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The Chippewas of Nawash Unceded First Nation and the Saugeen First Nation – together, the Saugeen Ojibway Nation ("SON") – call on the Crowns (Canada and Ontario) to fulfill their obligations as a treaty partner, and negotiate an agreement that recognizes our jurisdiction over its water Territory.

We know that we have used, cared for, and governed our water Territory since time immemorial. We fish in our water Territory, we travel through it, and we do ceremony on the water. The water is part of who we are. We have never given up our jurisdiction over our water Territory. And none of our treaties with the Crown speak of surrendering our water Territory.

We also hold a court-recognized Aboriginal and Treaty right to fish. This includes the right to manage our water Territory to support the health and viability of our fishery.

Yet, for far too long, Canada and Ontario have simply ignored and suppressed our jurisdiction over its water Territory. They have allowed stressors and developments like invasive species, unnatural fish stocking, shoreline hardening and nuclear projects to harm our water Territory and disrupt our ways of life. And, at every stage, the Crown governments have failed to meaningfully take into account our fishing right, and our responsibility and relationship to our water, let alone recognize us for what we are: a self-determining Nation.

Canada and Ontario's failure to fulfill their obligations has forced us to seek other ways to protect our rights. Over 20 years ago, we brought an Aboriginal title claim in the Canadian court, in hopes of holding the Crown accountable and protecting our water Territory from continued degradation. But over time, it has become clear the colonial court process cannot achieve reconciliation between SON and the Crown. Rather, it has allowed the Crown to abdicate from its responsibilities from SON, and has eroded the Nation-to-Nation relationship.

The doctrine of Aboriginal title is, as it currently stands, fundamentally flawed. It is rooted in the racist doctrine of discovery. It assumes that when the Crown asserted sovereignty over our water Territory, the Crown could somehow automatically supersede our longstanding presence and governance of the territory. Because of this, for decades now, we have been forced to spend

millions of dollars and countless hours to prove something we have known for thousands of years: that we have always been stewards of the water Territory.

As you know, our Aboriginal title claim went to trial in 2019 and 2020 and the appeal was heard in 2023. The Court of Appeal for Ontario said that our Aboriginal title claim should be sent back to the trial judge, so she can determine whether SON holds Aboriginal title to portions of the original claim area. Canada and Ontario are aware of how much time, effort, and money has been spent to get to this stage, and how much would be required to continue this process until the end

The Supreme Court of Canada has repeatedly noted that "reconciliation is rarely, if ever, achieved in the courtroom"[1] and directed that "the honour of the Crown requires negotiations leading to a just settlement of Aboriginal claims."[2] Yet, instead of agreeing to negotiate a just resolution to our claim, Canada and Ontario continue to sit back and do nothing.

The Crown governments' disregard for our rights is deplorable. Article 26 of the *United Nations Declaration on the Rights of Indigenous People* ("UNDRIP") provides that Indigenous peoples have the right to own, use, develop and control our territories and resources. States like Canada, who have signed onto UNDRIP, are expressly required to give legal recognition and protection to Indigenous territories in a manner that respects our customs, traditions and tenure systems. Canada has also passed legislation which made UNDRIP part of Canada's domestic positive law.[3] In other words, the Crown is legally bound to recognize our relationship to our waters. And, we have already proven in a Canadian court that we have a constitutionally protected commercial fishing right. If the Crown was acting honourably and in a manner consistent with its legal obligations, SON would already be at the table for any decisions made about its water Territory. Instead, Canada and Ontario have refused to negotiate an agreement to recognize our inherent jurisdiction and decision-making authority and work out how our jurisdiction interacts with the *de facto* jurisdiction of the Crown.

Canada and Ontario's failure to do so has caused immense distrust and significantly strained our Nation-to-Nation relationship with our treaty partners. But it is not too late for the Crown governments to do the right thing. We call upon Canada and Ontario to engage us in meaningful, good faith negotiations. Only with this step can the Crown governments begin to restore their honour and achieve any sort of reconciliation.

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Chippewas of Nawash Unceded First Nation

[1] *Clyde River (Hamlet) v. Petroleum Geo-Services Inc.*, 2017 SCC 40 at para. 24; *Shot Both Sides v. Canada*, 2024 SCC 12 at para. 71; *R v. Desautel*, 2021 SCC 17 at para 87.
[2] *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73 at para 20.
[3] *Reference re an Act respecting First Nations, Métis and Inuit children, youth and families*, 2024 SCC 15 at para 15.