companies now lobbying the Canadian government to shut down the first nation tobacco industry, are the unwitting financiers of it.

Back in the early 1990s government pressed by Big Tobacco was readying itself to send in the army to stop what the Big Tobacco Industry called contraband.

"The (Canadian) government under (then Minister of Indian Affairs Jean) Chretien initiated 'Operation Scorpion.'

Operation Scorpion was brought to light by the Montreal press who uncovered the involvement of the Big Tobacco corporations in cross border smuggling and tax avoidance.

Brant says Operation Scorpion was a targeted attack planned against Kahnawake, Akwesasne, and Kahnésatake.

The Canadian government was mobilizing commandos from its "Joint Task Force Two," made up of 2000 RCMP, Surete du Quebec, Canadian military and the Canada Security Intelligence Service.

The plan; to invade the three territories to deal with tobacco.

It was dubbed Operation Campus and Operation Scorpion-Saxon, according to a published academic paper written by Timothy Winegard, an Oxford doctoral candidate who studies the relationship between the military and First Nations.

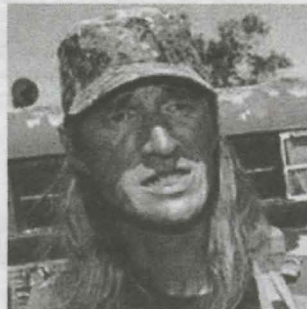
But it was the "threat of

"bloodshed" and a "nation-wide indigenous uprising" that forced the shelving of plans," wrote Mr. Winegard, in his paper, The Forgotten Front of the Oka Crisis:

Operation Feather/Akwesasne, published in the Fall-Winter 2009 edition of the Journal of Military and Strategic Studies.

And there was a hairdresser near Ottawa.

"The story goes when a woman in a hairdressing salon outside of Smithfalls complained to a woman fixing her hair that her husband's leave got cancelled because he had to go deal with the Indian problem that, that information was circulated back through our communities and got back



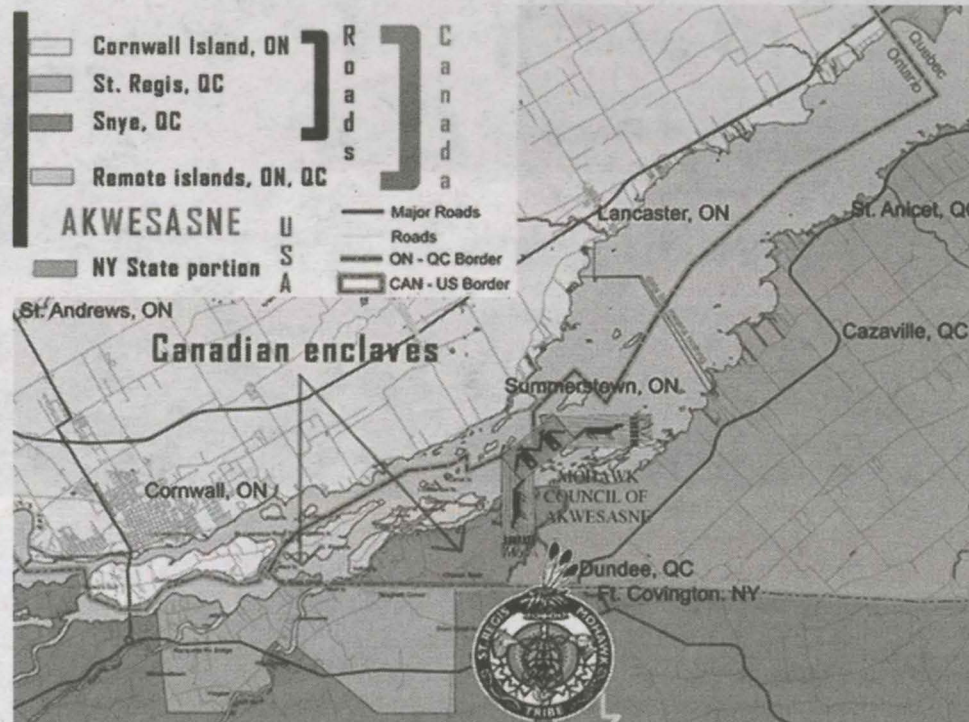
Shawn Brant

to Akwesasne. That's how we knew the government was going to launch that strike," said Brant.

The 16 page Winnegard report was picked up by the media and the story on Operation Scorpion broke.

Brant theorizes "Chretien was concerned the mission had been compromised at the time and there was a concern of loss of life on the Canadian military side so instead the decision was made to reduce taxes on name brand cigarettes as an alternative to a fullscale attack."

He says now, 20 years later, people are unaware of that 1994 operation. "Canadians, no one, should underestimate the willingness of government to deal with the tobacco industry because it



is a serious one."

Ironically, the entire smuggling industry began with the big tobacco manufacturers themselves.

In April of 2010 a then decade long court battle pitting Big Tobacco against the federal and provincial governments ended with two cigarette makers agreeing to pay more than half a billion dollars in connection with a massive smuggling operation set up in the 1990s to dodge taxes.

North-Carolina-based R.J. Reynolds Tobacco Co. agreed to pay a total of \$325 million to settle claims related to the smuggling.

A Reynolds subsidiary, Northern Brands International Inc., has been fined \$75 million after pleading guilty under the Criminal Code to one count of conspiracy for helping others sell contraband cigarettes.

Canadian tobacco manufacturer JTI-Macdonald Corp. was fined \$150 million after pleading guilty under the Excise Act to helping people sell and possess contraband tobacco.

Both levels of government reached deals with Imperial Tobacco Canada Ltd. and Rothmans Benson &

Hedges.

In total the big tobacco companies were hit with \$1.7 billion in fines and settlements.

Under the terms of the settlement, R.J. Reynolds did not admit any guilt.

While named in the suit, the company was not directly involved in the alleged smuggling.

However, its subsidiaries and operating companies "had individuals that were involved in alleged activities during those years," the company said then.

The fines stem from a contraband operation the RCMP called the biggest corporate fraud in Canadian history.

From late 1980s to the mid-90s, tobacco taxes were considered at an all-time high, several cigarette manufacturers shipped cartons of their product to the U.S. labelled "for export," avoiding Canadian excise levies, that apply to domestic products.

The cigarettes were then smuggled back into the country, many through Akwesasne, a Mohawk reserve that straddles the U.S.-Canadian border near Cornwall, Ont.

In Canada, the contraband

packs sold for half the price of the legal ones.

By 1992, an estimated 20 per cent of national brand cigarettes sold across Canada and 50 per cent of those sold in Quebec were smuggled. That figure rose to 60 per cent by 1994. The brands involved included Export A, Player's and du Maurier.

At the same time the smuggling operation was in full swing, tobacco companies were lobbying governments to lower cigarette taxes, pointing to the growth of the contraband product as the reason for tax relief.

Faced with a massive illegal industry and lost tax revenue, Ottawa and various provincial governments agreed in 1994 and lowered levies on tobacco. They raised them again after allegations surfaced in 1999 that the tobacco companies had masterminded the entire smuggling operation.

Northern Brands, the R.J. Reynolds subsidiary, was fined \$15 million US in 1998 on a tax evasion rap in the U.S.

The federal government sued major tobacco companies in 1999 in a U.S. court for several billion dollars in

damages, but that case was dismissed. In 2003, Ottawa tried again, this time in Canadian courts, suing the tobacco companies for \$1.5 billion.

The government also pursued criminal penalties against tobacco companies and their managers, laying charges for fraud and conspiracy in 2003 against then Toronto-based JTI-Macdonald, formerly known as RJR-Macdonald, and eight of its former senior executives.

In 2004 police raided the Montreal headquarters of Imperial Tobacco, looking for documents in relation to the smuggling.

"The tobacco smuggling in the early 1990s was, at the time, the largest and most destructive fraud in the history of Canadian business and public health," said Garfield Mahood, then executive director of the Non-Smokers' Rights Association.

For Shawn Brant, it was Mohawks that continue to shoulder a lot of the blame for the big tobacco companies.

"It involved our people, not exclusively, but we bore the brunt of the propaganda campaign initiated by the government," he says.

The new First Nations tobacco market was borne from money earned running products for the big tobacco companies into Canada.

"It was the proceeds from that time that allowed the manufacturers in our territories to start their own plants. So it kick started our own industry that we know today."

He said at least two of the big tobacco companies "even provided and sold machinery to First Nations operations."

The move to manufacturer with money earned from the Big Tobacco fraud spawned an industry Big Tobacco is pressing government today to stop.