



## CHIEFS COUNCIL

# SUBMISSION TO ONTARIO'S PROPOSED BILL 71 BUILDING MORE MINES ACT AND STANDING COMMITTEE HEARINGS

The Matawa Chiefs Council, on this day of April 3, 2023, issue the following statement as a formal written letter submission to the Ontario government Standing Committee hearing on the proposed *Bill 71 Building More Mines Act* that are currently underway in Timmins and Sudbury, ON:

### 1. **MATAWA MEMBER FIRST NATIONS WERE INFORMED OF AMENDMENTS – NOT CONSULTED**

Firstly, the Matawa Chiefs Council want to expressly state that the Matawa member First Nations were not part of the advice or recommendations used to prepare the proposed *Bill 71* amendments that are in the legislative process at Queen's Park. The Government of Ontario sent letters to our First Nations informing our Chiefs and Councils of the proposed amendments on March 2, 2023. The letters clearly stated that the province had no requirement to consult with our First Nations on the amendments, and we were being informed perhaps as a matter of courtesy. This approach is the strictest interpretation of the colonial legal position that is being taken by Ontario, without regard or an effort to consider meaningful partnerships and reconciliation.

As such, the Matawa Chiefs Council formally put on the public record to the Ontario legislature, and to Ontarians that our member First Nations were not consulted and have not endorsed or consented to the proposed amendments. The Matawa Chiefs Council have observed and continued to make comment on the overhaul of the Ontario government's lands and resource development related legislation including forestry, energy, land and parks management, environmental protection and in this specific sector of mining. The Ontario government has rewritten the protective aspects of the *Mining Act* in order to facilitate and streamline industry, investors and the government's approach to the minerals in the James Bay Treaty No. 9 (1905-06 and 1929-30) boundaries and the Matawa Region.

**KEY GOVERNMENT OUTCOME** - Ontario has kept its promise to industry and investors to deliver quick access to the immense wealth and resources of our Treaty area, including the resources of the Matawa traditional territories and homelands and the Ring of Fire Region of Canada. *Ontario Budget 2023: Building A Strong Ontario*<sup>1</sup> clearly outlines the demand that will be placed on the resources of the Matawa traditional territories and homelands, land subject to James Bay Treaty No. 9.

### 2. **"RECOVERY" PERMITS: AVOIDING THE DUTY TO CONSULT AND ACCOMMODATE, FIRST NATION HISTORIC GRIEVANCES AND NEW REVENUE INTERESTS BY GRANDFATHERING OF OLD MINES NOW RETURNING TO PRODUCTION**

Secondly, an issue arising from the proposed amendments is the attempt of the Ontario government to side-step the duty to consult and accommodate and address revenue interests of First Nations in the issuing of 'recovery' permits for old and closed mine sites across the province. The *Mining Act*<sup>2</sup> and the Ontario *Mining Duty to Consult Consultation Framework* (2022)<sup>3</sup> do not have a clear instruction to require

<sup>1</sup> <https://budget.ontario.ca/2023/pdf/2023-ontario-budget-en.pdf>

<sup>2</sup> <https://www.ontario.ca/laws/statute/90m14>

<sup>3</sup> <https://files.ontario.ca/co/ndmnr-consultation-framework-en-2021-12-08.pdf>



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the Province or industry to consult with First Nations on the new “recovery” process. It is the position of the Matawa Chiefs Council that this loop-hole to grandfather in old and closed mine sites which are now going to be reassessed for new critical and strategic minerals previously unbeknownst due to advances in technology and modern applications will require the full and possibly **enhanced** consultation as these old and closed mines may never had any First Nation review, consultation, revenue share or consent in the original operations. The old and closed mines that are now going to be reopened to ‘recovery’ must account for and compensate First Nations for the historic losses of revenue share to owed to impacted First Nations who have had to struggle with the leftovers and damages in some cases for 100 years or more.

***The Ontario government must ensure the recovery permitting process reflects the legal requirements set out by the Supreme Court of Canada on the duty to consult and accommodate, and address any outstanding historic revenue interests of First Nations across this province in the old and closed mine sites that are about to go into production again.***

### **3. POTENTIAL “FOX GUARDING THE HENHOUSE” AS MINES WILL BE SELF-MONITORING OR PRIVATIZED ON MINE CLOSURE PLANS**

Thirdly, the amendments related to mine closure plan approvals being completed by “qualified professionals” is the equivalent of two potential outcomes – one, mines will be self-monitoring of their own closure plans or two, it is the privatization of mine closure plans that will be completed by mine hired contractors or consultants. For reference, this amendment is very much like the privatization of driver’s license requirements and the industry it spurred. These amendments will enable mine companies to direct either through their own in-house staff or contracted “qualified person” to make amendments and revisions to mine closure plans as they see fit and removes the professional technical supervision from the Ontario government employees at the Ministry of Mines – who should be protecting the rights, interests and environment of Ontario and our Treaty lands – as a duty and function of the Crown in right of Ontario.

### **4. THE MINING AMENDMENTS IMPACT NORTHERN FIRST NATIONS – THE SOURCE OF FUTURE MINES AND HISTORIC CLOSED MINES**

Fourthly, the Standing Committee hearings were only scheduled to be held in Timmins and Sudbury. There were no hearings in any remote or rural access First Nation community in Ontario. The proposed *Bill 71 Building More Mines Act* impacts the First Nations in Northern Ontario and the government has lacked leadership to date to initiate a meaningful process of dialogue and negotiations that will ensure the Matawa member First Nations represented by our Chiefs and Councils are able to participate in the mining sector on a government-to-government basis.

Further to this focus on the lands and resources of the North - it is the position of the Matawa Chiefs Council that the Nishnawbe Aski Nation (NAN) territory representing the descendants and beneficiaries of James Bay Treaty No. 9 (1905-06 and 1929-30) and the Ontario portion of Treaty No. 5 are the most impacted identifiable group of First Nations with this latest government legislative agenda. The Matawa Chiefs Council respect the positions that may be taken by other NAN First Nations and tribal councils – however the recognition of the magnitude of impact must be stated for the public and historical record.



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### 5. CUMULATIVE IMPACT OF SPEEDING UP MINING CYCLE IN ONTARIO – PLACING THE BURDEN ONTO FIRST NATIONS COUNCILS, ADMINISTRATION AND FINANCES

Matawa member First Nations share in the concerns raised by First Nations and tribal councils across Ontario on the continued lack of resources to support First Nations in being properly informed, able to research and seek independent professional, expert or legal advice as required to address mining claim, exploration permit and mining activity notices that are currently issued by the Province of Ontario.

As the Province of Ontario has streamlined and removed all red-tape from the *Mining Act* to speed up the mining cycle that will benefit industry and investors – this increased activity and demand will be putting additional financial and human resources stress and costs on the First Nation to monitor and assess each notice.

### 6. THE PROVINCE OF ONTARIO MUST BE HELD ACCOUNTABLE FOR THIS EXPLOITIVE AND AGGRESSIVE APPROACH CONTRARY TO PRINCIPLES OF RECONCILIATION AND THE SPIRIT AND INTENT OF TREATY

The Matawa Chiefs Council close this written statement marking the need for Ontarians to understand the cumulative wholesale legislative, policy and regulatory changes (“the legislative bulldozer”) that have been made in incremental phases on all aspects of the Ontario lands legislations. A legislative, legal and public relations strategy prepared by the Crown employed lawyers of the Province of Ontario has been planned and deployed before our eyes. The Matawa member First Nations maintain the position that we have an interest in all aspects of resource development including mining and the extraction of the minerals and other strategic and critical resources from our traditional territories and homelands. The Province of Ontario has yet to make any substantive effort to communicate or include the meaningful participation of the Matawa member First Nations as a collective region, despite a very aggressive legislative and public agenda to access our traditional territories and homelands.”