**Treaty Rights and Section 35**

Section 35 of the Constitution Act states:

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

(2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada.

(3) For greater certainty, in subsection (1) “treaty rights” includes rights that now exist by way of land claims agreements or may be so acquired.

(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

Section 35 neither confirms nor creates absolute Aboriginal rights. It does confirm “existing Aboriginal or treaty rights” that had not been extinguished by surrender or legislation before 1982.

On the other hand, [Aboriginal rights](https://www.ictinc.ca/blog/what-are-aboriginal-rights) and treaty rights existing after proclamation of the Constitution Act, 1982 now receive significant legal protection under Section 35. Existing Aboriginal land rights can no longer be extinguished without the consent of those Aboriginal Peoples holding interests in those lands. Aboriginal consent may be required to give effect to legislation purporting to extinguish Aboriginal land rights, even if compensation is paid. Finally, government regulation of Aboriginal land rights may still be possible, if appropriate and meaningful consultation is undertaken with the affected Aboriginal communities.

In light of Section 35 and the information that follows, what should be done concerning the land around Reserve 107? Explain.

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