

Saugeen Ojibway Nation calls on the Crown to fulfill obligation to protect First Nations' waters

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Saukiing Anishnaabekiing (Saugeen Ojibway Nation Territory), Ontario – Today, the Chippewas of Nawash Unceded First Nation and Saugeen First Nation (together, the Saugeen Ojibway Nation or SON) issued a call to Canada and Ontario to make good on the Crown's obligations to protect the waters and rights in SON Territory and enter into negotiations with SON.

"Together with our Anishinaabe neighbours, we have protected our waters of the Great Lakes for thousands of years. We are asking the Crown now to help us protect our waters, including our court-affirmed Aboriginal and Treaty right to fish in those waters," said Greg Nadjiwon, Ogimaa (Chief) of the Chippewas of Nawash Unceded First Nation.

"The Crown has failed us", said Conrad Ritchie, Ogimaa (Chief) of Saugeen First Nation. "For over two decades we have been waiting for the Crown to be partners with us in protecting our waters instead of adversaries."

The renewed call for cooperation and negotiation comes as the Crown's antagonistic approach led SON to discontinue its Aboriginal title claim to SON's waters. The claim, filed in 2003, sought a declaration of Aboriginal title to portions of the beds of Lake Huron and Georgian Bay surrounding the Saugeen (Bruce) Peninsula and lands to the south stretching from south of Goderich to Collingwood. SON already holds a court-recognized Aboriginal and Treaty right to fish commercially in their water territory.

In 2021, after more than 100 days of trial, the trial judge dismissed the case, finding that SON had not met the test for Aboriginal title to their entire water territory. However, the Court of Appeal for Ontario held that she made a legal error by failing to consider whether SON had successfully established title to smaller portions of their water territory. The Court of Appeal sent the case back to the trial judge to answer that question. This process was underway when SON discontinued the case.

SON brought the Aboriginal title case as a means to protect their waters including their court-affirmed fishing rights after many decades of Crown failure and neglect. Ultimately, SON discontinued the case because proceeding would come at too great a cost for the First Nations.

"This was a difficult decision for our First Nations," said Chief Ritchie. "Our people have cared for our water territory in accordance with our Anishinaabe laws and protocols for thousands of years. And we will continue caring for them forever. No one can take our

responsibilities or our jurisdiction away from us. But continuing with this process before a Canadian judge in a Canadian court while the Crown fought us at every turn was placing an incredible burden on our people.”

The Supreme Court of Canada has held that reconciliation rarely happens in the courtroom and this rings true for SON in its efforts to seek recognition of its Aboriginal title. SON has already spent two decades in litigation and the prospect of spending another decade or more on hearings and appeals was too heavy of a burden.

When SON filed its discontinuance, the SON Ogimaag (Chiefs) sent an open letter to Canada and Ontario explaining the decision.

“Canada and Ontario talk a lot about reconciliation. But they have refused to negotiate with us to resolve our longstanding Aboriginal title claim. Instead, they forced us to spend our community’s resources in a decades-long court process to prove what we (and they) already know to be true: that SON has been caring for and using the waters of our territory for thousands of years. That’s not reconciliation,” said Chief Nadjiwon.

SON has said they will continue the fight to care for their water territory using other tools, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which recognizes their rights to their traditional lands and waters, and Anishinaabe law and protocol.

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