

*****Intended for Informational Purposes Only*****

Court File No. CV-25-00751759-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

ALDERVILLE FIRST NATION, APITUPI ANICINAPEK NATION, AROLAND FIRST NATION, ATTAWAPISKAT FIRST NATION, FORT ALBANY FIRST NATION, GINOOGAMING FIRST NATION, KITCHENUHMAYKOOSIB INNINUWUG, ONEIDA NATION OF THE THAMES and WABAUSKANG FIRST NATION

Applicants

- and -

HIS MAJESTY THE KING IN RIGHT OF ONTARIO and THE ATTORNEY GENERAL OF CANADA

Respondents

AFFIDAVIT OF MICHEL KOOSTACHIN

I, **MICHEL KOOSTACHIN**, of the First Nation reserve Attawapiskat 91A, in the Kenora District in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Cree community member from the Attawapiskat First Nation, a band member of Fort Albany First Nation and section 35 rightsholder under the *Constitution Act, 1982*. I am an Oji-cree, Ojibway, and Omushkegowuk person from Treaty 9 territory whose people have lived in harmony with lands given to us by the Creator since time immemorial. My ancestors are the people from the lands where the Ring of Fire is proposed. As such, I have personal knowledge of

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the facts and matters deposed to in this affidavit. Where I do not have personal knowledge, I have set out the basis of my information and belief, and in all cases do verily believe such information to be true.

BACKGROUND AND INTEREST IN THIS APPLICATION

2. I was born and raised in Attawapiskat. I am the founder of the Indigenous grassroots group the Friends of the Attawapiskat River (“FAR”). I have also spent many years practicing trauma-informed care and have been providing wellness services, on mental health, addictions, and grief throughout Northern Ontario fly-in communities. I am also a *Skabbewsis* (helper) in ceremonies.

3. The people of the Attawapiskat are the Omushkego Cree, or ‘Water People’. We live by the river surrounded by water and through water are connected to lakes, rivers, *muskeg* (peatlands), and the ocean. The swamp, the carbon sink - the muskeg - acts as a filtration system for everything flowing through the water.

4. Our lives depend on this water. Water gives life to plants, trees, and animals. Plants give us medicines, trees bring us air, animals give us food. Water is life and we protect the water. As Omushkego Cree, we still travel and live on our waterways, as the Attawapiskat River has been our provider since the beginning of time. It is a key place where my family and I go to harvest food, medicines, and trees to make shelter, and follow the wildlife as it migrates and travels along the water. The water is part of life and is the veins of Mother Earth. The ecosystem is part of this, with its own purpose, which we respect without question. We have responsibilities to the land and future generations to protect Mother Earth, our water, that gives us life.

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5. I have read the text of Bill 5, the *Protect Ontario by Unleashing Our Economy Act, 2025* (“Bill 5”) and believe it poses threats to our rivers, our wildlife and rights. The province’s stated intent to designate the lands where the Ring of Fire is proposed a Special Economic Zone threatens to forever contaminate our lands and destroy the muskeg – one of the last remaining intact peatlands in the world. Anything that disturbs our territories brings contamination and lasting consequences, and I believe Bill 5 will cause devastation to our lands and waters that will be borne not only by me, but by my children, grandchildren, and great-grandchildren.

6. My involvement with Bill 5 has also occurred on behalf of the Indigenous grassroots group I founded in 2019, the Friends of the Attawapiskat River. We are the Indigenous grassroots of Treaty 9, dedicated to protecting the health of the waters, people and communities living downstream of the proposed Ring of Fire. Together, we have a shared responsibility to protect our lands from exploitation and degradation. This means safeguarding the integrity of the boreal and muskeg of the Hudson Bay-James Bay lowlands, its significant contribution to mitigating climate change, and the health of our grandchildren and those not yet born.

7. I am concerned that Bill 5 is serving as another tool of colonization by authorizing the Ontario government to override our rights and approve projects without our consent, for the benefit of government and industry and to our detriment. We have seen what the presence of other mining projects did to our territory - with the contamination caused by De Beers’ mining projects to our river - and I believe further disproportionate harm is threatened by changes to environmental assessment, mining law and environmental protections precipitated by Bill 5.

8. My participation in the legislative process for Bill 5 - despite significant financial, language and geographical barriers to do so - is a further demonstration of my sincere interest in

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this application. The following examples are illustrative of the concerns - all of which remain outstanding - I raised about Bill 5, and the threat it poses to the health and wellbeing of the Hudson-James Bay lowlands and those living there:

- a. On May 9, 2025, I issued a press release titled “Bill 5 An Affront to Indigenous Rights and Natural Law, Say Treaty 9 Indigenous Grassroots”, expressing concerns about the proposed Bill 5. A copy of the press release is attached as **Exhibit ‘A’**.
- b. On May 12, 2025, I expressed concerns about the proposed Bill 5 and its Special Economic Zones during a press conference held at the Ontario Legislative Assembly, alongside youth and representatives from Neskantaga First Nation, the Association of Iroquois and Allied Indians, and Democracy Watch.
- c. On May 17, 2025, I submitted comments through the Environmental Registry of Ontario (“ERO”) opposing all of the proposals precipitated by Bill 5, including the Proposed Interim Changes to the *Endangered Species Act, 2007* and Proposal for the *Species Conservation Act, 2025* (ERO No 025-0380), Addressing Changes to the Eagle’s Nest Mine Project (ERO No 025-0396), *Protect Ontario by Unleashing Our Economy Act, 2025* (ERO No 025-0416), Proposed Amendments to the *Ontario Heritage Act, 1990* (ERO No 025-0418) and *Special Economic Zones Act, 2025* (ERO No 025-0391). A copy of the submission is attached as **Exhibit ‘B’**.
- d. On May 26, 2025, I provided a written submission to the Standing Committee on the Interior in response to the proposed Bill 5, noting my concerns and calling for the full and immediate withdrawal of the Bill. A copy of my detailed written submission is attached as **Exhibit ‘C’**.

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- e. On May 26, 2025, I provided oral testimony to the Standing Committee on the Interior sharing my concerns about Bill 5, including community members' exclusion from the legislative process and Bill 5's potential to exacerbate ongoing injustices, including housing and water crises. A copy of the transcript is attached as **Exhibit 'D'**.
- f. On June 3, 2025, I was named in a Joint Media Statement titled "Bill 5 Must Be Withdrawn", released by a coalition of First Nations and non-profits including Neskantaga First Nation and Ontario Nature. A copy of the media statement is attached as **Exhibit 'E'**.
- g. On September 29, 2025 I, together with members of FAR, youth leaders of the grassroots groups Okiniwak Indigenous Youth Movement and Mahmo Inninuwuk Wiibuseego-stamok, and allies, spoke at a panel event in Kingston, Ontario, to an audience of hundreds, titled "Indigenous Perspectives on Bill 5."
- h. On November 10, 2025, I submitted comments critiquing the proposals to implement Bill 5 including the Proposed Special Economic Zones Criteria (ERO No 025-1077), the Proposed Regulation Under the *Ontario Heritage Act* - Archaeology Exemption Criteria (ERO No 025-1081) and the Proposed Legislative and Regulatory Amendments to Enable the *Species Conservation Act, 2025* and Developing Guidance on Section 16 Activities (ERO Nos 025-0909 and 025-0908). A consolidated copy of these comments is attached as **Exhibit 'F'**.
9. My unique position within the Indigenous grassroots combined with my history of engagements grounded in Indigenous legal traditions and grassroots perspectives, further affirms my unique and genuine interest in seeking to intervene. The following examples are illustrative

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of my deep and unwavering commitment to amplify the voice of the Indigenous grassroots before international, public, academic and allied audiences, especially when decisions about us impacting our rights, lands and waters are being made without us:

- a. On October 31 and November 1, 2023, I chaired an in-person gathering in Thunder Bay, Ontario, and provided oral comments to the Impact Assessment Agency of Canada regarding the development of the draft Terms of Reference for the Regional Assessment in the Ring of Fire Area (“Regional Assessment”).
- b. On November 3, 2023, I presented as a panelist at the 7th Canadian Association for Food Law and Policy Conference and led a talk titled “Extractive Colonialism: Impacts of the Ring of Fire to Indigenous Rights and Food Gathering in Treaty 9”.
- c. In April 2024, alongside youth and community members from Attawapiskat First Nation, I met with Mr. Pedro Arrojo-Agudo, the United Nations Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation during his visit to Canada, to discuss the health impacts of water insecurity and contamination in Treaty 9 that would be exacerbated by resource development.
- d. On June 12, 2024, I was featured in a short film titled “We Are The River” showcasing community voices and concerns about the proposed Ring of Fire from paddlers, helpers and knowledge holders who came together to paddle down the Attawapiskat River in the fall of 2023.
- e. From November 13-17, 2024, I attended the Western Mining Action Network’s biennial conference in Montreal, Quebec, titled “Mining Justice in the Climate Crisis”, to connect

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with mining-impacted communities and to speak about the impacts of mining on Indigenous sovereignty, climate change and biodiversity loss.

- f. In March, 2025, I led in the release of the “Declaration of Protection for our Lands & Waters”. Collaboratively drafted by Indigenous community members from across Treaty 9 in October 2023, this Declaration of Protection, based on our Natural Laws, is our commitment to the next seven generations in recognition of our shared responsibility to uphold Treaty rights to be kind, to be honest, and to share the land. This Declaration affirms our commitment and responsibility, as Indigenous grassroots and Treaty rights holders, to safeguard the integrity of the boreal and muskeg of the Hudson-James Bay lowlands, its significant contribution to mitigating climate change, and the health of our grandchildren and those not yet born. A copy of the Protection Declaration is attached as **Exhibit ‘G’**.
- g. From February 5-12, 2025, I hosted a series of community workshops about Indigenous rights and environmental justice in Moose Cree First Nation, Fort Albany First Nation, and Kashechewan First Nation, including discussions about the proposed Ring of Fire.
- h. On February 6, 2025, I participated in a presentation to high school students in Moose Factory, to share about the proposed Ring of Fire and what it means for Indigenous rights and nature’s protection.
- i. On March 31, 2025, I hosted a workshop in Timmins to connect with community members, share updates on our efforts to protect nature and Treaty rights, including with regard to the proposed Ring of Fire, and to respond to community concerns.

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- j. On June 1, 2025, an article I co-authored, titled “The Friends of the Attawapiskat River and Indigenous Grassroots Advocacy for a Just Transition in Treaty 9 Territory”, was published by Debates Indigenas. This article was featured in a special edition of Debates Indigenas for the United Nations Framework Convention on Climate Change 30th Conference of the Parties in Belem, Brazil, in November 2025. A copy of this publication is attached as **Exhibit ‘H’**.
- k. On June 16, 2025, a case study I co-authored, titled “Protecting Treaty 9 Lands and Waters: A Case Study of Indigenous-led Climate Action Through Treaty Promises”, was published by the Climate Institute of Canada. A copy of this publication is attached as **Exhibit ‘I’**.
10. The perspective I lend as an intervener is strongly informed by my extensive participation in federal and provincial decision-making processes. This includes submitting comments for provincial and federal impact assessment processes, mineral exploration permits, and federal Regional Assessments, and calling for our fair and equitable inclusion and respect for Natural Law and Treaty rights. Illustrative examples of these submissions include:
- a. Between January 28, 2020 and July 20, 2023, I submitted comments in response to draft federal and provincial impact and environmental assessment documents for the Northern Road Link, Webequie Supply Road, and Marten Falls Community Access Road. These submissions, detailed below, highlighted concerns about the piecemeal approach of conducting narrow, project-level assessments for the three individual roads, wherein the effects of the proposed roads would be viewed in isolation, neglecting consideration of cumulative effects resulting from the proposed Ring of Fire. These submissions therefore

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called for the three interconnected road projects to be scoped together for the purposes of a meaningful environmental (provincial) and impact (federal) assessment, given their interrelated impacts.

- i. On January 28, 2020, I submitted comments to the Impact Assessment Agency of Canada regarding the draft Tailored Impact Statement Guidelines and draft Indigenous Engagement Plan for the Webequie Supply Road and Marten Falls Community Access Road. A copy of the submission is attached as **Exhibit ‘J’**.
 - ii. On June 28, 2022, I submitted comments to the Ontario Ministry of the Environment, Conservation and Parks regarding the Proposed Terms of Reference for the Northern Road Link Project. A copy of the submission is attached as **Exhibit ‘K’**.
 - iii. On March 23, 2023, I submitted comments to the Impact Assessment Agency of Canada regarding the Initial Project Description for the Northern Road Link Project. A copy of the submission is attached as **Exhibit ‘L’**.
 - iv. On July 20, 2023, I submitted comments to the Impact Assessment Agency of Canada regarding the draft Tailored Impact Statement Guidelines and draft Indigenous Engagement and Participation Plan for the Northern Road Link Project. A copy of the submission is attached as **Exhibit ‘M’**.
- b. On November 12, 2020, I submitted comments to the Ontario Ministry of Energy, Northern Development and Mines opposing proposals to issue multiple mineral exploration permits in the proposed Ring of Fire (ERO Nos 019-2571, 019-2583,

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019-2584, 019-2591, 019-2592, 019-2594, 019-2605, 019-2606, 019-2647, 019-2650). A copy of the submission is attached as **Exhibit 'N'**.

- c. On December 13, 2020, I submitted comments to the Ontario Ministry of Energy, Northern Development and Mines opposing proposals to issue multiple mineral exploration permits in the proposed Ring of Fire (ERO Nos 019-2705, 019-2746, 019-2747, 019-2784). A copy of the submission is attached as **Exhibit 'O'**.

- d. In February 2021, I issued an Open Statement to the Governments of Canada and Ontario on behalf of FAR along with the Omushkegowuk Women's Water Council and the Omushkegowuk Treaty 9 alliance, calling for an immediate moratorium in the proposed Ring of Fire for all mineral exploration, assessments for proposed road projects, and other potential developments until protection plans for the region's sensitive wetlands and watersheds are in place, and access to clean water, housing and health services have been secured for all upstream and downstream communities from the proposed Ring of Fire. A copy of the statement is attached as **Exhibit 'P'**.

- e. On November 25, 2021, I sent a letter to the federal Minister of Environment and Climate Change regarding our concerns about the lack of engagement with Indigenous grassroots and Treaty 9 Rights Holders regarding the Regional Assessment, reiterating our Open Statement to the Governments of Canada and Ontario calling for an immediate moratorium in the proposed Ring of Fire. A copy of the letter is attached as **Exhibit 'Q'**.

- f. On January 28, 2022, given the lack of meaningful response from both federal and provincial governments for the requested moratorium on exploration activities, I provided a submission to the United Nations' Expert Mechanisms on the Rights of Indigenous

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Peoples alleging that Canada's approach on the proposed Ring of Fire stands contrary to the principles enshrined in the *United Nations Declaration on the Rights of Indigenous Peoples* ("Declaration") which safeguard the individual and collective rights of Indigenous people, and impose a duty on Canada to obtain the free, prior and informed consent of Treaty 9 members before any development or use of resources on the land occurs. A copy of the submission is attached as **Exhibit 'R'**.

- g. Between March 2, 2022 and September 30, 2025, I submitted comments to the Impact Assessment Agency of Canada regarding the Regional Assessment. In these submissions, detailed below, I emphasized the need for Treaty rights holders to be included in the Regional Assessment process, for cumulative impacts to be adequately studied, and for outcomes from the Regional Assessment to be aligned with Indigenous values and rights, as well as federal and provincial commitments to address biodiversity loss and climate change.
 - i. On March 2, 2022, I submitted comments to the Impact Assessment Agency of Canada regarding the draft Agreement - between Canada and Ontario - to Conduct a Regional Assessment in the Ring of Fire Area, highlighting our concerns about the exclusion of First Nations and community members and calling for an Indigenous-led Regional Assessment. A copy of the submission is attached as **Exhibit 'S'**.
 - ii. On March 14, 2023, I submitted comments to the Impact Assessment Agency of Canada regarding the draft Policy Framework for the Regional Assessment. A copy of the submission is attached as **Exhibit 'T'**.

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- iii. On October 14, 2024, I submitted comments to the Impact Assessment Agency of Canada regarding the draft Terms of Reference for the Regional Assessment, proposing a series of recommendations that would enable the Impact Assessment Agency and the First Nation partners to equitably and fully include the grassroots and community members from Treaty 9 and advance environmental justice. A copy of the submission is attached as **Exhibit ‘U’**.

- iv. On May 2, 2025, I was added to the Expert Supports Roster for the Regional Assessment, which I believe, according to the final Terms of Reference for the Regional Assessment, is composed of individuals and organizations who have knowledge or experience deemed relevant to the Regional Assessment.

- v. On September 30, 2025, I responded to the Impact Assessment Agency of Canada’s Public Call for Information for the Regional Assessment, providing resources, information and knowledge to support the conduct of the Regional Assessment. A copy of the submission is attached as **Exhibit ‘V’**.

- h. On April 5, 2023, I testified before the Standing Committee on the Interior regarding Bill 71, *Building More Mines Act, 2023*, asserting that Bill 71 and the *Mining Act, 1990* allow mining to occur in violation of Treaty 9 and that the government had deliberately upended legal protections to safeguard our rights, resources and health of communities. A copy of an excerpt of the transcript is attached as **Exhibit ‘W’**.

- i. On December 14, 2024, I submitted comments to the Ontario Ministry of Energy, Northern Development and Mines opposing proposals to issue multiple mineral

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exploration permits in the proposed Ring of Fire (ERO Nos 019-9399, 019-9400, 019-9401, 019-9402, 019-9403). A copy of the submission is attached as **Exhibit ‘X’**.

- j. On February 7, 2025, I submitted comments to the Ontario Ministry of Energy, Northern Development and Mines opposing a proposal to issue a mineral exploration permit in the Ring of Fire Area (ERO No 025-0027). A copy of the submission is attached as **Exhibit ‘Y’**.

DISTINCT AND USEFUL PERSPECTIVE

11. I seek leave to intervene in this application to voice the distinct perspectives of a Treaty rights holder, as a caretaker for the land, and a member of the grassroots. My perspective is different from the collective rights of the applicant First Nations and if granted leave to intervene, I would submit that the Crown’s commitments to advance reconciliation, apply the *United Nations Declaration on the Rights of Indigenous People* and uphold the *Canadian Charter of Rights and Freedoms* gives rise to duties to respect to respect my inherent Indigenous rights, including my Natural Law and Treaty rights.

A. The Indigenous Grassroots

12. The grassroots are the Indigenous people and individuals who know the land through lived experience. We are the people who live with the land every day and our identity comes from our connection to the land and water. We are the families and land users whose lives are directly tied to the rivers, muskeg, animals, and waterways of the Attawapiskat River. We are the individuals and community members that hunt, trap and travel in the waterways, our rivers, our lakes, and our ocean - James Bay.

13. The grassroots are caretakers of the land and our voices are emerging because critical decisions about mining, staking and resource extraction are being made without us. As I have directly experienced, the lack of communication and intent to reach the grassroots prevents us from accessing information and having a say about projects and activities proposed in our territory.

B. Natural Law and The Spirit and Intent of Treaty

14. Our Natural Laws tell us that once this water and muskeg is disturbed, we have no means of returning it to its present state, to the way it was before resource development. We do not own the land, but rather have a responsibility to ensure that we live in harmony with it, its animals and water. This is how we survive.

15. My health, wellbeing and survival cannot be separated from the health, wellbeing and survival of all our relations, including plants, animals, spirits, and future generations. The water gives us life and we take care of the water in return. This is our duty to the Creator.

16. We have inherent and sovereignty rights that were passed down to us. We have our own constitution, our bundle and pipe, that are reminders of who we are. To harvest what was given to us and continue to practice our ceremonies, we must protect our land. Our teachings tell us that women are the only true human rights givers. The changes being precipitated by Bill 5 will hurt and destroy the land and sacred sites and artifacts. Those are there for a reason, to remind us that we are here and continue to practice our Natural Laws.

17. Within our lakes, creeks, rivers, muskeg and the ocean, we live in harmony with the water, the four legged and the winged ones. I seek to intervene to remind the Crown to respect

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our Natural Laws, that teach us to respect the land and maintain our relationship with the Creator.

The Natural Laws we received from the Creator must be respected. These laws are fundamental to the Cree people, to who we are, and what we do.

18. There are at least four Natural Laws from the Creator: to have strength, to share, to be kind, and to be honest. We live by these laws. The Cree are a symbolic people, so there are reminders of these laws in everything, in the four seasons, and in the land. Rock represents strength. Animals - including sturgeon and caribou - represent sharing. Sweet grass represents kindness. Trees represent honesty. Everything we do as Cree follows the Natural Laws – we are reminded that we do not own anything on earth, we only borrow.

19. I believe that my knowledge of Natural Laws will assist the Court in understanding what it means for the Crown to uphold Treaty promises and respect our inherent and sovereignty rights. The Headmen who signed Treaty 9 with the Crown agreed to peacefully share the lands. Our Natural Laws teach us to respect the land and to maintain our relationship with the Creator. Our traditional ways do not involve greed or violence to these lands, but love, harmony and an ongoing commitment to each other.

20. Any decision impacting the lands and water where the Ring of Fire is proposed - whether a project or law - must meaningfully include Treaty and inherent rights holders and respect our views on engagement and consent, on the basis that our rights are founded in our inherent laws and the Spirit of Intent of Treaties.

21. The Crown's fiduciary duty requires Canada and Ontario to uphold and protect the rights that were promised to our ancestors in Treaty 9, and the Spirit of Intent of Treaties which the Omushkegowuk ancestors affirmed in Treaty 9. We intend to protect our Treaty rights promised

to us for as long as the sun shines, as long as the waters flow, as long as the grass grows, and as long as the winds blow and the Anishinabe are here.

22. We have a duty to stand up and protect these lands. They are not just resources to be extracted – they are living, breathing lands that sustain us all. In my role as founder of FAR - having worked at the community level to facilitate forums for us to come together, as the grassroots, to discuss threats to our lands, waters and rights - I have deepened my understanding of what it means to be alienated from decision-making processes and the source of fear projects can become, when information and inclusion is closed off to community members and decisions move ahead without our knowledge or consent.

PROPOSED SUBMISSIONS

23. I have reviewed the Factum in Support of Intervention which accompanies the motion for leave to intervene, and I confirm that it offers an accurate reflection of the submissions we intend to make, if this Honourable Court grants us leave to intervene in the application.

24. If granted leave to intervene, I will only make submissions on the legal issues related to the application, drawing on my experience and perspectives described in my affidavit and our written representations.

25. I do not believe my intervention with Ramon Kataquapit will cause any injustice to the parties or otherwise prejudice their interests because I will accept the record as it stands and will not seek to supplement the record nor costs if granted leave to intervene. Should leave be granted, I will follow the Court's direction with respect to timing, and will not delay the application.

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26. I affirm this affidavit in support of the motion to intervene as a friend of the court and for no other or improper purpose.

AFFIRMED remotely by video conference by Michel Koostachin of Reserve 91A Attawapiskat in the Kenora District of the Province of Ontario, before me at the City of Thunder Bay in the Thunder Bay District in the Province of Ontario on _____ in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits

Jenna Brunt, LSO #94333B

Michel Koostachin