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ATTAWAPISKAT FIRST NATION

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January 19, 2022

SENT BY EMAIL

The Honourable Steven Guilbeault
Minister of Environment and Climate Change
House of Commons
Ottawa, ON K1A 0A6

(Steven.Guilbeault@parl.gc.ca)

Dear Minister:

Re: Regional Assessment in the Ring of Fire Area – Follow up on Zoom Call

Thank you Minister for meeting with us over Zoom on January 17. We voiced our deep concerns about the Terms of Reference for the Regional Impact Assessment for the region we know as the Breathing Lands, in which there is a push to develop a massive mining complex in the Ring of Fire. These are the world's lungs, and rampant mining development could not only destroy this globally critical carbon sink, but release its huge store of carbon and escalate climate change further into catastrophe. Development here would be reckless if it occurs without full, robust investigation of all the potential consequences – something that a *proper* RIA should do.

What Canada, in agreement with Ontario, plans to do is far from proper or safe, and instead promotes recklessness and danger. Your draft TOR is narrow in geographic and activity scope, and wrongly excludes us Indigenous peoples from all but token roles.

We Indigenous Nations are born of the Breathing Lands and it is our duty to protect them. The Breathing Lands need us as its guardians. We have millennia of knowledge, wisdom and a holistic worldview that understands these Lands. We have Inherent Jurisdiction to carry out our responsibilities here. We do not need the Crown's permission to do so. You baldly assert

sovereignty here; we have it. What we have asked you to do is to stop sabotaging our efforts and to instead use your laws and tools to work with us.

In brief, this is what we told you:

What is needed: Indigenous leadership of a robust investigation and decision making process for what can and should happen with the Breathing Lands, including the Ring of Fire.

Retract the Terms of Reference for the Regional Impact Assessment. They are fundamentally flawed in their scope, purpose, and legitimacy, and they cannot be fixed. Start afresh with a commitment to have the Regional Impact Assessment mutually and equally co-developed and co-led and co-enforced by an Indigenous Governing Body (a term used in your Impact Assessment Act) that we Indigenous Nations will develop. We will ensure the RIA is wide and deep and strong.

We need your decision by JANUARY 28. YES OR NO: will you tear up the current TOR and agreement with Ontario, and restart in equality with us Indigenous Nations to develop an RIA that will accomplish what the Breathing Lands and humanity require.

We also told you that offering more time to comment on the current TOR is not the solution, as they are so broken they cannot be fixed. More time will not help this.

There is far too much at stake to allow First Nations to be shuffled to the side again. We will not accept mere "participation" in a unilateral, top-down, Crown-led process that ignores our jurisdiction, laws, and responsibilities. Anything less than equal partnership in the development, implementation and enforcement of a robust RIA will not be enough to ensure this critical investigation and decision-making tool will be done right.

We are from here and have always been here and have been the only peoples here, ever. Western ways have led us to a climate crisis, and too many Western "solutions" to this crisis are being built on the further sacrifice of Indigenous peoples' Territories, Rights, and futures. We will not sit on the sidelines and watch this happen in the Breathing Lands. Any attempt by the Crown to come back with less than the equality we have asked for and deserve, and which the fight against climate disaster needs, will be seen as nothing but an attempt to dress up a broken window with pretty drapes. And any such attempt will lead to our active enforcement of the Moratorium issued last April (attached here so you can see it again).

It is within your power to address our concerns. This harmful and dishonourable course has been set under the watch of your Ministry. We look forward to your definitive, yes or no answer by January 28.

Sincerely,

A handwritten signature in dark ink, appearing to be 'D. Nakogee', written over a horizontal line.

Chief David Nakogee
Attawapiskat First Nation

A handwritten signature in dark ink, appearing to be 'L. Sugarhead', written over a horizontal line.

Acting Chief Louie Sugarhead
Eabametoong First Nation

A handwritten signature in dark ink, appearing to be 'Robert Nakogee', written over a horizontal line.

Chief Robert Nakogee
Fort Albany First Nation

A handwritten signature in dark ink, appearing to be 'G. Wesley', written over a horizontal line.

Chief Gaius Wesley
Kashechewan First Nation

A handwritten signature in dark ink, appearing to be 'W. Moonias', written over a horizontal line.

Chief Wayne Moonias
Neskantaga First Nation

Encl: Moratorium issued April 1, 2021 by Attawapiskat First Nation, Fort Albany First Nation,
and Neskantaga First Nation

cc: Prime Minister Justin Trudeau

(justin.trudeau@parl.gc.ca)

Mushkegowuk Tribal Council

(deputygrandchief@mushkegowuk.ca)

(verncheechoo@mushkegowuk.ca)

Media

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FIRST NATIONS MORATORIUM ON THE RING OF FIRE DEVELOPMENT

April 1, 2021

We First Nations in the James Bay lowlands, whose Territories and Rights stand to be seriously and permanently desecrated by massive scale mining in the Ring of Fire, hereby declare a MORATORIUM on any development in or to facilitate access to the Ring of Fire area.

This MORATORIUM is declared in accordance with:

- Our Indigenous Laws including the Natural Laws of the Creator;
- Our Inherent Rights (arising from the reality that we have always have been “in here” in this place in the world);
- Treaty No. 9 between our First Nations and the Crown;
- International laws including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and its requirements for free, prior and informed consent, the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, and customary laws that protect our right to self-determination, require environmental due diligence, and prohibit destruction of our ability to survive in our environments; and
- Canadian domestic laws that adopted and intend to implement UNDRIP (such as the federal Bill C-15); the federal Impact Assessment Act (IAA); Canada’s Constitution including section 35 affirming our Aboriginal and Treaty Rights, and the Charter section 7 being the right to life, liberty and security of the person.

This MORATORIUM is declared from this date and shall stand intact unless and until Canada and Ontario act in accordance with their obligations under the laws stated above, in respect of the Ring of Fire, and agree to a Regional Impact Assessment (RIA) that:

- Is by regulation under IAA (section 114) or by agreement, led by an “Indigenous governing body” composed of our First Nations and interested others who stand to be affected by Ring of Fire development;
- Must be completed prior to the issuance of any Crown permission for any development in or that facilitates access to the Ring of Fire (including roads);
- Has a terms of reference co-created between the Indigenous governing body and Canada and consented to by the Indigenous governing body;
- Has a terms of reference requiring a broad and deep RIA that thoroughly investigates cumulative impacts and comprehensively governs through rules, criteria and plans what development, if any, may occur in the Ring of Fire, when, where and how;

- Has the ultimate objective of ensuring that any approved Ring of Fire development adds to the sustainability of the global and local environment and all beings who depend on it for their survival.

This MORATORIUM is declared because Canada, through the Impact Assessment Agency of Canada (IAAC) has breached the honour of the Crown, all the laws stated above, and the project of reconciliation and decolonization by acting with duplicity behind our backs in collaboration with Ontario, to render the RIA little but political puffery, with mere token First Nation “involvement”, narrow in its focus and weak in its result. Specifically:

- Shortly after the IAA came into force in 2019, some First Nations and others requested an RIA under it for the Ring of Fire;
- Due to these requests, and given that the Ring of Fire begs for an RIA anyway - it is by definition a regional area for which much large scale mining and infrastructure development is sought – Canada agreed that a RIA would be held;
- First Nations have expressed our expectation of equal partnership in the RIA, and have been requesting since early 2020 to have the RIA, including planning, not commence until after the pandemic and the crises it has caused in the First Nation communities are over, to ensure that First Nations could engage in this process safely and in accordance with our Laws and Customs;
- Canada agreed to such suspensions of time, and gave assurances that First Nations would have meaningful involvement at all stages of the RIA, including planning;
- First Nations have put Canada on notice since late 2020 that they intend to develop a proposal for a First Nations – led, comprehensive and meaningful RIA that does not allow Crown governments to use it as a mere window dressing, box-ticking exercise;
- Despite Canada knowing of First Nations’ intent and agreeing to time to develop this proposal after the pandemic crisis had ended, Canada now informs us it effectively had no intent of paying any attention to any such proposal; and that Canada and Ontario have been collaborating behind First Nations’ backs for the last year to agree on the terms of reference for the RIA which they will show us in April “for comment”, and in which First Nations have nothing but token involvement.

This MORATORIUM is urgently required because, as the caretakers of this part of the Earth where the Creator put us, we have a profound and sacred duty to ensure that this part of the Earth is not so wounded from Ring of Fire development that it can longer support our relations and ways of life, or help protect the world from catastrophic climate change; as the James Bay lowlands stand as one of the last and most important bastions of defence against climate collapse.

This MORATORIUM will be defended and enforced by our First Nations, our Mother Earth, and our lawyers in Canadian courts for Crown breaches of all the laws stated above. The risks are too great to allow the Crown to steamroll over our Mother Earth, our Rights and our future.

Canada and Ontario may cause **this MORATORIUM** to be lifted if they agree to what Canada had led us to believe it would do: agree to plan and conduct the RIA on terms that respect our Rights and protect our Mother Earth.

Contact Kate Kempton kkempton@oktlaw.com 416-571-6775 for further contacts and information