

LANDS,  
RESOURCES &  
ECONOMIC  
DEVELOPMENT  
FORUM  
2021



## PREAMBLE



### **Ngo Dwe Waangizid Anishinaabe One Anishinaabe Family**

**Debenjiged gii'saan anishinaaben akiing giibi dgwon gaadeni  
mnidoo waadiziwin.**

Creator placed the Anishinabe on the earth along with the gift of spirituality.

**Shkode, nibi, aki, noodin, giibi dgosdoonan wii naagdowendmang  
maanpii shkagmigaang.**

Here on Mother Earth, there were gifts given to the Anishinabe to look after fire, water, earth and wind.

**Debenjiged gii miinaan gechtwaa wendaagog Anishinaaben waa  
naagdoonjin ninda niizhwaaswi kino maadwinan:**

The Creator also gave the Anishinabe seven sacred gifts to guide them. They are:

**Zaagidwin, Debwewin, Mnaadendmowin, Nbwaakaawin,  
Dbaadendziwin, Gwekwaadziwin miinwa Aakedhewin.**

Love, Truth, Respect, Wisdom, Humility, Honesty and Bravery.

**Debenjiged kiimiingona dedbinwe wi naagdowendiwin.**

Creator gave us sovereignty to govern ourselves.

**Ka mnaadendanaa gaabi zhiwebag miinwaa nango megwaa  
ezhwebag, miinwa geyaabi waa ni zhiwebag.**

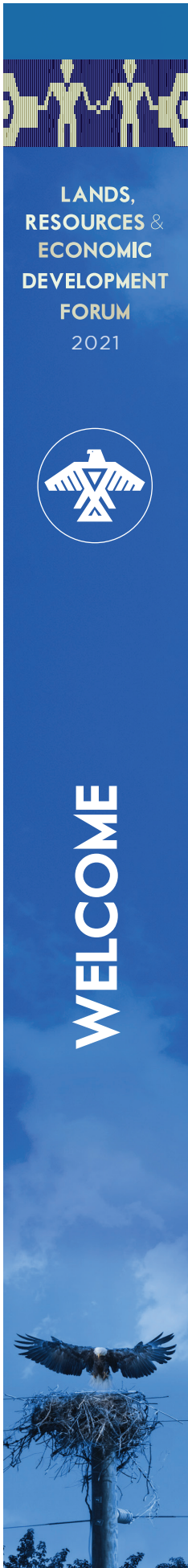
We respect and honour the past, present and future.

(Preamble to the Anishinabek Nation Chi-Naaknigewin - as adopted by the Grand Council in June 2011)

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## GOAL

The goal is to build positive working relationships with each First Nation, our citizens, Government, industry, and academia.

A positive working relationship is where we can come to understand and respect each other's views and perspectives.

## OBJECTIVES

To establish a regional framework that will allow Anishinabek leadership and technical expertise to gather and discuss the local and regional priorities, concerns, opportunities.

To enhance decision-making that will act on matters that will protect our jurisdiction, traditional territory and rights.

To increase communications and to understand each other's needs, priorities, and opportunities.

## Forum Opening Address and Welcome

### Chief Scott McLeod, Regional Chief - Lake Huron

Nipissing First Nation

Good morning everybody, this is the fifth in a series of Lands and Resources forums the Anishinabek Nation has been organizing over the years. This one is going to be slightly different than the ones in the past as we are in a virtual world right now. I want to say Miigwetch to Evelyn for the opening miigwetch and opening smudge.

I also want to welcome everyone. We are in for a couple days of discussion on First Nations communities, lands, and resources, and interacting with industry and government, so hopefully we can generate some good discussion on how we move ahead, and more immediately, how we conduct business in a world of virtual meetings. It is very difficult for communities to have discussions with industry and governments when we can't meet face-to-face. There are probably many areas that needed improvement before Covid, and now that Covid is here and we are in a different world, it is even more difficult for inclusion and participation in some of the industry activities that go on around us. Hopefully we can come up with some strategies on how we deal with the current situation while still having our voices and interests heard at the tables of the Provincial government, and industries with regards to the profit from natural resources that takes place around us.



I would like to say chi-miigwetch and I would like to maybe start off before we proceed any further with a moment of silence in honor of my Deputy Chief who has passed on into the spirit world. Muriel Sawyer, left us on her journey to the spirit world last Saturday and it has been a big shock and difficult time for my entire community, so if we could just have a moment of silence before we continue - Miigwetch.

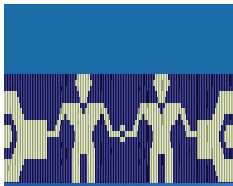


### Opening Mother Earth Drum

**Ngamwinan  
Burning Plains**

Jordan Mowat,  
Alderville First Nation  
Tory Fisher,  
Nipissing First Nation  
Blair Beaucage,  
Nipissing First Nation





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LEADERSHIP PANEL



## Anishinabek Nation Leadership Panel

**Glen Hare**, Anishinabek Nation Grand Council Chief

**Chief Scott McLeod**, Regional Chief - Lake Huron

**Edward Wawia**, Regional Deputy Grand Council Chief - Northern Superior

**James Marsden**, Regional Deputy Grand Council Chief - Southeast

**Joe Miskokomon**, Regional Deputy Grand Council Chief - Southwest

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### Grand Council Chief Glen Hare

M'Chigeeng First Nation

I want to say first and foremost about the Deputy Chief of Nipissing: We always say when we go that if we start something, which she did in the field of language - she left us with a focus on our language that she started in a big way, and now we have work to do to finish what she started with her and for her. Our thoughts and prayers again with your community.

It is a different world that we are in today and we have a whole bunch of challenges now as we move forward. I believe Covid will be with us for the long term and that first and foremost, high on everyone's agenda, must be broadband access and the kind of online work we have to do now with this pandemic, is not going to change. The government is still doing a lot of work behind the scenes that affect us, more so now, than before Covid. There was communication before Covid, but not now and things are just happening too fast and we are not part of it.

Funding is another major area and we need funding just like everyone else. We hear news of funding going out to everyone around the Province but I really believe that we are not seeing this. We need to stay on the line with this government. With our businesses, a lot of people that want to pursue economic projects have connections outside of the reserve. That needs to work both ways to have good success. These business people should be able to come into our communities and help build these businesses. The collateral aspect should still be there. At the same time, if I go buy a new machine now for \$100,000, by the time it gets on the reserve the value already has fallen to \$60 to \$70,000 and that is not fair.

When Wikwemikoong started making protective masks, and they are making up to a million a day or more now, I really congratulated the partners that Wikwemkoong had. That project required big buildings and nice machinery, and the partners were happy and not worried about it being on the reserve.

We need to share the resources and there are enough resources to share, but we are still focusing on preservation too. The forest industry in Ontario is shocking. They'll hire our people to go replant trees but we are not the ones that desecrated the forest in the first place but they are calling on us to go rebuild it. Let us be partners from the start, let us

have fun together. Our population is growing, our kids are graduating from school and they are out there getting jobs. Let's do this together. It is very frustrating that we want to do something and even when we do succeed, there are always new challenges and that's not right. Trust us. With the government, include us in the decision making. I always harp on Bill 156 but it is interfering with the land. The more land that is privately owned, it just shrinks our communities and the Crown land. Let's change the rules. We don't want bylaws. For our communities to move forward, we need laws. We have them now with Covid, so let's make sure we keep them.

**James Marsden, Regional Deputy Grand Council Chief - Southeast**

Alderville First Nation

Broadband and connectivity is a very big problem throughout our communities, especially for our students. Even small businesses using connectivity and skilled people using online technology are struggling. At our bilateral meetings, we include industry professionals in the discussions on water, lands, nuclear issues, but we are always behind the eight ball. People will make verbal commitments and then we hear the Premier is opening green spaces and wetlands for development - Our advice over the years is being ignored.

With Covid, our small businesses did not qualify as other small business. They deal in cash and don't deal in tax forms so they don't qualify. Getting help for small business from the Province has been a huge issue, however small businesses and restaurants are able to offer curbside pickup and can now open up a bit more. Hopefully things will open up again soon.



The environment and global climate change is so weird. There are snow storms in Texas for the first time in 25 years and our elders are speaking about climate change and water issues, but who is listening? You see fishermen out in the bays leaving garbage behind.

**Edward Wawia, Regional Deputy Grand Council Chief - Northern Superior**

Red Rock Indian Band

The unfortunate thing with Covid is that we have been left behind in most areas, especially the mining industry. All the First Nations were closed down and most still are. The big concern was to tackle the Covid problem so no one was worried about the mining and forestry industries, and the priority was keeping people safe. We have a lot of projects that we have been working on and there has been a lot of great work done even though we have been understaffed and underfunded. There is a lot going on in the forestry industry but the First Nation communities are being left behind with regards to the forest management planning part of it. Each First Nation has a seat open to it, but most of our First Nation communities have no trained people to put in the seat. Forest management planning is complex and we need training and education for the people to fill those seats.





There have been proposed changes to trap line succession and if they go through, some of our First Nations will never get a trap line. There are 2,500 trap lines in Ontario, and less than 300 of those are First Nations. A lot of our younger people are going back out into the forest. Our First Nation people want to take advantage of their rights and build incidental buildings from where they can practice their harvesting and treaty rights, but there is a lot to work out between the government and First Nations in that regard.

The government wants to push for the creation of small nuclear reactors on some of the remote First Nations communities yet the First Nations have been saying for years and years that they are against nuclear industry. The biggest problem or concern with these small reactors is the transportation and storage of waste.

We did have some good news, the Black Sturgeon Dam in the Red Rock area in Thunder Bay, which was a big dispute for years, ended up being resolved and they have rebuilt and reinforced the dam rather than the government's original plan to remove it. The East West Transmission Line from Thunder Bay to Michipicoten is 60% completed as well. There were some holdups because of Covid, but they filed for an extension to make sure they get the line done. The First Nations are being left behind in a lot of these issues though. We need to sit across the table from the government as equals. We are not subordinates, we are not subject to the government, we are supposed to be equal to the government.

**Chief Scott McLeod, Regional Chief - Lake Huron**

Nipissing First Nation

It is important to recognize that connectivity and broadband internet is a major issue in our communities. Even Nipissing, which is geographically placed between major centers like North Bay and Sudbury, still faces major hurdles with accessing broadband for all community members. During Covid it has really come to light. Broadband enables our youth to access the type of technology they need to advance their educational ventures and that in turn has a cumulative effect for the ability for communities to build capacity. When we talk about why we are falling behind; we get inundated with government notices about exploration, deforestation, you name it, and if we don't have the proper trained people to comment on and act on those things then we are getting left behind and it becomes a real issue. Stemming from the lack of broadband and technology, it impacts our ability to build capacity.

The current provincial government does not have a political appetite to honor treaties and this is evident with the current annuities case. It shows that the appetite to recognize indigenous rights is not there. Look at how industry requires consent of government to do anything on treaty lands, but they do not require the consent of our communities. That is not honoring the treaty process. At a sheer minimum, industry should require dual consent based on free prior and informed consent where they have to include us. The government is required to assist us in building capacity so that we can be at those tables in a meaningful and constructive way.

First Nations are not against development, but it has to be done in a way that is consistent with the values of our communities in their territories. The annuities case is a good example of a situation that is exacerbated by the fact that we can't meet in person. It's an uphill climb in the best of times to achieve any advancement because the court process is so long and tenuous. We have to look at ways of bringing government to the table.

First Nation communities are not going anywhere, and we are not going to stay silent, so we have to figure out ways to be positive productive partners in this, and not just the recipients of financial resources. Giving us money is not the solution, we need to build capacity and be part of the entire economic structure when it comes to sharing natural resources.

**Grand Council Chief Glen Hare**

M'Chigeeng First Nation

We have been pushing against and facing a lot of backlash from the outside and we have too much invested in it for the little we have. We seem to get going, then there's elections and new people in charge, and we have to train everybody again. It is forever rolling like that.



**Edward Wawia, Regional Deputy Grand Council Chief - Northern Superior**

Red Rock Indian Band

A lot of the problems with our First Nations businesses attracting people can be traced to the equity in pay. For the people that work here, our wages are often 5-10 dollars an hour less than what they would be off reserve. A band manager who has to be an accountant and everything makes \$50-80,000 but the same position off reserve would get \$80-120,000 off reserve. Because of that, we have to keep training people to fill these positions. It's good when they get a job with better pay off reserve, but it is a big challenge.

**Chief Scott McLeod, Regional Chief - Lake Huron**

Nipissing First Nation

It is also a problem for the communities, even with First Nations organizations that compete with us and attract our members to outside agencies. When you get these organizations up and running with fairly healthy budgets to do the work, as they should, but they draw from our communities is greatly increased and communities are left with minimal resources to attract our own members. If we can't attract our own members, then how do we build capacity? It isn't just pay equity, it is deeper than that and it does cause issues with retaining employees.

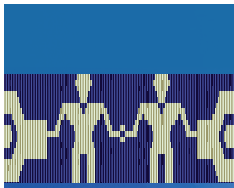
**Fred Bellefeuille, Barrister and Solicitor**

Nipissing First Nation

First Nations are struggling to maintain staffing and to have well-qualified staff with a good pay and salary. The federal governments are obtaining the benefit of our circumstances. They







provide the resources to support those salaries, so when our people are underpaid, the government is the one deriving the benefit of that situation. There may be a challenge down the road based on equity principals but the First Nations will be a pawn in that. They will be front and center while the governments lean back in their chairs and watch how it plays out.

**Chief Scott McLeod, Regional Chief - Lake Huron**  
Nipissing First Nation

There is no doubt that when we come out of this, we won't be going right back to where we were a year ago and some things will have changed permanently. What we are going to see is that things are not going to look like they were in February 2020. There are some communities taking good notes on how we have adapted to an unexpected situation that we are not familiar with. Some of those changes are going to stick around, including Zoom. It's a lot more efficient, including financially, to have a Zoom meeting on any given topic rather than flying people in from everywhere to discuss things in person. There is going to be a hybrid of communication and consultation going forward, and there will definitely be a different way of doing business in the future.

**The Impact of UNDRIP**

**Fred Bellefeuille, Anishinabek Nation Legal Department**

The leadership just finished talking about a bunch of things: forestry, broadband, mining, small nuclear power plants, and dams. These are all issues that we are dealing with every day and we are about to obtain access to a new tool to deal with those issues called The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

In 2017, the First Nations Land Management Act (FNLMA) legislation was amended. The changes came into force in 2018 and included a reference to Canada's commitment to UNDRIP. The Indigenous and Northern Affairs Canada (INAC) website were kind of implying that the amendments reflect changes to, and recognition of, UNDRIP. The amendments included that: employees of First Nations with land codes have certain new protections and legislation that limits their liability when conducting business, and more control to First Nations over the voting process for approval of land codes, and First Nations access to revenues from the land and capital revenues.

Those were the nature of the changes, but does that actually reflect the nature of UNDRIP? Changes to legislation took place with the lens of UNDRIP looking at it, but we didn't have any input or know of anyone who did. These changes truly reflect UNDRIP. We have to prepare our leadership and the First Nation technicians out in our world, so that they have knowledge of UNDRIP. It's not enough to memorize UNDRIP, or know what it references to go back and quote it. That's not enough. We have to become conversant of it so that we can flesh out what exactly it means.



Right now, Legislation Bill C-15 is working its way through parliament and the House of Commons to create a law in regards to UNDRIP. The legislation says the purpose of the act is to affirm UNDRIP as a universal international human rights instrument with application in Canadian law. The draft bill goes on to say that government must take all measures necessary to ensure that the laws of Canada are consistent with the Declaration and that they don't violate UNDRIP. They have to prepare and implement an action plan to review laws and ensure that they comply with and meet the objectives of the UNDRIP declaration. They were very specific in the legislation that the action plan must address injustices, prejudice and eliminate violence and discrimination, including systemic discrimination, against Indigenous peoples. The Action Plan had to have oversight and a way to address things when they go wrong and it must happen as soon as possible and no later than in three years' time. In each fiscal year, the government must also prepare a report for the previous fiscal year to review what they have done. That is what the federal legislation says.

The Ontario Government, I think it was the NDP, have a private members bill called Bill 76 which is basically identical legislation for Ontario, but it goes a little bit further. It says UNDRIP shall have the force of law in Ontario. In consultation with indigenous peoples, it will ensure that the laws of Ontario are consistent with UNDRIP. A provincial plan will be developed to achieve the objectives of UNDRIP and there will again be annual reviews. Basically both pieces of legislation, which are not enacted yet, have a process in place to develop a plan, review their laws and ensure they are consistent with and do not violate UNDRIP.

So what is UNDRIP? The items that make up UNDRIP are not Section 35 rights, they are not treaty and aboriginal rights, and they are not protected by the constitution of Canada. These are not the same as treaty rights, they are something less. The terms (articles) of UNDRIP are

**Bill C-15: An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples (Bill) in the House of Commons. (Canada)**

- 4 The purpose of this Act is to affirm UNDRIP as a universal international human rights instrument with application in Canadian law; and
- 5 Take all measures necessary to ensure that the laws of Canada are consistent with the Declaration.
- 6 Prepare and implement an action plan to achieve the objectives of the Declaration.
- The action plan must include measures to address injustices, prejudice and eliminate violence and discrimination, including systemic discrimination, against Indigenous peoples
- measures related to monitoring, oversight, recourse or remedy or other accountability measures with respect to the implementation of the Declaration.
- The preparation of the action plan ASAP, but no later than three years after the day on which this section comes into force.
- 7 each fiscal year, the Minister must, prepare a report for the previous fiscal year on the measures on action plan;
- Table report in parliament and make it public.

not legislated federally. This isn't a new law, but it will require that current laws like criminal code and other pieces of legislation are consistent with UNDRIP. The new legislation doesn't actually make UNDRIP law, however, UNDRIP is required to be considered so that laws are consistent with the principles outlined in UNDRIP and that is a bit of a shortcoming.

Not one article of UNDRIP is proposed to be federally legislated, but what's interesting is that the federal legislation and the United Nations both refer to it as a universal international human rights instrument.

In Canada, human rights are taken pretty seriously and Human Rights legislation is considered "quasi-constitutional" which means that it is like constitutional protection but not quite. It's higher than legislation, but lower than the constitution. That's pretty powerful. When you deal with human rights, like someone with a visual disability in the workplace who requires a bigger screen, the employer has a duty to accommodate to the point of undoing hardship. If UNDRIP is a human rights instrument, that means the government and others in the world have a duty



to accommodate to the point of undue hardship. It's an elaboration of human rights and a little more specific to the rights of indigenous people, but it is not a right under Section 35.

Article 4 of UNDRIP references a right to self-determination. Self-determination is very broad, but one of the aspects of self-determination is self-identification. So is developing a membership code respecting UNDRIP in regards to the right of self-determination? I don't know. Is controlling status exercising a right to self-determination under UNDRIP? We have to talk amongst ourselves; our leaders and technicians really need to flesh this out. Article 4 seems pretty straight forward on paper, but how does that work on the ground? We need to determine what it means so that we can advocate, not only in respect to Article 4, but to articulate what it actually means. If we don't, just like the First Nation Lands Management Act, the government will do it for us and it isn't going to be that favorable.

Article 10 says Indigenous peoples shall not be forcibly removed from their lands or territories. That to me says our reserve lands and other territories could be treaty lands, traditional territory, or both. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned, and after agreement on just and fair compensation, and where possible with the option of return.



Free prior and informed consent is used throughout UNDRIP and references informed consent, where the person making a decision must be competent to make an informed decision. Informed consent also requires that the person asking for the consent disclose and educate the other part about the known risks, benefits, and alternative options to making that decision. Informed consent carries both a legal and ethical obligation to obtain the informed consent. Implicit in providing informed consent is an assessment of the decision makers understanding, rendering an actual recommendation, and documentation of the process. Often, a bunch of information is thrown at us by the government and when we don't have the ability to review those communications sufficiently before the government bulldozes their ideas through, it cannot be considered informed consent. These are the things we have to become understanding of, and conversant with.

Article 11 outlines that. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect, and develop the past, present, and future manifestations of their cultures such as archaeological and historical sites, artefacts, designs, ceremonies, technologies, and visual and performing arts and literature.

Ceremonies are essential. If written word is not a predominant means of communications, often ceremonies are a way to convey and communicate ideas. When you see a ceremony, you remember it more than just seeing someone talk. When it comes to things like ceremonies being protected; that can go a long way.



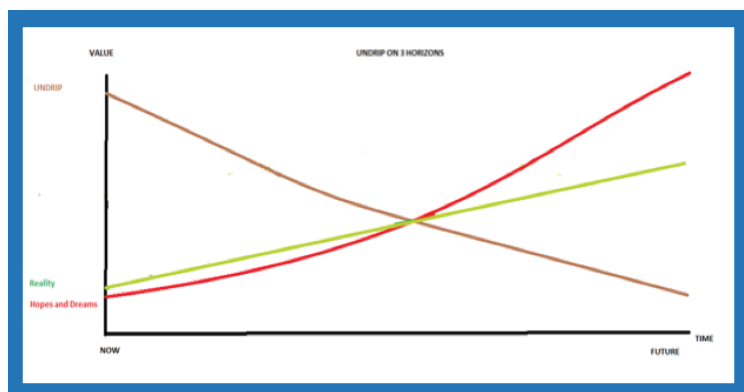
In Article 12 of UNDRIP, Indigenous peoples have the right to manifest, practise, develop, and teach their spiritual and religious traditions, customs, and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains. About three years ago in British Columbia there was a litigation that went to the Supreme Court of Canada dealing with Great Bear Spirit Mountain. It was a sacred cultural site and the First Nation lost this litigation. Would it be different under UNDRIP? It's hard to say for sure, but we have to be aware that Article 12 exists as a tool to help protect us in similar situations.

In Article 19, the government shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them. If UNDRIP is similar to human rights legislation, the window into what is a human right keeps evolving. Of course people who are in wheelchairs or blind can't be discriminated against but one thing that is coming to the forefront in the age of Covid is anxiety disorder. It is becoming known as a disability. UNDRIP seems clear about certain things, but the elaboration of other things can continue to evolve over time.

Article 24 states that Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, all social and health services.

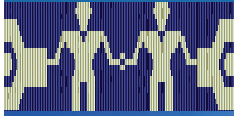
With Article 25, Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters, and coastal seas as well as other resources; and to uphold their responsibilities to future generations in this regard. We have to articulate what traditionally owned means. It's different than occupied, so we have to differentiate between the two.

Article 26-1 states that Indigenous peoples have the right to the lands, territories, and resources which they have traditionally owned, occupied, or otherwise used or acquired. Article 26-2



says that Indigenous peoples have the right to own, use, develop, and control the lands, territories, and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired. Article 26-3 says that the government shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with

due respect to the customs, traditions, and land tenure systems of the indigenous peoples concerned. We have to drill down on what a lot of this means.



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UNDRIP AND NATION COUNCILS PANEL



With UNDRIP, we have to realize that right now UNDRIP is very valuable but overtime it might become less so. We have to use UNDRIP to reflect our hopes and dreams while it is available to us. This is a tool to help shape our reality and we have to maximize these tools now to pursue our hopes and dreams for future generations. UNDRIP is not as simple as reading and memorizing what articles it includes. We must be a participant in the interpretation of its articles, understand some subtitles, and assist (including the government) in gaining an understanding of its interpretation and what it means. We must also be diligent and alert to government action, policy, and law that may be inconsistent with it.

## UNDRIP and Anishinabek Nation Councils Panel

**Gordon Waindubence**, Grand Council Elder, Getzidjig Advisory Council

**Donna Debassige**, Kwe-Wuk Advisory Council - Lake Huron

**Marina Plain**, Kwe-Wuk Advisory Council - Southwest

**Evelyn Stone**, Kwe-Wuk Advisory Council - Northern Superior

**Pierre Debassige**, Eshekenijig Advosiry Council - Lake Huron

**Lance Copegog**, Eshekenijig Advosiry Council - Southeast

### Grand Council Chief Glen Hare

M'Chigeeng First Nation

The interpretation of UNDRIP is important. We have government and other tables so whether it be this, or in the courts, it comes back to us saying we interpret that paper this way. It can be a big waste of time and resources for everyone. Why have these courts and meetings and then just land at "here is how we interpret this"? These articles in UNDRIP are good, and they give us something to talk about. Still, Bill 156 is the no trespassing bill to protect what little land we have left and now we have helicopters flying over our lands looking for resources. That is trespassing to the letter of the law.



### James Marsden, Regional Deputy Grand Council Chief - Southeast

Alderville First Nation

Fred mentioned consultation and that is a big thing. With the Premier opening up green lands and wetlands, the environmental concerns were thrown out the window. All that stuff still happens and UNDRIP won't make a big difference. You even see the Prime Minister bringing in carbon tax without consultation. Again, the government is making all this money off us.

## **Edward Wawia, Regional Deputy Grand Council Chief - Northern Superior**

Red Rock Indian Band

One thing we have to sort out with UNDRIP is that we are thrown together in one basket. Are we aboriginal, indigenous, Metis, Inuit - do we all have the same rights? We're the original people here and our First Nation rights need to be separated from everyone else. They always throw in the fact that the government will not abrogate or derogate from our rights, however no matter what you are working on, on the last page they always say 'except for conservation and safety'. They have that trump card on us and no matter how hard we argue or fight, we lose because of that trump card.

## **Chief Scott McLeod, Regional Chief - Lake Huron**

Nipissing First Nation

I don't think the Ontario government has the political appetite to engage with UNDRIP. Further to that, I think we have been too quick to put all our eggs into one basket with these pieces of legislation or declarations and thinking they are going to work in our favor. The entire premise of colonialism is to get the agreements, not to honor them. We can start with the 1850 Treaties or even before that, but there is no honor in colonialism to fulfill the obligations set forth in their promises. We have to always force their hands, and that is typical of colonial governments. They obtain the agreements, and then argue about the interpretations. Whether we look at Section 35 of the Canadian constitution, or at other agreements, those things didn't help us out. They confined us in boxes that we have to argue our way out of right up into UNDRIP where we will be arguing about interpretations for decades to come. There's a lot of value in simplicity. Wampum belts are very simplistic and there is no room for misinterpretation. It is important to point out the obvious in what we are struggling with and the further we get away from the treaties, the less value there will be in the treaties over time. We need to take a stand on the very basics of the treaties.

## **Evelyn Stone, Kwe-Wuk Advisory Council - Northern Superior**

Michipicoten First Nation

There is a lot of confusion with UNDRIP. I am not familiar with it, but being a grass roots person and not understating the process of where we are going is hard. We are talking about our lands and resources, but are we talking to our elders? I don't hear anything about the importance of water, animals, or the land that we have. We talk about funding, but we don't have enough funding to properly train our people. We have a lot of non-native people in our community working at our office and it hurts me to see that. We have youth here that are struggling with drugs and alcohol, and families who have no jobs. We have children with no opportunity for growth, or to look to the future and hope that they can get a job in their First Nation community. We need to take the step back and gather ourselves together. I've been in politics for a while and I have been hearing the same thing: that progress today is not bringing our people together. The lack of communication, the lack of understanding and capabilities, is a hurdle. We are stronger with unity, so let's do what we should have been doing a long time ago: let's educate our people. There are elders who don't know how to use a lap top; there are people who don't understand what colonialism





means. In order to protect our lands, we need to protect our people so they understand who they are as Anishinabek people. We don't have many trappers today and we are losing access to trap lines as a result, but if we had youth that knew how to trap and use those lines, we would still have them today.

**Donna Debassige, Kwe-Wuk Advisory Council - Lake Huron**

Wiikwemkoong Unceded Territory

When we say keep it simple, I can keep it even simpler. I can take my lawn chair out where I was born and sit out there and know that no one has ever lived in or worked this land except my parents, grandparents, great grandparents, and great-great grandparents. To me, that is what it means to be Anishinabek. UNDRIP can't give or protect that for me.



**Marina Plain, Kwe-Wuk Advisory Council - Southwest**

Aamjiwnaang First Nation

UNDRIP is an instrument and guide for the government. I don't know what will happen with the voting procedures or whether it will pass or get shut down again, but I am really hoping it is going to instill some changes. As a grass roots person, I am all about asserting our rights and I am happy to see our communities taking back their rights. In Aamjiwnaang, we took back a portion of our waterfront and it was a strong step forward. I hope this continues throughout all the nations and nationwide. The border crossings are a concern and the fact that Covid is restricting our travel and right to cross the border is a problem and I think that people need to take a look at that.

**Fred Bellefeuille, Barrister and Solicitor**

Nipissing First Nation

Keep in mind UNDRIP is primarily a defensive piece of legislation or policy and we have to think about our offensive game. It talks about prior free and informed consent prior to alienating land. We don't want to alienate land, we want to add to our land base. It talks about dispossession of land, which we also don't want. We have to let this play out, but be proactive and focus on what our hopes, dreams, and objectives are moving forward. This is a tool, not the final answer.

Land tenure is defined as how First Nations and individuals hold land, such as a permit to use land, a certificate of possession, or a traditional holding. Those are all land tenure. Even though the Indian Act had land management aspects to it, a lot of First Nations just did their own thing and used traditional land tenure and said here, this is how we do it: build your home, live your life. Could it support economic development? Definitely. If you have control over land tenure you can decide what businesses will be allowed to develop on your reserve. The more control you have, the more you can shape your future. Additions to reserves is an offensive move that adds to our land base so pushing for that to increase our base for our people is a good thing.

**Chief Patrician Tangie**  
Michipicoten First Nation

We need to carry unity with us. The provincial and federal governments are both working on things without us. As indigenous people, if we band together and work on our own understanding of UNDRIP and developing our own laws, we will have a lot more force if we stand together. The decisions we make today need to be with future generations in mind and we often lose sight of that fact. Any company that comes into our territory has to provide us with a premium. We need to come together and decide what's important for us and what will be acceptable and allowable. We need to look at those things before we start looking at economic development. It's the way in which our ancestors made decisions in ceremony and looking at the lands and thinking how are we affecting future generations. We need to come together more in ceremony and start discussing how we are going to look after our beautiful resources. If we were born in Europe with what our ancestors left us, we would all be kings and queens. If we want to be land stewards we better start acting like it and stop giving things away to the federal and provincial government and start working towards something that will benefit all of us.

**Lance Copegog, Eshekenijig Advisory Council - Southeast**  
Beausoleil First Nation

This is an important discussion and I'm glad that there is representation here from our women's advisory council, our elders advisory council and our Eshkenijig Council. The UN declaration sets out the minimum standards for engagement with our people and it is important that we start having these discussions or that leadership in our 39 communities initiate these discussions with young people on the spirit and intent of the UN Declaration and what the articles mean in terms of our communities. This is an important opportunity for us to have a discussion on what those minimum standards look like and what we as Anishinabek nation expect of our nation to nation partners and on both our crown partners when it comes to that nation to nation relationship.



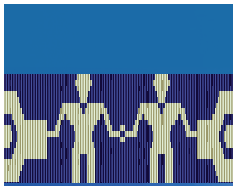
UNDRIP is one tool that we can use for that relationship. It's not the end, but it's a beginning that we can use to get to an end and that end is a better relationship with our crown partners. I would encourage our Anishinabek leadership to, as Bill C-15 starts to be implemented and passed through parliament, we do need to have those discussions with our young people and our whole community on what UNDRIP looks like and what that means specifically to each of the 39 communities across Anishinabek Nation.

**Pierre Debassige, Eshekenijig Advisory Council - Lake Huron**  
M'Chigeeng First Nation

UNDRIP is going to be a very useful tool in our arsenal in our nation to nation talks.







## Managing Invasive Species

**Sarah Rang**, Executive Director

**Lauren Bell**, Education & Community Outreach Coordinator

**Deborah Sparks**, Business Development and Communications Manager

The Invasive Species Centre is a not-for-profit organization headquartered in Sault Ste. Marie that does a lot of work in Northern Ontario and also across Ontario in some other areas as well. The Invasive Species Centre is a non-profit organization that connects stakeholders, knowledge, and technology to prevent the introduction and spread of invasive species that harm Canada's environment, economy, and society. The Centre has been around for about a decade and deals with a wide range of invasive species and how they are currently impacting the land and water in our region.

The Centre has three main areas of focus: Catalyzing action with a number of priority species and pathways that we try to reduce the impact of the invasive species. Sharing knowledge through partnerships that deal with forest, plant, and aquatic issues. The Centre will often host free webinar series on a variety of topics to engage their audience and those who might be interested as well. Lastly, the Centre does a lot of work to quantify the costs and impacts of invasive species in terms of financial, ecological, and social impacts that might be felt. This is done with the idea of building a better business case in terms of invasive species.

When we talk about invasive species, we are talking about species that have been introduced from outside of its native range and that have the ability to impact three major aspects of our communities: economy, ecology, and society. Many invasive species are fast-growing, reproducing species that lack natural predators that would slow their spread and tend to target native species that lack defense mechanisms.

We are beginning to see large, increasing amounts of invasive species in Ontario and it's an increased threat to biodiversity. It's ranked as the second most important threat to biodiversity after habitat loss.



The **Invasive Species Centre** is a not-for-profit organization that connects stakeholders, knowledge and technology to prevent the introduction and spread of invasive species that harm Canada's environment, economy and society.

There are a few predominant invasive species that have appeared in Ontario. The total impact of Zebra Mussels in Ontario is estimated \$75–91 million per year and they are responsible for endangering and threatening eight freshwater mussel species in Ontario. They have been a huge problem in many of the Great Lakes communities and are now being found in inland lakes as well. They have resulted in a very large economic cost, but have also had a major ecological impact as well in terms of the freshwater mussel species that are disappearing.

The Emerald Ash Borer, a small green beetle native to north-eastern Asia, has killed millions of trees in Ontario including 90,000 ash trees in the City of Toronto alone. This has resulted in municipal costs of \$30 million. The Canadian Food inspection Agency has spent over \$30 million, and cut down over 130,000 trees due to this infestation.

The competition from Garlic Mustard, a small plant that grows in woodlands, threatens several plant species at risk in Ontario's Carolinian forest, including American Ginseng, Drooping Trillium, False Rue-anemone, Hoary Mountain Mint, White Wood Aster, Wild Hyacinth, and the Wood Poppy.

Ontario is actually a hot spot for invasive species and has more than any other province. There are over 400 different invasive plants, and a large number of species, around 180, in the Great Lakes. Zebra mussels are a big threat in the Great Lakes, but we also do a lot of work trying to prevent Asian carp from entering the Great Lakes because they would have huge impacts if they were to get in. What we are also seeing is growing risks where people will come into contact with plants like wild parsnip or giant hogweed that will harm their skin.

### Impacts: Invasive Species in Ontario

- 1 Ontario has more invasive species than any other province
- 440 Invasive plants in Southern Ontario
- 180 Non-native and invasive species in the Great Lakes



Some invasive species can change the landscape of a forest or community totally. We have done some work to quantify the impact of invasive species and estimate that municipalities and conservation authorities are spending over \$50 million per year to combat invasive species. The amount varies depending on whether it is a rural or urban setting, as well as the particular issue, but it is a sizable amount of expenditure that is growing over the years.

The most costly species are the Emerald Ash Borer with a yearly impact of around \$30 million, but Zebra Mussels and Quagga Mussels account for \$4.5 million per year, as do Gypsy Moths which continue to be a growing concern year after year. Phragmites, an exceptionally tall reed grass, are a big concern in Southwestern Ontario, and also isolated pockets in Northern Ontario.

There are also emerging threats that the Centre tries to stay ahead of the curve on to hopefully prevent. Some of these emerging threats include oak wilt disease which is not yet in Ontario but could become problematic in the Windsor area. Hemlock woolly adelgid is a fungus that attacks hemlock trees and is currently in the Niagara region. Asian carp is another potential threat as are a lot of aquatic plants such as Parrot Feather, Eurasian Milfoil, Water Chestnut, Water Soldier, and Phragmites that are appearing in many lakes. Common Reed or Phragmites are a huge problem in the wetlands in Southern Ontario. It is possible to control Phragmites, and there are many different techniques to do so.





The Invasive Species Centre has been working with a number of groups on a phragmites strategy with the goal of improved coordination and implementation of phragmites management in Ontario. We have worked with many groups to collect case studies, and are in the early thinking stages of developing a collaborative framework and economic analysis. We are looking to support some communities in their effort to control phragmites down the road.

We have also done some work on developing innovative tools and are trying to coordinate, develop, and implement new invasive species tools and techniques that meet the needs of land managers. Some of these include digital mapping, training, forest pest training, wild pig web cams, and some new water testing techniques using eDNA that can tell the presence or absence of an invasive species. We also want to improve mapping because there is always a need to get a better sense of where invasive species are on the land.

Communications and training is also important. The Centre has done training for land managers and, pre-Covid, did training for how to look for hemlock woolly adelgid using a technique where you shoot up a rubber ball and if it shows the presence of the fungus then it's a positive hit.

Established in 2015, the Early Detection and Rapid Response (EDRR) Network Ontario is a community action project coordinated by the Centre. The project

aims to train and equip volunteers with the skills and resources needed to better detect and reduce invasive species in Ontario, one community at a time. If you can get ahead of an invasive species, then you are way better off than letting it grow and establish.

There are many pathways that bring invasive species in. Some might come in firewood, others in ballast water. That is one of the primary reasons why Ontario has so many. Opportunities for invasive species to come up via large bodies of water such as the Great Lakes also presents a challenge. A lot of the invasive species that have come into Ontario have been traced to ballast water and the shipping industry, but new regulations on ballast water controls have been implemented in recent years. As a result, we haven't seen the same rate of introduction so they've done significant work in terms of inspection of ballast water.

Cormorants and pelicans are non-native species but you don't always immediately know what their impact is going to be so they can't immediately be classed as invasive species. That is why we rely on risk assessment and do what we can to determine overall risk. Government is always looking at what species they might want to regulate, so they are considering the risk and risk analysis. At this time, those birds are informally classified as a nuisance species until they are deemed invasive. Once an impact to the three pillars of economy, society or environment is defined, then we start looking into risk assessment. Cormorants have definitely been on the radar recently.

## Communications and Training





There are many different organizations that are engaged in handling invasive species. There is a binational discussion with the United States and Canada looking at many common issues like Asian carp but there is always room for increased action. Asian carp are big fish that are coming up the Illinois and Mississippi Rivers, and if they were to get into the Great Lakes it can totally change the entire fishery so that's one we are working on pretty closely. There are regular forums to discuss invasive species across the border but we would obviously like to increase those discussions.

While Asian carp are a big threat, a lot of the forest pests have the potential to cause huge impacts to our forests. Oak wilt is one of them, as is hemlock woolly adelgid. Those have the potential to have long reaching and serious impacts. There is a piece of legislation called the Invasive Species Act and under that there are regulations that are made. That determines the official list of invasive species and those are the ones that then have resources assigned to them. Unofficially, there are many invasive species that are not on the official list, but are pending, and there are proposals for new species to be listed on the official list.

Climate change has resulted in the spread of many of these things and different frequencies for different things spreading. Climate change is going to be another type of stress in addition to the invasive species. The oak wilt is a big concern but there are a number of different resource

available on how to mitigate oak wilt. There are some practical things that can be done to help.

## Two Green Shovels Projects

### 1. Phragmites Strategy



Improved coordination and implementation of Phragmites management in Ontario. Case studies, collaborative framework, economic analysis, community project support.



### 2. Innovative Tools

Improved coordination, development and implementation of new invasive species tools and techniques that meet the needs of land managers. Tools include increased training, wild pig webcams, genomic tools, and improved mapping.

Phragmites are a big problem that is taking over our wetlands and having a negative impact on species at risk and endangered species that actually live in the wetlands. We are in the beginning stages of thinking through what a phragmites collaborative framework could look like in Ontario. The idea is that each one of us have an area or a landscape that we are interested in, so

how can we learn from each other? There are clean equipment protocols to prevent construction equipment from potentially spreading these invasive species across a community.

Many municipalities are starting to see the threat of invasive species and we are seeing a trend that they are developing invasive species management plans. Municipalities have been feeling the pressure with regards to managing invasive species because municipal funding for invasive species management doesn't come from the provincial or federal government, it is directly from the municipal budget.

There is a lot of action going on with regards to inland lakes and pelicans and cormorants are certainly one of the factors. We also mentioned the spiny water flea that can have a huge impact on the food web in many of our lakes, and can actually change a lot of the fish that are there.



Some lakes are becoming much more reedy. This can be good, but some of that is from invasive species that weren't there before, which is a problem.

We see new species cropping up all the time. Along the Trent Severn Waterway, we have water soldier and that's the only place in North American that we are seeing this pineapple like plant. It has very sharp edges that can cut you when you are swimming. The lakes are changing and while cormorants are one thing, there are many fundamental shifts with species coming in and changing the way that recreation and fisheries exist on the lakes.

### Potential Areas of Collaboration

1. Relationship Building
2. Survey of invasive species concerns and needs in Anishinabek communities
3. Land Managers Forum
4. Sharing of information
5. Early detection/Mapping /monitoring discussion
6. Community microgrants



Prevention is the most cost effective and ecologically responsible way to deal with invasive species but it requires the right tools and training at the grass roots level to be effective. That is something we are working towards. The community action piece is one that we are eager to work on. The other big piece is the boating and fishing tournament piece. There are lakes that are not full of zebra and quagga mussels and keeping them that way is important. There have been increases to the demand for boating and recreational water activities during Covid, so it is important to educate boaters on the importance of the clean, drain, dry process for boats that might be going from one lake to another.

### Chief Scott McLeod, Regional Chief - Lake Huron

Nipissing First Nation

Cormorants have always been part of the ecology of Lake Nipissing. Back in the sixties, there was common use of DDT across North America and it had a devastating effect on the population of cormorants, bald eagles, and osprey. Once DDT was no longer in use, the population was able to rebound and often what happen is the population will explode and expand into new regions. Inevitably, those populations will settle and get back to healthy, manageable population levels. Cormorants are opportunistic birds so seeing them on a lake means the fishery is healthy. A cormorant is not a selective eater so they go after the easiest and most abundant catch, which is usually the forager fish; they won't skip past ten suckers to get to a walleye. They are not as big of a concern as other species like the spiny water flea, goby, and Asian carp. Those types of species are going to upset the natural balance of our lakes. With the province's legislation around the culling of cormorants, the whole decision was really based on public pressure. It wasn't based on science, and there is no science to show that the legislation to allow the cull is going to have a positive effect. Human activity will always be the biggest threat to any species and it is human nature to not want to look in the mirror and find a scapegoat instead.

**James Marsden, Regional Deputy Grand Council Chief - Southeast**  
Alderville First Nation

In the Southeast region, Dutch elm disease has really taken its toll on the population of elm trees and the emerald ash borer has had a heavy impact as well. Now with the oak wilt, we have a protected area called the black oak savannah that has prairie grass, and our staff have been replanting native species. The black oak itself is a really hardy species, the leaves go brown but they usually don't drop off until the spring, but it is disheartening to know that there is another invasive species that could impact the black oak. With the cormorant, there is a dead island on Rice Lake that was caused by these birds and you can see their impact around the south shore of Lake Ontario. Despite that, people get upset when you suggest a cull.

**Address from Anishinabek Nation Head Getzit**

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**Gordon Waindubence, Grand Council Elder, Getzidjig Advisory Council**  
Sheguiandah First Nation

The Chiefs in Assembly at one time said to me before we start any gatherings, before any meetings should begin, we should say the preamble of the Anishinabek Nation. That direction came from a friend of mine from Curve Lake whose name is Keith Knott, and was about ten years ago. It's a good thing I was one of the guys who helped make this preamble because if I didn't, I wouldn't know it but I am glad the people are starting to recognize the importance of the preamble and this is how it starts.

This is our language and we should really start using it. If we went to another province to look for a job, we would have to be fluid in that language; if we were not, we would not be hired at all. That's how serious and important our language is and there is a resolution here on Manitoulin Island adopted by the Chiefs which says all Chiefs and Council plus the administration staff will have to understand our language by 2030, and that is only a few years away. I said the same thing when I first joined the Anishinabek Nation in 1996 in the Huntsville meeting of Chiefs in Assembly. I said I will give you ten years to understand our language. Ten years went by and nothing happened. I said the same thing again in Sand Pont First Nation this time. Ten years went by, 17 years went by and nothing happened again so 20 years went by. I guess we're not really doing what the Creator asked us to do, we have to take it upon ourselves to understand our spirit, who we are. I guess I say this too: we cannot visit our spirit with this language, we have to use our own to visit the spirit properly. And I visited the spirit two days ago before we started this form and when the door closes in that lodge, we cannot use this language because the spirit won't understand. They don't understand English.

I think everyone for opening us up for the words that she said. The words are so important that when we translate things into English, we forget the spirit of that language, the spirit is tossed aside. And that is one of the reasons I try to use our language in everything that I do; I talked about this yesterday afternoon with another group. I spoke to that group stating that our nation





starts at Madeline Island. We have ceremonies there, a place called Rock Cliff, and we have the three fires confederacy meeting there every now and then to talk about Anishinaabe issues and Anishinabee compliance to the environment, and everything thereon. The Anishinabek Nation comes 1,000 miles east, not kilometres, but miles, and it comes to the Atikamek Nation in Central Quebec. I understand them when they talk. And then it goes 1,000 miles west to the Caribou Mountains. I understand the Cree Nation too that is over there. But actually, the nations are so very close together that if we go down 500 miles south from Madeleine Island, we go to a forced migration that was done by the foreigners that came here, the immigrants that came here. And we go 500 miles north again, that's the territory of the Anishinabek Nation. The language is similar in all of these areas. One of the things one of my mentors said to me. It's very, very important that we understand the language of the land we walk on. The language of water that we paddle on because without knowing the language, we will hurt ourselves in the natural world. I really didn't understand what my friend was trying to tell me until later in life but now I understand a little bit more of the riddles that my mentor said to me. One of the things he said to me was that the Anishnaabee people were adapting to the worldview of the natural world that was given to us, that was placed here before us. Of the animal nations, of the water nations, of the environment nations and of the sky world. Now I am beginning to understand. I think it is called the inherent emergence of nature developed through a system that was ingrained in us rather than when the foreigners got here, a content driven process. Our families are across this land, my relatives are all across this land. My relatives are the Wolf Clan people, I am from the Wolf Clan so whenever I travel, I look for that clan. They will look after me. And in return when people come here, and a lot of people come here, if they are Wolf Clan I will look after them also. That's how family is when you are on the Red Road. I've never seen the Red Road but there is an explanation for that.

The Creator placed Anishinabek man on Mother Earth. Along with that process there was very, very good gifts that were given and one of those gifts is called spirituality. Every Anishinabek person carries that gift and sometimes it is missed because of colonization. Sometimes we don't even know what is happening to us when are arrested by the colonizers for not understanding their rules, not understanding their laws or policies. So let's turn those tables around. How would they react when I talk about Anishinabek laws that we have, the worldview that we have? We too can put them in little cages for violating our laws and they wouldn't even know why they are in those cages. Spirituality is very, very important to us, and without it, we would be lost because everything flows through spirituality first. Sometimes when we look at the physical side of a person, we look at that last. In the middle there is the emotional state and we have to look after our emotions too, and then the mental state, and then the physical state. Everything in the natural world runs by four, even all the songs I sing are like a story book in four sentences. That's how we understand the songs that we carry. There were gifts that were given to the Anishinaabee people and these are in order also: the order of creation, the order of how first woman was created and the first woman was called Mzakmig-kwe not the term Shkaakaamikwe. We can pick up Shkaakaamikwe but we cannot pick up Mzakmig-kwe because that one is the world. When the Creator created the world, he used the four elements to create woman and those elements are fire. There are four kinds of fire, there are four kinds of water, there are four kinds of land, and four kinds of air. Those are the things that were given to us to look after, along with Mother Earth.

Those gifts the Creator gave us as the foundations of our laws are love, truth, respect, wisdom, humility, honesty and bravery. Those are our laws and even myself when I follow the Anishnaabee way of life, I find it sometimes hard to use all of those laws were given to us by the Creator every day because me too, I am human. Those seven laws are so very simple, and yet are so very hard.

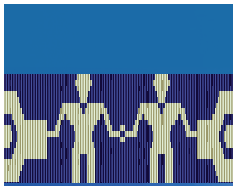
The Creator gave us sovereignty to look after ourselves, and this is very, very important and one of the reasons we are having this meeting today. Sometimes the foreigners, the landed immigrants that came to this land say this is what is best for the heathens on this land, and they still call us that today. And one of those heathen scalps, the last that was taken was in 1942. Just 1942. There is another story that goes beyond that, but I won't mention that.

We really have to understand our past in order for us to take a step forward. We have to understand the past, and what was left for us. What I mean by that is the treaties. There is so much information there that we seem to forget. Before any treaty was made, there was a ceremony. Before any treaty was made, there was fire. The 1850 treaty was supposed to be signed on September 2nd, it was not signed because close to the Indian agents home in the Saint Mary's River, didn't allow fire so the Anishinabek in protest had to go down to St Joe's Island because that's where the large encampment was to get fire and they took four days to get that fire. Some people say it was three, but actually, it was four days. We cannot agree to things we don't understand and you can ask yourself who made those treaties? It was the British government that made those treaties and indicated for us to mark an "X" on a piece of paper but for us it was confusing. We signed those things under duress, much like what is happening now. We are signing things under the influence of alcohol and drugs. We are rampant on drugs in the Anishinabek Nation. What happened to our strategy to combat drugs? We had that strategy eight years ago so was it shelved and pushed aside to create economic development, or are we just killing ourselves for the benefit of the almighty dollar? We have heard that whoever has the gold makes the rules. We have the gold, but we are not making the rules, the government is. That's the history of the Anishinabek people. There are more things I could say, but I will leave it at that. We have to know what is going on today. There is discrimination going on today. We hear reports on tv that black lives matter and that's true. Anishnaabe lives matter also. Even though there is a "just us" system, we are not in that system. Only the colonizers use that system to benefit themselves.

You know now that I have a chance to sometimes sit alone, every now and then I go to my camp. I have no Hydro, I have no phone system up there, and I think about what we are going to be like in the future; what we are going to be like in 50 years' time. I asked at one time that maybe we should get the visionaries together. That never happened. I asked for ten years. Maybe the visionaries should get together and we will have a ceremony and think about these things that are so very important for us, like the environment right now. Take a look at the news report in Texas where it never snows. Take a look at what's happening up in Iqaluit where the Anishinabek are protesting a mine. There are so many open pits mines in Ontario and we are not doing anything. Once that mineral is gone, it's gone, it's gone forever. Where is our share? We say that that's our land but actually it's not our land. We are a part of that land. It's the misconception of the colonizers that it is crown land, but there is no such thing as Crown Land.







I think I was the problem at one point, I think I am still part of the problem. When a resolution was created in Garden River about 12 years ago when I said that doesn't sound like us at all. That resolution said whereas, whereas, whereas, and therefore and I said that's not us talking, that's lawyer talk. The Chiefs in Assembly said take that resolution and give it to your elders to get it translated, so I did. It came up to eight pages. I said to the elders, nobody's going to read this, so we cut it in half and cut it in half again and we came up with the preamble of the Anishinabek Nation. It was adopted in 2012 but it was ready in 2011. There were some Chiefs and some Chiefs were crying that maybe we should stop and take a look at what is written down here. Why are we questioning things that the elders come up with? I have grandchildren and all the elders that I sit with have grandkids also and there is no way that I will hurt my grandkids. No Way. I will leave something there for them to understand where I am coming from and what I left behind. That's one of the reasons why I am going to attempt again to make another book, another understanding that the modern day vision that I had just ten years ago maybe, and I was wide awake and I tried to share that vision with the Chiefs and the Assembly again in Garden River, but they didn't understand my vision. Maybe in book form, and maybe seeing pictures, because that is how we understand most times, we understand pictures. The pictographs that we have, we understand those. There are so many pictographs and the pictographs, I created one too. This is how I understand that resolution that was made in Garden River to help the Anishinabek people create the preamble for the Anishinabek Nation. At one time, the tribal council on Manitoulin Island asked me to translate word for word for this preamble and it took me two days, that's how much information there is here. I went through it really, really quickly but if we understand what this preamble says, that's the long term strategy that we have. When we decipher all these words, it will sustain us for the next 50 to 100 years, but if we do not understand it, we will be lost in the mist and not know where we are going because I was in that mist ten years ago trying to decipher this and the elements that were there, told me we were going the wrong way.

I thank the ones that shook me awake this morning. I was awake since 4:30 this morning preparing for this day. I put tobacco down for everyone and made fire. I made a plate of food and gave the fire a drink. These are simple things that everyone can do and to give tobacco to say thank you is very simple.

## Biogas and the Drainage Act

**Terri Bulman**, Manager - Environmental Stewardship Policy, Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA)

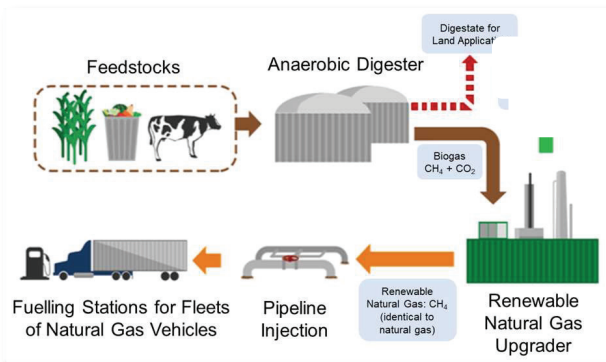
We are presenting two proposals to you that we introduced at the Anishinabek Forum in 2019. We paused our discussions with Indigenous communities because of the Covid pandemic but we are now coming back to update you on how we have been getting along and to provide further opportunity to discuss these proposals before we finalize them. The first proposal is intended as an economic development opportunity for farmers

under the Nutrient Management Act and the idea is to remove barriers to farmers in participating in the renewable natural gas market. The Nutrient Management Act is a joint legislation with the Ministry of Environment, Conservation, and Parks so it is an environmental legislation as whatever potential there is for the environmental impact for the activities under it are balanced by rules to manage those impacts.

The second proposal is intended to reduce burdens for activities that are already permitted under the Drainage Act. This is a proposal to modernize and streamline some existing processes. It is not environmental legislation as such but we do think the streamlining opportunities provides the potential to encourage and incentivize good environmental behaviour and outcomes.

### The Nutrient Management Act

Under the Nutrient Management Act, the primary goal is to manage nutrients. It includes lots of rules for the application of materials containing nutrients to land managing the storage of them to prevent them from going into waterways and make sure that they are available for crops to take them up and build soil health. The Nutrient Management Act also provides potential to divert organic waste from landfills where it would be creating greenhouse gases and gives us the opportunity to create some better beneficial uses for organic waste. And by organic waste I mean food waste from food processors and the kind of food that might be in the grocery store but is no longer edible. Rather than sending it to landfill, we can make use of it on farm activities. The most recent updates we made to the Nutrient Management Act enabled the use of these organic materials to create energy as well as a nutrient stream for application to land. The current rules under the Nutrient Management Act allow for small anaerobic digestion facilities that produce electricity. Our current proposal allows for larger anaerobic digestion systems on



farms that can produce renewable natural gas as an energy source. Feedstock including crop residue, food waste, and manure from livestock would go into an anaerobic digestion facility where microorganisms would degrade and break down the materials without oxygen, which is what makes it anaerobic. The digester would produce a digestate that contains the nutrients for land application and a mixture of biogases that, at the moment, is combusted in a generator

to produce electricity. Our proposal involves more feedstock, larger digesters, and a new piece of equipment called an upgrader that would clean the biogas and convert it to renewable natural gas. The infrastructure for the distribution of the renewable natural gas is not part of the current Nutrient Management Act proposal. We are trying to reduce the limitations on farmers on their own farms to participate in a renewable natural gas market.

In order for this proposal to go forward, we would need to create some rules around the construction of the biogas systems and around the feedstock and new feedstocks that could be included in the future. Construction rules will need to provide for the building of an upgrader on the farm as part of the system. The different components of the system will also have to be clearly defined to make sure that there are rules around set back systems from residences that





would manage any potential noise and odour concerns, and rules pertaining to odours and environmental concerns for materials going in and out of the digester. The goal is to create a balance between allowing for a bigger digester system, and the additional rules that would allow for mitigation of environmental impacts including noise and odours.

Rules also need to be created around feedstocks. We are allowing for the processing of more off-farm materials. Existing rules allow for up to 10,000 cubic meters/year of off-farm materials and we are looking to increase that to 40, 000 cubic meters. We are also expanding the types of material that could be used, for example more agricultural materials that are not manure, and also new material that was not previously allowed for on-farm digesters up until now such as source separated organics or green bin waste, food scraps from the kitchen that would otherwise end up in the garbage and then the landfill. If we can collect that separated at source, we can make better use of those materials in the generation of energy.

We will need new rules about how this new waste, particularly the off-farm waste is handled. We will need to ensure that plastic packaging is removed before it gets to the farm. In some cases a heat pre-treatment will be required to kill any pathogens before the materials go into the digester. There will also be more rules surrounding the testing of the quality of materials before they go into the digester and the quality of the digestate that comes out. The balance needs to be struck between offering more and different feedstocks, while ensuring the quality of what comes out of the digester.

#### Proposal

- The Ministry of Agriculture Food and Rural Affairs and the Ministry of Environment Conservation and Parks are proposing changes to anaerobic digestion facility rules under the *Nutrient Management Act, 2002*.
- The proposed changes include:
  - Design and construction requirements that enable production of renewable natural gas (RNG), while avoiding noise and odour concerns and maintaining environmental oversight;
  - Increased flexibility in the types and amount of feedstocks for agricultural producers to process in on-farm Regulated Mixed Anaerobic Digestion Facilities (RMADFs); and
  - Simplified operational requirements related to sampling and analysis



There are additional challenges with the supply chain too. If a load of feedstock is tested and deemed to be good, but for some reason the destination farm can't accept it because the digester is down or something similar, that material would be diverted to another equipped farm. At the moment, diverted materials need to be tested again when they reach the new destination and we are looking at removing that because it is a situation that was never really intended in the first place.

Under the Nutrient Management Act, farmers who have a digester would need a nutrient management strategy that includes the description of the digester. It would have to be approved by the Director at OMAFRA and the Ministry of the Environment, Conservation and Parks would also have a role in compliance related activities. We are still discussing exactly what the testing and record keeping requirements are going to be but that is a component of it that Environmental Officers would be looking after.

There are air emissions from upgraders. The upgraders take biogas, which contains methane and carbon dioxide and scrubs the carbon dioxide that is then emitted into the air from the upgrader.

That carbon dioxide was captured by plants from the atmosphere and put into plant material. In the case of manure, the plants were consumed by the animal and expelled as manure and that comes out in the biogas. Plants that are consumed as food also have that carbon come back as bio waste. So basically, the carbon dioxide emissions from an upgrader are not considered a net greenhouse gas emission, they are considered carbon neutral as part of the biological cycle. There is also a residual amount of methane that is emitted from the system. Although we are harvesting most of the methane in order to create the renewable natural gas, there is a fraction of residual methane that is not harvested. Because of the efficiency, there are no specific air quality approvals that are required; the process is comparable to the emissions from the engine of a tractor or the emissions from a furnace.

The digestate quality and nutrient uptake is being regulated under the nutrient management regulation because of the opportunity to capture the nutrients from both the food waste and the manure when they go into the digester. Regulating it under nutrient management makes sense because ultimately this materials produced have nutrient value and gets land applied onto agricultural fields. Farms that are regulated through this process have a nutrient management strategy that would also look at the design and operation of the digester, the quantity of nutrients and how they are managed. When these digesters are located at livestock farms that are phased in to the nutrient management rules, they are required to have a detailed nutrient management plan for each of the fields that receive the nutrients that come out.

We partnered on this with the Ministry of the Environment, Conservation and Parks and they always have their eyes on waste and where waste is going. This means there is what we call a multi-barrier approach to making the rules. One of the requirements for source separated or kitchen green waste is that that material must first be cleaned off site at a processing facility prior to coming to the farm. There are exiting rules in the regulation that prohibit the de-packaging of materials so if waste material came in packaging the packaging or containers would need to be removed by the hauler of the material. There are a number of steps along the way to minimize the risk of waste packaging of contaminants accumulating at a site.

When we think about agricultural nutrients, one of our biggest concerns is excess nutrients going into surface water and how that can be managed. Under the rules, the digestate that is produced is managed with the same rules that apply to manure. We are taking manure, mixing in food waste and treating it in the digester so the rules for the digestate produced are the same as the rules that would apply if just straight manure was used. The Ministry of Agriculture takes the impact of nutrients on surface water very seriously and has all sorts of other programs to encourage farmers to use different technology and to apply best management practices to keep nutrients away from the edge of creeks. This set of rules doesn't specifically address that, but it does speak generally to managing nutrients upstream of farmers' fields.

Technically speaking, this entire process should not pollute but as with many things, it is all in the implementation. There are times when things aren't done properly and it does end up in a pollution problem. One of the challenges that farmers have with manure, even phased in under the Nutrient Management Act, is the fact that livestock produce it all year long but the farmers can't apply it to land all year long because the ground is either too wet for the tractor to go out,





or there is snow or frozen ground and it would not be environmentally responsible to land apply the manure so it has to be stored but what happens if the storage bin gets full? Farmers need other options for what they can do with their manure and the option to put it in a digester and create energy is one of things that can be added to their toolkit for managing manure.

Some farmers have converted existing concrete manure storage bins into digesters One of the gaps that we did have in the former anaerobic digester rules was that we hadn't clearly applied the manure storage rules to the digesters so that is one of the additional requirements that we are putting in. Under the new rules, a digester will have to conform to the same standards as a normal manure storage facility.

Natural gas can be transported like propane in a truck or tanks and delivered to remote sites. There is a community in Northern Ontario that is setting up a natural gas pipeline so that liquid natural gas can be delivered to the community. Because this is renewable natural gas, businesses who might want to reduce their carbon footprint could look at bringing in this gas. There is a project near Woodstock that is a large greenhouse operation that is not on natural gas but will be setting up what we call a virtual natural gas pipeline using four large natural gas tanker trucks to bring in natural gas to that site. There is definitely an opportunity for such projects and the logistics are similar to the transportation of propane from both a cost and safety perspective.

### The Drainage Act

The Drainage Act is one of three acts implemented by OMAFRA that manage water that drains from agricultural fields. The other two acts, The Tile Drainage Act and the Agricultural Tile Drainage Installation Act both support farmers who want tile drains installed on their property to improve plant growth. The Drainage Act is different and puts responsibility on the municipality to manage the flow of water between properties, generally to ensure that the drainage coming from one property isn't having a negative impact on other property owners. The way it works is if a farmer has a portion or property that is too wet for crops, they can install tile drainage by applying for a loan through the Tile Drainage Act. The Agricultural Tile Drainage Installation Act issues licences to installers and their equipment and conducts inspections of any drainage businesses, machines and operators. If there isn't a watercourse nearby, a farmer can petition the municipality to create one so that drainage water has somewhere to go and that is where the Drainage Act comes in. It sets out the process for the initial petition and the process for construction as well as ongoing maintenance and improvements over time for the drain that the municipality built and is responsible for. The Drainage Act also provides some grants to assist municipalities with these projects so that Drainage Superintendents can be hired and so that the municipality can distribute the costs of the drain construction and ongoing maintenance amongst the property owners in the watershed who are receiving the benefit of that new drainage.

#### What is the Drainage Act?

- Drainage is critical for supporting agricultural food production. It can provide environmental and economic benefits such as improved crop productivity and flood control, help reduce nutrient loss and soil erosion and support wildlife.
- Three Acts regulate drainage in rural communities:
  - *Drainage Act*,
  - *Agricultural Tile Drainage Installation Act*,
  - *Tile Drainage Act*.
- The Drainage Act regulates municipal drains - shared community infrastructure often built on private land. Municipal drains provide benefits to many property owners within a watershed, and the costs of building and maintaining them are shared among those property owners.
- The construction of these drains must be done in a way that prevents flooding and supports agricultural production but does not have negative environmental impacts.
- OMAFRA administers the Drainage Act but does not approve drainage projects.
- Municipalities are responsible for implementing the Drainage Act process, approving and charging the costs of drainage construction, improvements, maintenance and repair.





There are lots of other legislations that impact and manage both private and municipal drainage activities. At the Federal level there is the Species at Risk Act, Fisheries Act, the Migratory Birds Convention Act, and the Canadian National Parks Act. At the Provincial level there is the Conservation Authorities Act, Endangered Species Act, Fish and Wildlife Conservation Act, Ontario Heritage Act, Ontario Water Resources Act, Environmental Protection Act, Nutrient Management Act, and the Clean Water Act. Other agencies also oversee areas where drainage might cross a utility such as pipeline or railway. Overall, constructing drainage in the province does require approvals from a large number of agencies under a large number of acts and it can be a complicated and lengthy process.

The Drainage Act Proposal won't change any of the existing legislation. What we are proposing is some opportunities to better align the needs of the different agencies to bring them together, align them, and hopefully help streamline the drainage process. We are proposing a new regulation that creates a new process for minor improvements or low risk improvements. The existing process would remain for most of the improvements done to drains but this regulation would provide a set of criteria for projects deemed low enough risk that they could proceed quickly. It would also create a process to make sure that engineer reports can be updated. The engineer report is basically the legal description of the drain, including drawings, and is passed by the municipality into bylaw and must be kept up-to-date so that any changes to the drain have an up-to-date legal description of what exists. The third thing this proposed regulation would do is adopt an existing protocol, a manual of best practices for the DART (the inter-agency Drainage Act & Section 28 Regulations Team) protocol for drainage maintenance and repair. Adopting it would give the weight of law and create the opportunity to incentivise drainage projects to make use of those best practices and streamline the approvals process.

The criteria for the more improvements component ensure that only one property will be affected either financially or by the construction in question. If a neighboring property has to be involved then the affected property owner would have to be involved. The criteria includes a requirement that the proposed project would not increase the flow of water in the drain and that would

ensure that a project is deemed lower risk. In the future, it may be possible to include projects that adhere to a pre-approved design. There is potential to create green infrastructure projects with positive environmental results.

Examples of Applicable Legislation and Other Agency Approvals	
Federal	Species at Risk Act, Fisheries Act, and the Migratory Birds Convention Act, Canadian National Parks Act
Provincial	Conservation Authorities Act, Endangered Species Act, Fish and Wildlife Conservation Act, Ontario Heritage Act, Ontario Water Resources Act, Environmental Protection Act, Nutrient Management Act, Clean Water Act
Other Agencies	Utility and railway approvals

The proposed criteria for the engineer's report update covers situations where the engineer's report is approved through bylaw but when they get out into the field and start building and digging the drain, they discover something that requires a change to the design of the drain. The criteria for that situation is that it has to be an unavoidable change in the design of the drainage design that isn't discovered until they dig or there might be a change in the way the drain is built based in some of the other approval processes that required the change but the permits didn't come through until after the bylaw was passed in which case there might be changes from the Conservation Authority that are not reflected in the legal description of the



drainage project. With this proposal, the municipality would be able to approve the change in the bylaw if the change arose from these criteria which would keep the legal description up to date. The current process means that the municipality would have to go through a tribunal. The DART protocol was developed with a number of other agencies and would open the opportunity to further collaborative efforts so that other agencies could also reinforce their practices. The regulation would also make an amendment to the prescribed person that must be notified in various sections of the act ensuring that the list of notifiable people would be easier to maintain.

In terms of the Water Drainage Act, the idea behind a water budget is incorporated so the design of the drain incorporate how much water is flowing into the watershed and they try to manage that appropriately to design a system that will not cause flooding or other adverse effects. Some of the things the design will also consider are habitat requirements and other things that are covered by other agencies. It is an attempt to create a more holistic approach.

The Drainage Act itself does not have a requirement for monitoring, but our clients do work in consultation with other agencies. For example, when some drains are being constructed, there might be a requirement from either a Conservation Authority or the federal Department of Fisheries and Oceans to monitor things like the turbidity or clarity of the water during construction. There are limits that are put in place to ensure that the water stays clear during the time that these activities are being undertaken. Fisheries and Oceans Canada permits will also sometimes require monitoring of vegetation and fish species, often pre- and post-project, to ensure that if required the populations that are there are moved appropriately prior to construction and that their number and variety are returning to the improved or cleaned out drain.

The Drainage Act is municipally lead where an engineer is assigned by the municipality. The engineer consults with the property owner and the other relevant agencies to bring the project to construction if all the terms are satisfied. The engineers must consider downstream effects with regards to flooding and any potential negative impacts to properties downstream.

## **Developing First Nation Broadband Strategies**

**Rob McCann, Founder - ClearCable Networks**

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Building a broadband strategy requires multiple steps. The first step is to figure out what is relevant to the individual geography and location, what problem needs to be solved, and what challenges will be encountered in your geography. Are there tall trees, lots of rocks, or soft soil that might pose a challenge to the project? The areas and buildings that will be served by a broadband strategy also need to be considered.

Once the initial scope phase is completed, a more in depth assessment needs to occur. By consulting with different departments, public works for example, you can start to define network routes, technologies and more. Once you have done that, you can verify what assets are available to make that happen, for instance are the poles within the First Nation owned by the First Nation or are they owned by an outside service provider? Are there carriers that can come and connect to give access to the internet and are there other partners that could be brought to the table?



Once the verification is complete, you should begin with the engagement phase to figure out how the different components are going to affect the residents, the land, the carriers, and the potential implications for council. All of that feedback is important before moving on to the final design. The final design outlines how the broadband problem will be resolved, how everything can be connected together, and what the requirements are to finalize a recommendation that can be acted upon.

Building a strategy can take 3 to 6 months and that is not even solving the problem yet. To solve the problem, there are options available. One option is to partner with an ISP that can come in and deliver broadband services to the residents. You could also build your own open access network that would be owned by the First Nation and leased out to service providers to deliver the service. Public Infrastructure also factors in where passive infrastructure such as towers could be leased to providers. More ambitiously, a direct competitive entry could be created where the First Nation would develop their own full service ISP that can encompass, residential, wi-fi hotspots, or even commercial internet. A not-for-profit model delivering cost-effective, full-service access to places that would otherwise be unserved is also a potential solution.

With not-for-profit, the Western James Bay Telecom Network is a great example of a 100% First Nations owned and operated not-for-profit corporation. They can offer their services at extremely competitive rates. This was a collaboration between Mushkegowuk Council, the Chiefs and Councils of the First Nation communities, Five Nations Energy Inc., Northern Ontario Heritage Fund Corporation, FedNor, and Health Canada. The initiative was initially started in 2001 and it took 9 years to get to the point where they could deploy a network that was delivering services. They are continuing to expand to other communities to this day and were able to build a fibre optic network to deliver services to First Nations institutions and communities on a not-for-profit approach.

Similar to a not-for-profit model is an open access network that would be owned by the community. The community would build the entire infrastructure, such as the copper wires in the ground, and then lease access to that asset to other providers to deliver services. With an open access model, the community would own the cables, which is layer 1, but they would contract someone at layer 2 to provide the equipment required to provide the service and connection to the houses because that is not the community's area of expertise. The layer 2







company would then offer out access to service providers such as Bell, Rogers, Cogeco or other regional providers. This model is essentially an investment in infrastructure, not unlike power distribution or the road network. This is infrastructure that is invested in and delivered to the service providers and it provides control at the very base level. Owning the infrastructure also means power over the decisions about who you are able to bring into the market so you can decide who is providing the best service, or who could best satisfy the needs of the residents.

In Parkland County Alberta, there are only 13 people per square kilometre but the territory is 2,400 square kilometers. No provider would invest in developing Internet there based on those figures, so they built a municipally owned tower infrastructure. They own the towers and they connected the towers together, and then they offered to lease space on those towers to outside ISPs who could come in and deliver internet service. More and more, First Nations are taking the lead in owning the infrastructure that services their communities.

There is also the potential to build your own ISP which does require the ability to build capacity and experience in the community. It also creates great local jobs. Basically, you can have someone do it for you, you can do it yourself, or there are multiple options in between.

To get started with a broadband plan you need to consider what the desired outcome is; is it for the good of the community, increased economic development, to foster locally controlled

### Open Access Network



infrastructure, or to provide access at a lower cost. It might also be a combination of some or all of those factors. Once that is defined, you need to review your current digital infrastructure to determine what is already there, what providers might already be in place, and who owns what pieces of the infrastructure. Once you

have taken inventory of what is in place, you need to determine who you are trying to service. Is it the residents themselves or community entities like the band office/facilities, schools, hospitals, or commercial clients? It might even be all of them and if so, it becomes a matter of figuring out what each one of them is going to need; is it basic internet, is there a need for inter-regional connections, or maybe the public works department is looking to implement connected sensors such as water meters. Those types of applications will dictate what type of network will be required. Roadblocks must also be considered. What could prevent a broadband strategy from being implemented? It could be as simple as geography; fibre can't go in the ground if the ground is rock so it would have to go on poles but if someone else owns those poles then that is another challenge to surpass. Local permitting, policies, or access to existing infrastructure could also be a factor so figuring out how to best get past those potential roadblocks is important.

Really, it is all about infrastructure. Building infrastructure could mean be an investment in towers to provide wi-fi or wireless type solutions, or it could be fibre to the home which involves digging in the ground and distributing fibre to all of the homes and building that way. What often happens, is a hybrid of both.

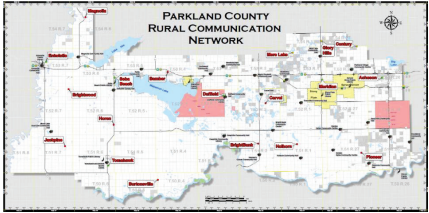

Building a network can be very intrusive as it is driven by the geography. You need to determine the routes where the infrastructure will be created. If there are other infrastructure programs occurring in your community now, such as new water or power distribution, it can be an opportunity to lay fibre as part of the other projects. Most of the effort in building a fibre network is opening up the ground to lay the fibre. If you have a project underway today, take advantage of it. Even if you don't use the fibre right away, you will have it ready for later. You also need to establish how things will be attached to poles above ground and what rights of way to give to be able to put in the infrastructure in the first place. Finding sufficient skillset or contractors can also be a challenge, but building that skillset locally would be good for future development.

It is important to start with research, perhaps mapping exercises but at the very least identifying service gaps in areas with low density. Community engagement is a great way to educate the population and possibly create local committees. Talking to existing ISPs can also be an invaluable way of determining if they have local plans, as well as potentially understating why there are no projects or investments planned in your area.


Once preliminary discussions are complete and a plan is formulating, there are a few important things to remember. Establish Policies. Establishing a "Dig One" policy is important but you might also need to review access agreements, especially if you are bringing in an ISP. Building codes should also be reviewed. Undertaking a feasibility study and business case is essential. You need to figure how much your project is going to cost and whether that is something that the community is willing to support. This creates a broadband strategy that can then be built upon and implemented. Finally, you need to prepare your funding applications. With the pandemic, every level of government has suddenly realized that broadband infrastructure is absolutely critical to the survival of all of our communities so there is funding available.

In the wireless spectrum side of the business it's all about bits per hertz so we are really dealing with physics – how much can we transfer on a particular radio wave? The reality is that our consumption of internet is growing quicker than we are able to develop solutions to keep up with that demand. We are seeing about a 50% compound annual growth rate in Ontario meaning that in 5 years' time, a network needs 7.5 times the capacity that they have today.

### Public Telecom Infrastructure



- Parkland County, AB
- 13 people per sq km
- 2400 sq kms
- A *Municipally-owned* tower infrastructure
- Now building fibre

 <https://www.parklandcounty.com/en/do-business/SMART-Parkland.aspx>










Broadband is the best option, but in some places wireless is the only solution. Parkland County again is an example where the population density is so low it would make no sense to make the investment to deliver fibre to the home. The reality is that if you have any density whatsoever, and if you continue to require reliable services, then you will need fibre. We have seen it across Canada with companies delivering wireless service; when the first five or six people come on everything is great, but by the time dozens to hundreds are using that wireless signal, the performance starts to degrade. Certainly in the far north, a company like Starlink is likely to be the only option available, but the reality is the same. Starlink has a satellite network to provide internet and each of those satellites have a capacity limit. Each satellite is capable of about 20 Gigabits per second. Conceivably, there will be about 12,000 of these satellites floating around the Earth and even if they can come to a rational implementation of so many satellites, there may still be limitations. The problem remains that as more people come on, they are going to run into capacity issues. There was a study done in the United States by the National Cable and Telecommunications Association (NCTA) that was directed to the Federal Communications Commission (FCC) because they are doing funding for programs in the States and one of the proponents is Starlink. The study found that about 56% of the people on Starlink at deployment will experience problems with their Internet, or capacity constraints, as a result of the density that they are going to have to service. Starlink is definitely great for those isolated community scenarios and while it's probably still a few years away from ubiquitous deployment it doesn't seem like a long term vision to solving this problem forever.

There are not currently any regulations in place to say a specific quality of internet needs to be met. In funding opportunities in 2015, the government specified a 5 Megabits download speed by 1 Megabit upload speed. In the current round of both the Universal Broadband Fund and the Improving Connectivity for Ontario (ICON) funds, we have seen the service objective defined as 50 Megabits down and 10 Megabits up, but that is only a service objective. In order to obtain funding, service providers need to commit to deliver those speeds, however, it is probably not enforced sufficiently. When ISPs are coming to this from the perspective of being able to return profits to shareholders, those companies need to optimize the technology they use and sometimes the

demand is higher than what they were able to provide in their business case. That's why we see so many communities stepping up and taking ownership to deliver the base service that the service providers can't fulfill.

**The Likely Architectures**

	<b>Infrastructure</b>	Investments in towers and conduits
	<b>Wireless</b>	Investments in WiMax/LTE, 3G, LTE, WiFi, toward 5G
	<b>FTTH</b>	Investments in GPON, EPON, NG-PON2, XGS-PON, and 10G-EPON
	<b>Hybrid Approaches</b>	



There are major cities, even the City of Toronto, that has said they are going to build

their own infrastructure due to pockets that are underserved. This is a nationwide problem and we need to strive to solve. A combination of actions is required from getting backbone connections into communities that don't have them, to getting distribution from wherever that

backbone connection is to all of the homes. And all of this is happening in a time where demand for and consumption of broadband is growing at such a fast rate.

It is hard to determine what providers might already have infrastructure in place on First Nations lands without being familiar with agreements were made to allow infrastructure to be built in the first place. When new entrants look to cross First Nation lands, this is the ideal time to look at what specifically can be done for the First Nation. With an indefeasible right of use (IRU), if somebody is putting fibre through a trench through First Nation lands, there should also be some fibre allocated for the First Nation to use as the community sees fit; whether it be for their own purposes within the community or to connect with the outside world. This is also an opportunity for public works departments to look where the route is and whether there are places along that route that need to have breakouts to better serve the community in the future. That could play an important role in how access is shared throughout the community.

### The Actual Network

- Driven by the Geography
  - But can also drive the Access Technology
- Determine Routes
  - Assess Geographic and Other Limitations
  - Aerial, Buried, or Both
  - Pole Remediation
  - Leverage other infrastructure projects!
- Establish Access and Pole Attachments
  - Right of Way
  - Points of Presence
- Acquire Sufficient Skillset or Contractors
  - Huge shortage of skillset

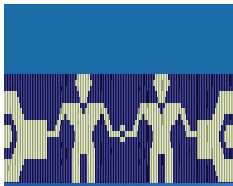


Wireless is a good solution that can be used to fill a gap or solve a particular problem in a specific location, but what we really need everywhere is fibre running directly to everyone's home. We did this with power and telephone lines in the past, and we are still working on it for water, but the reality is fibre to the home is the place we need to get to because that is going to present the unlimited opportunities in the future.

Duty to consult is an important topic as well. If you look at municipalities in Ontario, a company can't just show up and run fibre. There is a process that must be followed to acquire what they call municipal consent. There are obligations in doing that as an installer or service provider that have to be fulfilled, and there are assurances and guarantees that need to be put in place. Those municipalities that already have that machinery in place need to start thinking more about how everything is going to change over the next few years as more fibre need to be deployed. That means more access to the rights of way, more wireless devices that need to be attached to infrastructure, and more things in the community that could have potential impacts on public health and safety. We are at a point where we need to seriously think about the implications of ubiquitous broadband and how it is going to affect the land and our built environment. What kind of policies will need to be put in place to protect that, while still being able to solve the problem of getting broadband where it needs to be?

Funding applications require a high level of technical expertise and many of the application funders are really just learning how to run a process that ends in good results. Completing a funding application really should be about collaboration. It wouldn't make sense for every First





Nation community to submit their own application without coordinating with each other because there really is an opportunity to save time and money by developing some common themes and principles. The specifics might be slightly different from region to region, but there is a huge opportunity to build the major blocks of an application in collaboration to minimize the cost and ensure a consistent message.

## Addressing the Environmental Protection Regulatory and Capacity Gap

**Stéphanie Johnson**, Executive Director - Climate Change Canada

**Tonina Simeone**, Director - Environmental Directorate, Indigenous Services Canada

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Purpose of the presentation was to provide an overview of the work being done with the Anishinabek Nation and other communities to address on-reserve environmental regulatory and protection gaps. The public may know, the reason for this gap is the result of First Nation communities not benefiting from the same level of environmental protection as other communities in Canada. This is partly due to the federal government's exclusive legislative authority under Section 91-24, limiting the application of provincial environmental laws to reserve lands. The Indian Act is also a poor legislative framework that provides limited authority for First Nations communities to develop comprehensive environmental protection laws. This leads to a situation where unless a First Nation has developed a substantial environmental regime under self-government, or under the authorities of the First Nations Lands Management Act, there is a gap between the scope of rules that apply to on reserve lands compared to off reserve.

There is a capacity gap and throughout our previous engagements on other issues, First Nation communities have emphasised time and again even the best laid regulations without the capacity to monitor, implement, and develop effective environmental laws, may end up creating a situation that adds an additional burden to communities. There needs to be adequate sustained core environmental funding that moves away from project based funding to allow communities to plan for and implement an effective environmental regime. Without this capacity, communities could end up in the unwelcome situation of not being able to have the human, technical, and financial resources required to comply with and enforce environmental regulations.

Through discussions, it has been identified a key issue is a lack of regulations, in particular with regards to waste disposal, landfills and transfer stations. This lack of regulations also affects sewage treatment and disposal, fuel storage tanks, and there is a lack of information on spill reporting and responses, including on traditional territories. Air emissions, waste water discharges, and the handling and storage of hazardous materials are also issues and threats that are not subject to adequate regulations. In practice, the nature of the environmental protection gap can be different for different communities. For example, in Ontario, illegal dumping was identified as a significant issue whereas in Prince Edward Island that was not an issue that was top of mind.

We realize the lack of environmental protection regulations has had negative impacts on the ability of communities to enjoy their lands, whether it is because of contamination or another issue that could negatively impact the health of a community. We have also heard the inability to pursue polluters for damages and to impose fines is a significant issue. Under the Indian Act, the fine for a bylaw infraction is only \$1,000 so it is not an effective deterrent to polluters. There are environmental liabilities for communities due to contamination and lost economic opportunities due to regulatory uncertainty.

The Assembly of First Nations resolutions in 2017 and 2018 called upon the Government of Canada to take immediate action to address the long-standing gaps in environmental protection on First Nations lands in full consultation and partnership with First Nations communities. This recommendation is mirrored in a number of parliamentary reports. In 2017, a House of Commons Standing Committee report on the Canadian Environmental Protection

Act recommended the Government of Canada consult with Indigenous peoples to develop guidelines, codes of practice, and a regulatory regime for aboriginal lands. This aligns with Article 29 of UNDRIP that proclaimed that Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources.

There have been some attempts to address the lack of regulations, however, the efforts to date tend to focus on very specific activities such as the First Nations Land Management Act or the Indian Oil and Gas Act. Those regulations are very specific to commercial activities that occur on lands and are by their very nature not a comprehensive environmental regime. There have been some regulations developed under the Indian Act but they are not adequate to the full scope of the environmental management needs of communities. Under the First Nations Lands Management Act, there is the opportunity to develop environmental laws. There is a capacity issue there as well though, and a lot of the codes that have been developed tend to be about land management responsibilities. The Safe Drinking Water for First Nations Act also has had few regulations that have been developed to date.

Based on all of this, as well as consultations with First Nations communities and parliamentary committees, we are looking to collaborate and launch a process to co-develop more appropriate and effective solutions. The Ministry of the Environment has committed to further engagement to address the environmental protection gap on First Nation Reserve lands. Initial discussions with First Nations technical experts and organizations in 2017 resulted in meetings with First

### WHAT IS THE NATURE OF THE GAP?

Federal environmental laws do not cover the full range of matters required to ensure a comprehensive environmental protection and management regime, for example:

- Management of solid waste disposal and recycling
- Hazardous waste handling and storage
- Source water protection and water withdrawal

<b>Framework Agreement on First Nation Land Management – 1996</b>	}	<ul style="list-style-type: none"> <li>• Solid Waste</li> <li>• Sewage</li> <li>• Fuel Storage Tanks</li> <li>• Environmental Emergencies</li> </ul>
<b>Environment Canada Study – 2007</b>	}	<ul style="list-style-type: none"> <li>• Land Fills</li> <li>• Solid and Hazardous Waste</li> <li>• Discharge to Surface Water</li> <li>• Air emissions caused by incineration and open burning of garbage</li> </ul>
<b>Assembly of First Nations – First Nations Perceptions of Environmental Issues – 2008</b>	}	<ul style="list-style-type: none"> <li>• Drinking water quality</li> <li>• Food safety</li> <li>• Improvements to private homes</li> <li>• Occupational health and accident prevention</li> </ul>





Nations regional organizations to discuss potential interest and a collaborative path forward in 2019. Those discussions resulted in First Nations-led planning sessions to identify priorities and perspectives, including the possibility to proceed with broader regional planning tables to identify solutions. Those were the first three phases and now we are looking at Phase 4 which will result in the co-development of options to address the regulatory and capacity gaps regarding environmental protection as a joint technical working group. Phase 5 of this process would involve engaging with communities again to validate whether the options that arise in Phase 4 are valid to ensure that the right solutions are defined. If that works well, we would end up in what we have coined Phase 6, where we would develop the actual framework based on what was identified and developed with consulting communities to actually address the regulatory and capacity gaps that were identified. That could be new legislation or regulations, but also needs to consider institutions and capacity because that goes hand-in-hand.

In discussions with communities across Canada to-date, we have heard that there are a number of key common environmental challenges that have been identified, including Illegal dumping and burning of waste; illegal disposal of contaminated soil and fill; improper fuel handling and storage; contaminated sites; lacklustre response to environmental emergencies; unregulated commercial activities; insufficient ecosystem monitoring; poor wastewater management; problems with the consistent availability of clean drinking water; and the negative impacts of off-reserve activities on reserve lands. During Phase 2 of the consultations, a handful of key “shared considerations”



were identified including the need for co-development where First Nations would be included in the development of options with Provincial Territorial Organisations leading on Phase 3 engagement with communities. There was also a call for more flexibility when it comes to legislative options to improve environmental protection, and a need for additional capacity-building and core funding that is essential to environmental protection.

Working with the Anishinabek Nation, we have developed a close relationship over the past few years to help address environmental protection gaps in their communities. In May 2019, Indigenous Services Canada (ISC) and Environment and Climate Change Canada (ECCC) met with the Anishinabek Nation to discuss environmental concerns and interest for co-development of options. Since 2019, ISC and ECCC have provided a forum and space to engage, and supported the Anishinabek Nation through discussions with communities about their priorities and concerns. Next year, we are looking forward to working together again to develop potential options to improve environmental protection.

During our discussions with the Anishinabek Nation concerns were raised about: fires and flooding, hazardous waste burial and potential contamination to water and soil, the pollution in Lake Simcoe and the York Region, contamination from mining and the related health issues that result from that contamination, rules and bylaws related to solid waste, and again, the impact of off-reserve activities on reserves. Another important concern that was raised is need for more capacity building at all levels.

ISC and ECCC are continuing to support First Nations-led planning sessions on priorities and concerns related to environmental protection. We continue to consult and work with many organizations including: the Federation of Sovereign Indigenous Nations in Saskatchewan, the Chiefs of Ontario, the Anishinabek Nation, l'Institut de développement durable des Premières Nations du Québec et du Labrador, and the Kwilmu'kw Maw-klusuaqn Negotiation Office. We have also set up a Community of Practice to support the sharing of tools and ideas between participating organizations and a second forum will take place in the winter. We are always looking for ways to bring new or returning groups to the discussion and to facilitate engagement with all First Nations who wish to participate, including overcoming communications challenges related to COVID-19. The outcomes of discussions held at the regional level will help inform the co-development of environmental protection options during Phase 4.

Canada and the Anishinabek Nation have developed a close partnership to help address the environmental protection gap in their communities.

The Anishinabek Nation leads on many projects that inspire others to move forward on environmental protection, including on water protection.

**During our discussions, concerns have been raised about:**

- Fires and flooding
- Hazardous waste burial and potential contamination to water and soil
- Pollution in Lake Simcoe and York Region
- Contamination from mining in the region and related health issues
- Rules and bylaws related to solid waste
- Impacts from off-reserve activities
- Capacity-building at all levels

**Phase 2:**

In May 2019, ISC and ECCC met with the Anishinabek Nation to discuss environmental concerns and interest for co-development of options.

**Phase 3:**

Since 2019, ISC and ECCC have supported the Anishinabek Nation to discuss with communities on their priorities and concerns.

**Next year:**

We are looking forward to working together to develop potential options to improve environmental protection.

In the past, federal legislation has been developed with federal priorities and mechanisms in mind, perhaps privileged over other frames of reference. One of the things that we are hoping to discuss and work on with communities is what might be more efficient as a model, and what are the limitations of the federal government moving forward? We have to have a discussion and the treaty areas could be a much more interesting way of looking at these issues. Perhaps solutions should be scoped out on that basis? The federal and provincial governments have their own realities and don't often work in tandem. There is certainly an opportunity for us to look at things a little bit differently with the caveat of course that there are jurisdictional limitations that also apply. Canada is a big country and there are a lot of challenges and restrictions as well as First Nation communities. It is not likely that "one size fits all" when you factor that in, so there does need to be flexibility in any solution that is defined. For some communities and nations, the solution might be treaties whereas others might prefer to use the First Nation Lands Management Agreement. Our hope is to create the framework whereby First Nations can exercise their rightful jurisdiction and authority. How they do that will be up to the individual







organizations or communities themselves. We don't want to dictate a particular solution. We are hoping to lay the groundwork of jurisdictional recognition for communities to develop their own proper regimes that correspond to their issues. Those issues differ across the country, as do the levels of capacity in the different communities, so again, some flexibility will be required.

We are still in the early stages of collaborating with organizations and right now, everything is on the table. Over the past few years, we have developed the Indigenous Centre for Cumulative Effects that was incorporated as an independent organization in November 2019 and exists outside of government, even though it was developed in collaboration. You need institutional support to deal with cumulative effects and communities often need scientific and technical capacity to undertake the work so it was our hope that working to establish this institute would provide help for communities to do some of that work.

We have talked about how there are two gaps that pose challenges, regulatory and capacity, but there really is a third as well and that is governance. We need to look at putting the building blocks in place to ensure that governance is both effective and fair. It is not something that will likely happen overnight. Every province has their own perspectives so we do need to figure out a way to make things more seamless for communities so that we can ensure that community impacts are not because of a jurisdictional fragmentation.

There are many priorities in government that often can displace other priorities. We have put forth proposals to allocate funds for training First Nations Environmental Officers but there is a saying in government that "the urgent always displaces the important". It is important that these issues are raised with your MPs and the Minister because when that happens, they tend to bubble up. The Grand Chief talked about collaboration and this is definitely an area where we need to collaborate because there are so many competing priorities in government. While this is something that absolutely needs to happen, and we are working hard to ensure that it does, we need additional support. We have the Reserve Land Environmental Management Program but that is not adequately funded to help communities hire an environmental coordinator, or for core environmental management capacity. Ministers will listen to you so it is important to speak up. Environmental Management is not something you can do from a desk, it requires a certain level of expertise.

We are trying to lay the groundwork where communities will have jurisdiction, but there are also environmental and provincial concerns that would be part of these problems. It is difficult to say how those other concerns would factor in, but we are pushing forward and trying to get there. We are hoping it will be, from our point of view, reflective of the needs that communities have to enact their own laws within the scope of their aspirations. We are looking at several different models right now, and will take a closer look at the Tribal Program in the U.S. as a potential model.

## Greetings from Anishinabek Nation Head Getzit

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**Gordon Waindubence, Grand Council Elder, Getzidjig Advisory Council**

Sheguiandah First Nation

This is our language that the Creator gave us. We are all one nation of people. The Creator placed humankind on Mother Earth. Along with that, there was a gift that was given and that was spirituality. There were four gifts that was given to humankind to look after and they are: fire, water, land, and air. The creator also gave Anishinabek the foundations, the guiding principles to guide them, as we walk on Mother Earth. Those laws are: love, truth, respect, wisdom, humility, honesty, and bravery.

This next paragraph is so, so important. The creator gave us sovereignty. Sovereignty to govern ourselves. We have to understand, we have to understand our past in order for us to understand where we are going. We have to understand what is happening now and more importantly the future of the Anishinabek Nation. We have to understand those prophecies. Those seven prophecies that were given to us many, many years ago, when the Cycle of Life first started. One of the things that I fully understand was the union that was created in the third fire, the union between the sun and the moon. There were instructions that were given to our Grandfather

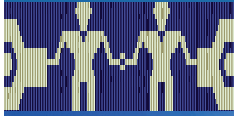


the Sun. Those instructions were to bring light and understanding to this new world. Our Grandfather was to shine upon the creation of life. He was doing that then, and he is still doing that today. When the third fire was lit, there was also a bond between our grandmother and the Creator. The Creator used those four gifts that I mentioned: fire, water, land and air. In combination with those things he created Mother Earth and Grandmother Moon. She will shine upon you when the sun goes down. We will give thanks to her to give light in the darkness, to look after the environment that we live in;

controlling the environment. Without Grandmother Moon, we will not survive. We will not survive without our Grandfather also. So that was the union that was created in the third fire of creation on the seven prophecies of the Anishinabek Nation. They are so, so important and if we seem to not observe those things or give thanks to those things every day, we will not survive. We will be confused, we will be walking in the dark, in the mist, forever. So that is one of the reasons that we give thanks.

I thank everyone so much for us to be able to get together like this, this new form of communication. But you know what we need to do. We need to be around a fire. Maybe it's the third fire of creation. Let's go outside today, and let's go outside tonight, and give thanks to those things that give life to us every day. There is so much to say, thank you so much for listening. Miigwetch.





## 1764 Wampus Belt Teachings

Alan Corbiere, Assistant Professor - York University, Department of History

One of the teachings to emphasize in this presentation is not only the 1764 Wampum Belt, but also the medal and how this medal is a symbol of the treaty alliance and a mnemonic device of the treaty alliance. The particular medal was given at Niagara in 1764 and reportedly, based on the archives, I think there were 40 of them made at that time. This medal was re-struck again in 1766 and another round of them was given out. Why this is important is that this device actually refers to the tree of life and also sitting on a mat together and smoking a pipe. Also, the clasp of the medal is actually what they call a Calumet Pipe. An eagle wing on there, these long pipes would have the tails of an eagle feather suspended on it and that's what they would use. They were longer than the pipes we use now.

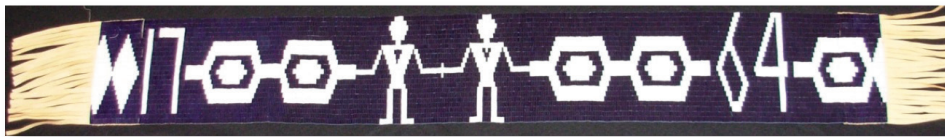


The Covenant Chain Wampum Belt says 1764, but it was formed earlier between the Mohawks and the Dutch. Through succession and successive agreements, it was first a rope of friendship, then an iron chain of friendship, then it became a silver covenant chain of friendship. They would call it the 24 Nations Wampum Belt, but it also had the promise of eternal gifts. The boat on the right is actually supposed to be full of gifts for the Anishinabek that the British promised to deliver every year as long as the sun shone, grass grew, and rivers flowed.

This belt, I've heard a lot of people talk about the belt, and they will talk about it as a Nation to Nation relationship, which it actually is, I don't dispute that. But it is even more than that; from our perspective, it represents our independence and that we are allies to the Crown, not subjects. We call these allies, friendship; sometimes we say we became brothers, and other times we say we became friends. Throughout these discussions at these treaty councils, they actually talked about this belt and they actually talked about it as our land ownership, that the British would recognize our land ownership with this belt and that's one of the things that I hope we actually look at this belt and acknowledge it as what lawyers call aboriginal title. It represents our protection, that the British were to protect us against themselves, which of course is a hard thing for anybody to do, and as we know the British didn't do a very good job of that. It also is what we call support and what our ancestors called warmth and warmth meant clothing, but also it's of course a metaphor about the sun. The British ended up taking the symbolism in that they wore red and that wearing red they said that they imitate the sun. Whenever we saw them wearing red we were to be reminded that these promises were still in effect and that when you see the sun rising it is supposed to represent, it was supposed to invoke, the king or the queen. When that sun rises red it is supposed to remind us that these promises are still

in effect, that they recognize our sovereignty, our independence, our friendship, and that they recognize that we are the owners of this land and that they would promise to protect us against their settlers or what they called squatters. They would support us and give us warmth for living on our land and that warmth is the blankets and the cloth that they gave us to make shirts and skirts and leggings. After we fought alongside them in different wars, it was actually representing payment for past services. Later on, the chiefs used this to talk about their hunting and fishing and timber rights.

Throughout yesterday's discussions, many questions were asked about looking at the land and determining how to build good relationships with one another, and that is what this belt is about. We call it a foundational belt of our relationship with the British. We should actually start near the



beginning with this belt and remind ourselves what this belt means to the chiefs and to our fellow Anishinabek. We

need to understand this more. The other thing that I really hope to emphasize in this bit of time is that we've got to change the discourse and how we talk about this. We continually talk about this in English for one, and like we heard Evelyn use our language earlier, but we are consistently using English. We also end up using legal terminology and remove ourselves from our own understanding in a sense. If we pull these words back, use our language and the concepts from our teachings, then we can increase our level of understanding and start to abide by these teachings, we'll have a thorough understanding of teachings given to us and what is encoded in this Wampum Belt.

One of the things that I also want to emphasize is that there was a grand council before there was a Union of Ontario Indians, before it became called the Anishinabek Nation. This Grand Council would meet numerous times and they started documenting their meetings, their gatherings. And I took this from one of their meetings that was held in 1879 up at Garden River and then there was also one held in Garden River again in 1869 and then it moved to Little Current in 1870. They also published another series in 1881 and had that Grand Council at Neyaashiinigiing, Cape Croker. So we have this history of our leaders meeting and deliberating upon these issues that they confronted, and a number of different times they wrote about these belts. So this is one in 1879, and they wanted to take a petition and go to England and explain this treaty and they put in a petition and they said "They were told by their Great Father the king, that he would not always live to look after them" and remember that's protection there, and now we call that fiduciary responsibility "and their rights that after his decease, efforts may be made by evil disposed persons to deprive them of their presents", that's the warmth that I was talking about, "and if they were ever so unfortunate as to lose them, all they would have to do would be to present the Treaty and the medal, which I give to them, to my successor in the throne of England, and both the covenant and the promise would be speedily and faithfully carried out, and the presents restored to them".

With Anishinaabee words, we don't really say "covenant" and are trying to learn the words our ancestors used to describe this relationship. So the medal that the chiefs in this petition actually

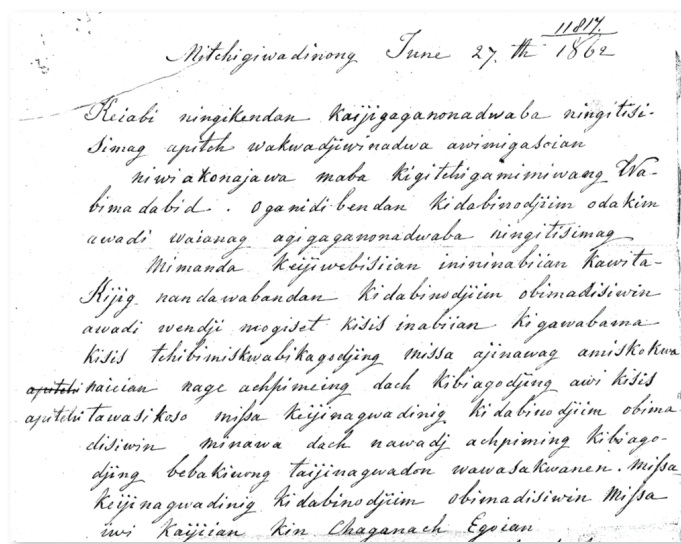




referred to that medal and the treaty and when we went to court in 2017 the Canadian government and their expert witnesses insisted the Wampum Belt and the Treaty of Niagara wasn't a treaty. That was their position, as well as the Ontario government so we have to really be mindful that their definition of a treaty is a session with a paper document that is counter-signed. Because the treaty of Niagara doesn't actually have a piece of paper where all the different chiefs went and put their "X" down on that paper, they say there is no such treaty. In Sir William Johnson's papers where they recorded this treaty, it says the Congress at Niagara. The government of Ontario and Canada say it is not a treaty, it is a congress. But for us, our ancestors, our ancestral chiefs, they are the ones that refer to this as a treaty and they are referring to that Wampum Belt in this particular case.

In 1862, a letter was written when the majority of the chiefs in Manitoulin gathered at the place that is now called Cup and Saucer, which describes the interaction with our ancestors and that when invited to go to war, the British would chase away anyone that attempted to come to our great lake, and that our families would own the land there.

Look about in the sky for the means of your well-being. You will see the sun rises, and that red colour is what I imitate in what I wear, this red coat. As that sun gets higher it will be brilliant, it will shine all over, touching everywhere and then as the sun gets even higher, flowers will appear, and that is the image of the life of your children - Mii sa ge-izhinaagwadinig gidabinoojim obimaadiziwin. That is the image of the life of your children, meaning that if you take this Wampum Belt, this silver covenant chain at Niagara, that is what was promised to us: a life of warmth, meaning the sun, and the flowers being prosperity and also that they would protect us. This document that was written in 1862. I have heard other people talk about the Royal Proclamation being the Magna Carta of Indian Rights in Canada, but to me this is our foundational agreement, our Magna Carta if you want to use those words.



Sir William Johnson was the one who was the arbiter of the treaty, and when we talk about treaty clauses or mutual agreements, this is where we are going to get into the use of using English words, which will be different. "You have now been here for several days, during which time we have frequently met to Renew, and strengthen our Engagements, and you have made so many Promises of your Friendship, and Attachment to the English that there now only remains for us to exchange the great Felt of the Covenant Chain that we may not forget our mutual Engagements." Now when we look at any treaties or any funding engagements or arrangements with the government, you see they are not so liberally or loosely worded. They are very legalese and technically written to diminish our sovereignty.

This painting was done 50 or so years after the original gathering, and it is of Johnson Hall, the manor where Sir William Johnson lived, located on the south shore of Lake Ontario. There is a gathering of Anishinabek and in the middle there is a fire, which is what our ancestors talked about at the beginning.

As we say, all around us are plants and spirits that we rely upon; they are sleeping. Here is the importance of this gathering around the fire and putting our tobacco in there. This was part of why we called this Wampum Belt sacred because it was done under the eyes of the sun and this was a sacred obligation that we entered into with the British, which we maintained on our end and that we have kept up. Around 1854, they broke their promise and discontinued delivering those presents.

Sometimes for us, we have to see the proof we were there and they didn't keep a total attendance list of who was there, but they did write down a number of names of the chiefs that were there. From July 11th to 13th, 1764 the Ottawas (Odawa), Chipeweighs (Ojibwe), Cristineans (Cree), and



Nipissins (Nipissing), met with Sir William. The Ojibwe Chiefs were Showannicabou, standing to the south, Kagaisse, Sowwongibbey, Ogewetassin, and Wabikackeck. And then the Ottawa Chiefs: Bindanouan, that's a quiver, Cashkokey, Teckamus, that's an older name meaning lightning goes across the sky, Otchingwas, Pemmassad, Shawwamusse

and Otchibauscasigon. And then also Kiocuskcum, Egominey and Nosawaquet also arrived on July 15 and we have Mississauga chiefs from the Toronto area.

This is from July 17, where it actually talks about the land. This is Sir William Johnson telling the people that were gathered there "Brethren – we reduced all Canada and of consequence became possessed of all the Out Posts which the French Governor granted us by the Capitulation [...] although we were numerous, and able, we did not attempt anything against you... They often send Armies against you, killed many of your People, and meditated a Design of possessing themselves of your Country: we never attempted the one nor intended the other". He is doing his own propaganda, saying the French tried to kill the Anishinabek when actually that was who our allies were. What he says that is important here is that they meditated a design of possessing themselves of your Country, we never attempted that and didn't intend that, so basically what he is saying is we didn't want to cheat you out of your land.

He says again "Brothers of the Western Nations, [...] I desire you will take fast and hold of the same" meaning the Wampum Belt "and never let it slip, to which end I desire that after you have shown this Belt to all Nations you will fix one end of it with the Chipeweighs at St. Mary's whilst





the other end remains at my house.” The Ojibwe Chief stood up and said this belt should be kept at Michilimackinac by the Odawa, and that is how the Odawa became the caretakers of this belt on behalf of the Western Confederacy. There are 12 Nations represented in the actual agreement, then others participated, subsequent to the Treaty of Niagara. This was a month long meeting in July, and then medals and certificates were given at the end to the Chiefs.

You see on this there is a tree of life, which he talks about and also there is fire ignited and you can also see the pipe down there on the ground. If any of you have been involved in ceremonies, you will see sometimes they put that pipe on a mat on the ground by the smudge for when they light it up before everyone will pass it around and smoke. Sir William gave the medals to them and said “Brother, we have thought of what you have said, and greatly approve of the same. We are determined to follow your Advice, for the Good of our People, and we shall never swerve from our Engagements, but look at the Medals you have given us every morning.” When they are talking about every morning they are talking about every morning, but also every spring. They are talking about when they meet in the springtime they will renew this treaty. The way the British entered the treaties is once it is entered and signed, it is a done deal, but to Anishinabek, to Wampum, that is the beginning of the relationship, and the beginning of the relationship means that you will meet every year to renew it, and to check on each other to show that that relationship is still strong. That is why they adopted the silver chain as a metaphor, that if anything were to tarnish it, they have to get together to polish the chain. We don’t want any tarnish so we will meet right away. If any blood is shed on it, it may rust the chain, so they have to wipe and polish that chain of friendship. That’s a metaphor for maintaining harmonious relations, and of course this was a way of making peace. There was a bigger ceremony called the Condolence Ceremony and annually, or semi-annually, they would get together to polish this chain. That is the purpose of the council fire and the delivery of those gifts.



Here are some of the medals that were given. You can see that King George’s visage is on one side and his coat of arms is on the other. These were the reminders the Chiefs had said on the previous slide that they would look to, “but look at the medals you have given us every morning”. The medal refers to the mutual engagements and how the mnemonic device was used by the Chiefs to remember those promises.

The council fire is where they would do the business and conduct the renewal of the treaty as well as settle any disputes, which we now call alternative dispute resolution. Back then they would call it polishing the chain. From 1764-1798 the council fire was at Michilimackinac, and that is where the belt was kept and they would deliver presents to the Anishinabek, as well as the Odaawaa, Ojibwe, Potawatomi, Menominee, Sauk, Fox, Ho-Chunk, which was more commonly known as the Winnebago, as well as the Sioux people. Those were the ones that have been documented as visiting Michilimackinac, as well as St. Joseph’s Island. In 1798, the Americans determined Michilimackinac to be an American territory so that is why the council fires changed

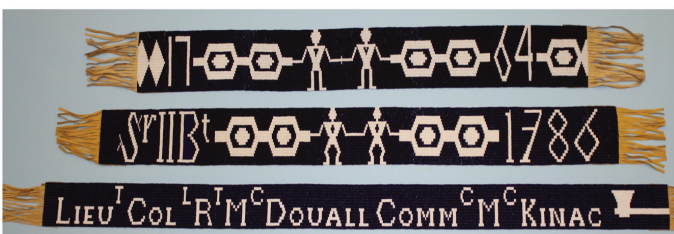


to St. Joseph's Island. For 14 years, the distribution of presents and the meeting of council is held at St. Joseph's Island before being moved back to Michilimackinac. After the end of the War of 1812, because the Americans burnt the fort at St. Joseph's Island, they established a council fire at Drummond Island, Potagannissing it's called in Anishnaabee, and then in 1828 the British were told to vacate Drummond Island because it became American property. The council fire was eventually ignited and maintained at Manitowaning on Manitoulin Island and the presents that were given were distributed there from 1836-1854. The people that were there were the Odawaa, Ojibwe, Potawatomi, and Menominee and by this time you could include Nipissing. At this time in the official record, it stopped referring to people from Nipissing as Nipissing Anishinabek, and they would just call them Ojibwe.

Here is a list of the presents that were given, and I want to highlight that they gave us Tobacco. To us, tobacco is what we call our sacred medicine or our first medicine, and our means of communicating and expressing thanks to all of creation as well as our ancestors. It is also a way of expressing our hopes for future generations. Also note that they gave us ball, gun powder, and shot, so they are outfitting us with what some would say are our aboriginal rights and others would say our treaty rights to hunt here. They gave us of course butcher knives, fire steels (flints). Here is the warmth part, they gave us different types of cloth, and some blankets, but it isn't just to give us warmth, it was also giving us the means to enact our livelihood and a number of our treaties actually state that we wanted to keep our hunting and fishing and to derive our living from that, so they were actually abiding by that at one point.

The other one that I wanted to show and highlight is also part of this treaty of Niagara and what was put in that ship were 300 fishing hooks, three flags, 12 cod lines, and net thread. So they gave us nets for our fishing and fishing hooks and lines as well. So they were giving us the means to hunt and fish, and to me that means that for those 90 years and beyond, they are saying that we do have the Aboriginal right to hunt and fish and they recognize that and are giving that to us. When they discontinued it, they were actually breaking that treaty, but we still maintained it. Even though when it was written in some of the treaties, especially the Robinson Huron one, that we maintained the right to hunt and fish in the seeded territory. This is actually all the territories that were seeded or entered into a treaty, whoever participated in this treaty of Niagara should have, I think – and I'm not a lawyer, but they would still have this right to hunt and fish.

The Covenant Chain Wampum Belt and the Treaty of Niagara refer to our independence and sovereignty; we were allies and friends, and not subjects, and that we are the land owners. It also states they would provide us with warmth, such as blankets and cloth in part as payment for services during wartime while also granting rights for hunting, fishing and timber.



In 1818, the Odawa Chief was the speaker at the Council Fire on Drummond Island and he brought out three belts: a broad wampum belt made in 1764, one made in 1786, and one marked Lt. Col. Rt. McDouall, Comdg, Mckinac - with the pipe of peace worked on it. It's kind

of a mystery, but he did not bring out the 24 nations belt, or maybe it just wasn't recorded.





One of our great Chiefs, Zhingwaakoons is documented as using wampum and one of my favorite quotes comes from him. On St. Joseph's Island in 1829, holding a few strings of wampum in his hand, he says "Father – The Great Master of Life gave us", meaning the Anishinabek, "pipes and Wampum for the purpose of conveying our ideas from man to man. I return thanks to the Great Spirit that made me, and to my Great Father, the King, who supports me; what he promised to our forefathers, he continues to perform. He is charitable to his red children (the red skins)." So he started running into trouble with the Americans, but also any non-native people coming onto his land and he wrote or dictated a number of different petitions and this is one from May, 1835: "My Father – [...] those houses you see along the beach and the dwellers therein were never allowed by me or by my fathers, to have built or to clear the little land they have. My Father - Our place is becoming like a meadow for they have destroyed all the good timber about the place. I held a Council with them last fall, telling them, that they must pay attention to what I say, but they do not, they will not pay attention." He explains later that my young men want to take more drastic measures and I have been accused of being a coward because I want to use peaceful measures to settle this dispute instead of forcibly kicking them out. It should be noted that prior to the signing of the 1850 Robinson Huron Treaty, he wound up taking a cannon up to the Mica Bay mine and forcibly taking it over in what is now known as the Mica Bay Incident. He expressed these sentiments at the Council Fire when they were talking about their relations and the wampum belt.



Jean Baptiste Assiginack was a keeper of the Wampum Belt, an interpreter of the Indian Department, and he also fought in the War of 1812. Sir Francis Bond Head, who was the Lieutenant Governor at the time, came up to Manitoulin to tell the gathered Anishinabek that they were going to discontinue their presents. When Assiginack heard that, he brought out the belts and recited the belts to Bond Head and Bond Head said, well let's make a treaty, the Manatowaning Treaty of 1836. In 1851, someone wrote down Assiginack's oral tradition which included: "My children, I clothe your land, you see that wampum before me, the body of my words, in this the spirit of my words shall remain, it shall never be removed, [...] the Indians being my adopted children, their life shall never sink in poverty."

In 1836, after Assiginack recited the belt, Bond Head had Gommersall Anderson write a treaty: "Seventy snow seasons have now passed away since we met in Council at the crooked place (Niagara), at which time and place your Great Father, the King, and the Indians of North America tied their hands together by the wampum of friendship." As far as I know, this is the only treaty that refers to the Treaty of Niagara and shows the chiefs actually saw their treaties as a succession to build upon the foundation; not abrogating or derogating or replacing or supplanting, but in addition. He says "I clothe your land" which goes back to the cloth and treaties they delivered every year - They clothed the land and also clothed us. If we believe the teaching of this wampum belt and it's speech, it states: "the body of my words, in this the spirit of my words shall remain".

The last page of the 1836 Treaty has an inscription from the chiefs that reads: *Miinawaa dash eko niizhitana-ashiningodwaaswi eko-dasobiboonagag miinawaa ningiibi-odisigonaa gichiogimaa, ningii-bi-zoongitamaagonaa maanda ni-minisiminaa jjaapiji-dibendamaang niinawi e-nishinaabewiyaang*. It says 26 years ago, when the Lieutenant Governor came and met us, the Anishinabek, and spoke in very strong terms about our owning our island – The Governor said we own this island, Manitoulin, outright.

Shingwaukonce at Manitowaning wanted to move the Council Fire back to St. Joseph’s Island because he felt it was too far for others around Lake Superior to come to Manitowaning. He said: “I will speak the sentiments of the Chippewas, Ottawas and Pottawattamies. You once made your great fire at the Island of St. Joseph, where you planted a tree such as you have planted here and from which you have just now taken down your flag,” and remember there was that tree on the medal. “The tree was very tall and it could be seen from a great distance. Father you have taken away the flag staff and the flag under which your children were accustomed to recline and take shelter,” and again, that idea of shelter and protection. “When you laid your log, you said it



would never burn out but that the smoke from it would always be seen at a great distance. You told my ancestors to bring their children and warm their hearts at the fire of this log, but when I came past it to this place I could not discern the spot where the tree stood. I cleared the place and made it clean around the log and all our young children have agreed to turn the log and see whether they can find a dry place where a fire may be kindled.” Remember the importance of the fire: “The three tribes wish you to pull up the flag staff which you have planted at this place and erect it on the Island of St. Joseph where it originally stood. The three tribes have come here to obtain fire from our great father with which to rekindle the log that the smoke may rise from it as formerly, for it was not burned out. You promised that three generations should pass away and yet we should find the fire burning at this log... Father, many of your children live at a great distance from this Island and there is a high hill between which

prevents their seeing the fire which burns or the flag which floats from the staff erected at this place. Many of your children you have not yet seen. They are very poor. They have but little game left to subsist upon, and the traders are becoming very stingy. They sell their goods at very high prices.” So that shows what the chiefs understood of the Covenant Chain and it is this imagery of a tree and, the centrality and importance of fire.

In 1851, the local Indian agent, the superintendent, “Ironside” they called him, told the chiefs at Manitowaning that the within four years’ time, they would discontinue the presents so they all gathered together and responded with noos: “Father, we heard your words and we believed when you said, ‘You see that sun above us who daily shines to light and warm us, you see those green leaves which open out beneath his rays. You see that grass which clothes the earth, those waters which flow from the high lands towards the sea. Well! Whilst these things live your presents shall live.’ Can it be that this is forgotten? Father, shall the Indian no longer be able





now learning this and asserting what we have to do, which is exercise in our medium, our forum, our language. We have to use meaning in our wampum belts, the pipes, and have to rely on elders and speakers for guidance. We have to try to learn the language in order to combat misunderstanding of these treaties and the implementation of treaties in an English framework. The only way we are going to do that is if we master our own language, our ceremonies and ceremonial knowledge to enact that.

When it comes to the wampum belts and medals, the Pine Family kept their own, and there is also a fellow in Chimnissing that keeps one that was handed down to him. Ten or 15 years ago, there was one from the Treaty of Niagara, and it was very special because it had the certificate given with the medal. On the back of the certificate was a record of each time the medal was handed down to the next descendent, the next keeper, the back of the certificate would say who it was given by and to and where. Unfortunately, the last person entrusted with it had it auctioned off to a private collector, so it has since been lost. In 2011, we had an exhibit at the Ojibwe Culture Foundation and borrowed medals from the library and archives of Canada's collection and so we had one of the medals from 1764 and some from the War of 1812. The Chiefs would wear those medals to the Council Fires and they accompanied the wampum belt.

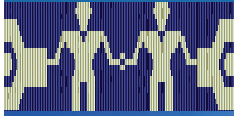


In 2014, we had a gathering in Niagara and then Fort George, with the hope that anyone with their medals would participate to bring all the medals together with the original wampum belt. We planned to have a collective sharing, which would be very powerful if we were able to have the descendants who possessed those medals come and wear their medals to the Council Fire. We could have a recital with British representatives in attendance to listen, and for them to recite the understanding back.

Tecumseh said in a meeting everyone must touch this belt to show they agreed to its teachings. If people understood that the belt has two sides, and that if we understood, lived and abided by our respective sides

of the belt, things would be a lot different today. It's has also been said many times as we get new chiefs that we have to bring them up to speed. They haven't necessarily heard about this wampum belt and its teaching so it is a constant learning process, which is why we share the wampum belt every year and it wasn't just one chief or speaker that knew the teachings. Learning this speech and the Wampum Belt and all the things that go with it is what I think of as Chiefsmanship 101.





## Aamjiwnaang First Nation Addresses the Environmental Protection Regulatory and Capacity Gap

**Sharilyn Johnston**, Environmental Coordinator, Aamjiwnaang First Nation

**Scott Robertson**, Associate and Certified Specialist, Six Nations of the Grand River

We had a couple of presentations yesterday about regulatory gaps and that’s the part that I want to talk about because this is how Aamjiwnaang First Nation handled that regulatory gap issue. We are in an area that deals with a lot of pollution and we have been suffering for years and it’s been hard to push the government to make sure that the regulations that they perform and look after are actually enforced in the territory.

Aamjiwnaang First Nation is located on the shores of the St Clair River and it’s a beautiful area at the mouth of Lake Huron. The Anishinaabee in Aamjiwnaang have a diverse and vibrant culture. You can see through some of the pictures that we still have a lot of the performing of the pow wows, of the ceremonies, a lot of activities, and a lot of culture being portrayed in the art and the artists that are all through the community.

One of the things that Aamjiwnaang is consistently identified with is “Chemical Valley”. The area is home to several dozen large facilities, representing 40% of Canada’s chemical industry. As a result of this concentration of industrial facilities, Sarnia suffers some of the worst air pollution in Canada and that’s not only anecdotally Aamjiwnaang saying it, it’s been acknowledged by many overseers of the government. So the Environmental Commissioner of Ontario has put a report out, the Auditor General of Ontario has also put a report out about the industrial facilities and the impact to Aamjiwnaang. The World Health Organization also indicated that we do suffer some of the worst air pollution in Canada and most recently the UN Special Rapporteur on toxins talked about some of the impacts that the industry has on the Aamjiwnaang First Nation.

Since we are surrounded by industry; this industry was developed and it happened without any consultation with the community. It was developed back in the 1800s when they first discovered oil in oil springs and because it was developed without any consultation and planning we can see that Aamjiwnaang here if you look at the picture on the bottom right you can see the Aamjiwnaang sign for the learning facility and right across the road is a chemical producer INEOS Styrolution it used to be NOVA Chemicals but it’s INEOS now, and you can see the large stacks and can see a little flare going off and those are the kinds of issues Aamjiwnaang is dealing with. You can also see the heavy industrial facilities from the water side. So this is where we are located, this is some of the area where we have Aamjiwnaang territories in green and some industrial



facilities on both sides of it. So we are surrounded by it, we are fence line neighbors of industry and we do experience adverse effects in a multitude of ways from some of the toxic chemicals that are emitted into the air every day. Some of these key contaminants include: Sulphur Dioxide which is a precursor for some respiratory diseases; Benzene has shown the health risk known to cancer, which can be specific to leukemia for all routes of exposure meaning dermal, inhalation, and ingestion; and 1,3 Butadiene has the same cancer type of link as leukemia and that is through inhalation.

So one of the things that I would like to point out is that Aamjiwnaang cannot choose the air we breathe. Where we are located the air that we are subject to is the air that we have to breathe. We can't choose that, we might be able to choose some of the water we drink, we can buy bottled water, but when it comes to air we are subject to what is in our territory. And the other thing that I wanted to point out is that air is not an easy medium to monitor, to control, to determine what's in it, because it is something we cannot see it. Water on the other hand, you can see if there is a spill in it or can see if there is something that isn't right with it and you can monitor it. Air is definitely a harder and more complex type of medium to monitor.

One of the things that we have been doing for some time now is to really push and advocate for additional monitoring of contaminants in the community. In 2007-08, we were able to have a full air monitoring station situated in the territory right next to the health center. So that is a full monitoring station with all of the ambient air quality machinery and has real-time data. We also do canisters and have a full station, but because we only have one station we need additional monitors in key areas, so by our daycare center, by our community center, closer to where industry

is located, because when you have more monitors, you are able to better determine impact and also determine source.

### What the Monitoring Data Near the AFN Shows

- Sulphur dioxide:
  - ~10 times higher than other communities such as Ottawa and Toronto
  - ~6 times higher than US community with heavy industry (Contra Costa, CA)
- Benzene:
  - ~30 times higher than other communities such as Ottawa and Toronto
  - ~10 times higher than US community with heavy industry (Contra Costa, CA)
- 1,3 Butadiene
  - ~27 times higher than other communities such as London and Ottawa
  - ~1.5 times higher than US community with heavy industry (Rubbertown)

When you are working with government, when you are working industry, you have to be involved, you have to be at the table to understand what they are doing, because when you are not there they can develop things without your input and that's

where you can run into issues. One of the things that Aamjiwnaang did was get involved in the development of the Ontario Petroleum/Petrochemical Industry Standard for benzene and 1, 3 butadiene. One of the things we were able to push for was fence line monitoring of various plants and that's a new passive sampling where you don't need any electricity or large equipment you just need a little shroud with a cylinder that has a medium in it that is specific for those types of contaminants. That's something that has been happening in the States for quite some time and the government when they made this industry standard, they put that in as a requirement. That's one of the things that we really pushed for and it's really been helping us determine what the numbers are on our fence line.





The next contaminant that we look at is Sulphur Dioxide. So when we talk about monitors being installed, we did indicate there were concerns with a lot of acid gas flaring that goes on in the industry. When that happens, there are high levels of SO<sub>2</sub> produced and it's been reported in nearby Port Huron in Michigan County, so it's not just Aamjiwnaang that's saying we are having issues with it, and it's causing us issues with the particulate matter which causes a lot of asthma in the community. When it comes to jurisdictions, the Province regulates the Benzene and Sulphur Dioxide coming from these industries, but the Canadian federal government also has some involvement and when Port Huron had indicated that they were non-attainment for SO<sub>2</sub> levels, the Canadian federal government went across the border and met with Port Huron and the US EPA (the U.S. Environmental Protection Agency) in Michigan and had a big meeting about the non-attainment. When they were over to Michigan, they had to drive right through the Aamjiwnaang community and we have been telling them for years that we have been having problems with SO<sub>2</sub> and they didn't even stop, they just went right through the territory and right through to meet with Michigan and were not transparent with us about what they were doing and what those Petrochemical facilities were contributing to the Port Huron data. There is a flag for us for when the community says there is an issue, what jurisdictions are actually out there making sure that the facilities don't impact us. Because we have been advocating for years we have some new monitors that are established in the territory and they are measuring much higher levels of benzene, 1-3 butadiene and SO<sub>2</sub> than were expected. The SO<sub>2</sub> levels are in what we call the "red-zone" for the SO<sub>2</sub> Canadian Ambient Air Quality Standard. So that gives you an idea, that for us to be in the red-zone and to not be having any dialogues or meetings, it is concerning.



When we had the new monitors installed, Sulphur Dioxide is ten times higher than other communities such as Ottawa and Toronto, and six times higher than U.S. communities with heavy industry. Contra Costa, a Californian community, they have heavily industrialized refineries, similar to those in Sarnia and our community is six times higher than that area in the U.S. The same with benzene: we are 30 times higher than other communities, and ten times higher than U.S. communities. 1,3 Butadiene is also made from rubber plants so we have Arlanxco here, which used to be Polysar. They are rubber producers and Aamjiwnaang levels are 27



times higher for 1,3 Butadiene are 27 times higher than other communities, and 1.5 times higher than U.S. communities with heavy industry such as Rubbertown, in Louisville, Kentucky. These numbers should be causing issues with the regulators and when Chief Chris Plain met with Environment Canada some time ago, we were told Aamjiwnaang was unique, but that is not the case - This is an environmental crisis, it's not a unique situation.

One of the goals of this forum is to build positive working relationships with each First Nation, our citizens, governments, industry and academia. This portal into what's happening in Aamjiwnaang

is interesting if that's the goal in developing relationships because as is being pointed out, these relationships have been extremely one-sided and in complete disregard for what Alan Corbiere has spoken so eloquently about; the original treaty agreement with the Crown and the way it has been denigrated to today is quite disturbing. The original relationships, if you are looking at wampum belts and the idea of maintaining sovereignty in our canoes has been extremely set aside. One of the Goals of this forum states that we are looking to achieve a balance in the natural environment and it is pretty clear to see from the information provided so far, that there is a huge disparity with respect to the Covenant Chains and a harmonious relationship; I would say this is anything but harmonious.

Looking at who is responsible in terms of providing the regulations, guideline, and the law in terms of protecting Aamjiwnaang, you can see from the Provincial Regulatory Control and Enforcement, that there is a definite lack of those regulations. Ontario petroleum refineries are not required to have the same level of air pollution controls as U.S. refineries. Most people may find that shocking living in Canada because the Americans tend to have somewhat of a poor reputation when it comes to protecting the environment but that's not true and the regulatory schemes and monitoring coming out of the States is reflective of that. You will see that Ontario refineries have higher flaring emissions, higher catalytic cracking unit emissions, and higher sulphur contents in refinery fuels compared to U.S. refineries. There is a lack of regulations in Ontario related to emission and flow monitoring for sulphur dioxide emissions and overall, there is a lack of enforcement by Ontario to reduce sulphur dioxide emissions from petroleum refining industry thereby increasing risks for the people of Aamjiwnaang. So there are regulations but Ontario, for some reason, habitually refuses to enforce the regulations that are even lower than the regulations set out in the United States. What this does eventually, is that it is increasing the risks to the people of Aamjiwnaang but also the people of Sarnia, and generally, the people of Ontario.

Looking at who is responsible in terms of providing the regulations and guidelines and law in terms of protecting Aamjiwnaang you can see from the Provincial Regulator Control and Enforcement there is a definite lack of those regulations and you will see that the Ontario petroleum refineries are not required to have the same level of air pollution controls as US refineries. Most people may find that shocking living in Canada, the Americans tend to have a poor reputation when it comes to protecting the environment, is not true, the regulatory schemes and the monitoring coming out of the States is reflective of that. You will see that Ontario refineries have higher flaring emissions, higher catalytic cracking unit emissions and higher Sulphur contents in refinery fuels as compared to US refineries. There is a lack of regulations in Ontario related to emission and flow monitoring for Sulphur dioxide emissions and an overall lack of enforcement by Ontario to reduce Sulphur dioxide emissions. So what does that mean? There are regulations but Ontario habitually refuses to enforce the regulations that are even lower than the regulations that are set in the United States. What this does is increasing the risks to the people of Aamjiwnaang and the people of Sarnia and the people of Ontario.

One topic that we talk about with the provincial government is air quality and the Ontario Regulation 419/05. Ontario has three different compliance approaches: One is Air Standards where you comply with numeric air contaminant air standards, and if you can't do that then







into air and it will be in tonnes per year, but this data is not verified and it is self-reporting so we wonder about whether the emissions data is true because of the fact that there is no oversight. There is also a Volatile Organic Compound (VOC) regulation that just was propagated by the feds in regards to leak detection and repair and this regulation is less stringent than the existing Ontario requirements, but when we did provide our comments to the Crown, one of the things we indicated is that they were forgetting about certain sources. They were doing some leak

detection and repair, but they were forgetting about the waste water treatment facilities that are on site for most of these companies, and also tanks. When we get to the notes of violations you'll see that the main reason why we issued the notice of violation is because of a tank issue. The Canadian Ambient Air Quality Standards are less stringent than the Ontario Standard for SO<sub>2</sub> and there is no enforcement mechanism. I think when we look at all the different things that are happening in the territory, it's very important that we be involved in all the different types of agencies that deal with air pollution because Aamjiwnaang, when we are not invited to participate, it really sends a message that there is an issue with the oversight and the enforcement and the regulatory control and it is a violation of the Aamjiwnaang's rights.



It is important to understand people often say there is a lack of capacity in First Nations and dealing with the multitude of environmental regulations and responsibilities that the government throws onto the First Nation, but in this case I would say this is not true. Sharilyn used to work for the Ministry of Ontario and what that brings to the table is a multitude of expertise; being aware of how regulations are developed and enforced, how they are regulated themselves so there is a very strong understanding. There is also a strong participation the Aamjiwnaang has been involved in these discussions regarding the environment for quite some time, and third party consultants have been hired to review the data and question what is going on. We have made multiple submissions at all levels of government with respect to these issues and we have been highly involved, but the situation is not getting any better. This goes back to 2013-14 when the Environmental Commissioner of Ontario used to produce an annual report. Recently, Doug Ford has since eliminated the position so there is no Environmental Commissioner of Ontario overseeing these activities, which is extremely concerning not only for Aamjiwnaang, but for all residents of Ontario.

Now, an independent body is mandated to produce these kinds of things to monitor the environment, and from the findings, if you have 110 million kilograms of pollution released into the air in 2009, about 60% of this volume was released within five kilometres of Aamjiwnaang First Nation. Specifically, the Environmental Commissioner noted the way Ontario regulates air emissions, on a stand-alone, facility-by-facility basis, is at least partially to blame for these high pollution loadings. It continues to explain that there is no consideration given to the potential cumulative or synergistic impacts on human health or the environment locales where emitters are clustered - This is a damning finding by the Environmental Commissioner.





Following that, we also have some pretty strong evidence from the UN Special Rapporteur. This is a special committee that struck by the United Nations, they specifically chose Canada. They invited community groups, First Nations, organizations from Canada, to make submissions to why the UN Rapporteur should come to you area and what the purpose would be. So we wrote to the UN Rapporteur and this was specifically looking at toxins and hazardous substances, and we said you need to come to Aamjiwnaang. We listed a whole bunch of reasons why, Environmental Commissioner reports, the environmental committees. We had all kinds of submissions for why they should come and so they did. They came in 2019 and met with all kinds of community members, they met with the government, they met with elders, they came right into the community and did a tour of the facilities and what not. The report was reproduced on September 4, 2020 and you can see the report of the Special Rapporteur on the implications for the human rights of the environmentally sound management and disposal of hazardous substances and wastes. The findings, the Special Rapporteur visited Aamjiwnaang First Nation and Sarnia and found their situation to be “profoundly unsettling. The report also stated the overlapping jurisdictions among the territories, the provinces, and the federal Government, notwithstanding the cross-jurisdictional impacts of toxic exposure, contribute to the lack of clarity on the proper forum for seeking justice. This is a very large concern being brought forward by the UN Rapporteur saying that because of the way the structure of the government, wherever you have a federal, provincial, territorial kind of government, this actually contributes to the high level of toxins being emitted from these facilities.

Most importantly from the Rapporteur’s report, you can see that, this is what was noted: various interlocutors, came forward to speak to the Rapporteur and “acknowledged that existing regulations do not protect the health of Aamjiwnaang. Improvements can be made in investigating health impacts, conducting proper monitoring, and enforcing existing standards.” He went on to say that “Cumulative impacts remain of grave concern regarding the manner in which risks are assessed. The environmental injustice is an ongoing tragedy, a legacy of land use planning that would not be allowed today.” So essentially what he is saying is, these are being regulated and monitored, but nothing is changing, and this is directly leading to the risks and the ongoing tragedies. He basically said there is a structure in place in terms of the land use; there is such a high concentration of facilities in a very small space right next to and all around Aamjiwnaang First Nation. Much of the land that has been ceded by Aamjiwnaang over the years was directly used to build these facilities, so now you have created this environment in which the regulations do not protect Aamjiwnaang.

► Various interlocutors acknowledged that existing regulations do not protect the health of Aamjiwnaang. Improvements can be made in investigating health impacts, conducting proper monitoring, and enforcing existing standards. Cumulative impacts remain of grave concern regarding the manner in which risks are assessed. The environmental injustice is an ongoing tragedy, a legacy of land use planning that would not be allowed today.

So you have the UN Declaration on the Rights of Indigenous People (UNDRIP) and you can see that Canada adopted the UNDRIP in 2016. In 2020, Canada put forward a Bill to fully implement UNDRIP into Canadian law. Interestingly, in Article 32 of UNDRIP you will see that “Indigenous peoples have the right to determine and develop priorities and strategies for the development

or use of their lands or territories”. In Part 3 of Article 32, you can see that “States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural, or spiritual impact”. These are requirements under UNDRIP and we have heard previously in this conference about UNDRIP and some of the things First Nations can do to apply that to their circumstances. These are specifically identified in UNDRIP, so essentially the take away to this point, we have seen that provincial, federal regulations are falling short. You see all sorts of reports that have been provided identifying the problem, you have the United Nations Rapporteur themselves identifying the issue, and you have UNDRIP which obligates the government to do certain things to be able to protect all of this. But yet, here we are. We are here in 2021, with a very large problem that’s noted, that has been heavily monitored and identified, and yet nothing changes.

Without any other recourse, what has happened in Aamjiwnaang is that we have been provided instructions by Chief and council, through community forums and consultation, to say we need to take matters into our own hands because with this gap of regulatory back and forth, Aamjiwnaang has to be able to protect its community members. What happened in this particular case was on a very specific issue, with a specific company; under its own inherent jurisdiction, Aamjiwnaang issued a Notice of Violation, very similar to what the province should be doing in terms of filing notices of violations under its regulations for those companies that violate the regulations.

In September 2020, there was a Notice of Violation issued by the First Nation to INEOS Styrolutions and what they were saying was to implement Control Options for Benzene. Benzene in this particular case was a chemical that showed very high signs of emission. This was well-documented and in that specific Notice of Violation, we noted that we wanted INEOS to specifically address. These were things INEOS had within their control, these were things that were very identified with respect to where the emissions were coming from. It wasn’t a blanket request, this was a very specific ask. The Notice of Violation laid everything out, and it also relied on the fact that many of these regulations were included in Ontario’s provincial regulations. There was a request to replace Tank 8, which is a large tank storage facility. We requested to replace Tank 8 and install a fume collection and control system, linked to all of the storage tanks at the facility. We asked

for enhanced oversight and robust auditing of the Leak Detection and Repair (LDAR) system at INEOS Styrolutions. We also asked to install additional enhanced real-time monitoring of benzene to track down any other fugitive sources.

- ▶ Under its own inherent jurisdiction Aamjiwnaang issued a Notice of Violation (NOV) to INEOS-Styrolutions in September 2020 to implement Control Options for Benzene including:
- ▶ Replace Tank 8 and install a fume collection and control system that can be linked to all of the storage tanks at this facility.
- ▶ Enhanced Oversight and Robust Auditing of the Leak Detection and Repair (LDAR) system at INEOS-Styrolutions.
- ▶ Install additional enhanced real-time monitoring of benzene to track down any other “fugitive” sources.

These were very tangible, practical solutions that would immediately address some of the issues that had been identified. There are a couple takeaways from this: one is, what is going to be the response, both from the provincial government and also the company themselves. We have been working with a consultant out of the United States who is very well versed in the Environmental Protection Act in the United States and much of what we are asking INEOS to do is what would





happen in the United States and what has come upon as very positive results. Where the EPA in the United States because it is federally regulated in the United States, the individual states don't actually have the power to regulate the environment in the United States, unlike Canada where it used to be both federally and provincially regulated. So, the EPA has a lot of power in the United States. They can literally file a notice, similar to this, a Notice of Violation, and if the company doesn't take direct action, the next step is the EPA will shut down your facility. It will just shut it down under the condition that unless you fix this; until you can prove that you have fixed this, this facility will remain shut down.

We don't have the same regulations in Ontario, or Canada, to do so. We are actually trying to push the envelope, from the perspective that these are inherent rights. It would be pretty easy to show that Aamjiwnaang, in terms of their Treaty Rights, were being severely impacted by these regulations that are not being enforced. Those are two things that we are using to assert, both the inherent under the Chi-Naaknigewin onstitution of Aamjiwnaang, we are asserting those rights and we are also asserting Section 35 under the Constitution rights to say that these types of situations, where this emitting and this pollution, is being allowed to operate under the regulations and the guidelines of Ontario is improper and it needs to stop. In doing so, we are creating a regulatory scheme by which Aamjiwnaang will also monitor and look at these regulations, and when there is a violation, they will be issuing their own Notice of Violation. It is taking this, regulatory gap we'll call it, and if it is a gap then Aamjiwnaang will fill that space under its own jurisdiction. We are still in that process. It has been responded to. We have received correspondence from the government that they are looking at that, in terms of the violation itself, and what needs to be addressed. So we are still in a wait to see what is going to happen next in terms of this process, but we are hopeful and somewhat confident that there will be a positive response.



In closing and with respect to protecting Aamjiwnaang, it is important to go back to the first principals and understanding our history. It is important to see and remind ourselves this comes from the Truth and Reconciliation Commission from their final report in 2015, which I believe was a good summary: For over a century, the central goals of Canada's Aboriginal policy were to eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties; and, through a process of assimilation, cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada. I would argue what is happening now with the environmental policies is a continuation of this policy. If you make it so that First Nation's people cannot live on their land because the environment has become so soured, then that is a continuation of that policy. These are topics we consider when dealing with issues, and have to be aware of them.

I would like to bring out a bit more information about the Notice of Violation. What we were able to do in the monitoring aspect of it was, we were looking at the property line monitoring aspect of the data. We were able to see, since they were a fence line neighbor, that the numbers were high at that property line, so as soon as it came over into Aamjiwnaang, we considered that a violation of our rights because our First Nations territory needed to be considered. For years,

probably two years, during that property line monitoring, we were able to see the numbers continually being over the numbers that the government had indicated would be their monitoring assessment value of 30 micrograms per meter cubed, which we didn't agree with as well, we thought it shouldn't be much more than 9 micrograms per meter cubed. There was a big discussion around that, with how they came up with that number.

The whole idea of the Notice of Violation was that because we saw those numbers, and because we had the data, we were able to take that and put it right into our Notice of Violation; to say this is the reason we are issuing this, because you are impacting our territory and you are violating our rights through that. One of the things that I pointed out to the government as well was that there is nothing stopped us from issuing a Notice of Violation to them as well. That might be the next step, you have a mandate, you have regulations, you are responsible for that and if you aren't doing that, then you could also be subject to Aamjiwnaang's Notice because you are violating those rights. When we were able to take that Notice of Violation and put it to the company, we also sent one to the government to say, this is what we are doing. They had put an order on that, and that order was to hire an expert and talk about Tank 8 in order to fix it. Things were moving very slowly, so when we issued the Notice of Violation, all of a sudden a second letter came up from the government to this industry, to say that if you don't have that Tank 8 under control by March 31, 2021, then you have to take it out of service. Which is what we were asking the government to do from the very beginning.

It's important when you start taking these issues into your own hands and letting the industry and government know that you have your inherent jurisdiction and you have your rights, and the community has said that we want our own environmental standards, our own environmental standards, our own environmental regulations, and our own environmental people handling that. When we talked about some of the regulatory gaps yesterday and someone brought up the idea of having environmental officers and having it funded, I think that's important part of looking at those regulatory gaps. It needs to be done, and I think that's where we need our Chiefs and our leaders to put that forward to the government. What is important doesn't necessarily get moved up to a priority and I think we need to make this into a priority in order to handle the environmental issues on First Nations. The other thing we have talked about in the community is the tribal program and looking at what is happening in the U.S. is fully supported, and it was also reaffirmed by the Trump government which I found quite unusual because he wasn't really that open to First Nations and tribes. But he did provide all of the funding to allow the tribal programs to continue. I think that's an important part that we need to look at, is how it is being done in the US around these tribes and the Navajo Nation for one has been doing it for years and they are well versed in it. We can use this as modelling and move forward with environmental stewardship among First Nation with environmental programs that we enforce and look after.

Lawsuits are possible sure, it's difficult to prove the nature thereof, because what will happen there is that the industry will say you cannot determine which of us is polluting, it may be cumulative, but where is it actually coming from? Lawsuits are costly, but yes there are claims that are available. It goes back to what Alan was talking about with respect to the special relationship between the Crown and indigenous, First Nations people, and it's incumbent upon them; we, First Nations people, get clumped into this stakeholder assessment where we are like a public





stakeholder group and we are basically putting forward our issues and our concerns and that's not how First Nations should be treated. First Nations should be at the table, they should be specifically recognized for the fact that they have rights that are constitutionally protected, but also stemming back to the Covenant Chain, and it shouldn't take a lawsuit. It should be something more well established; it should be in the regulations themselves, the development, the enforcement. That's where First Nations people should be. It shouldn't have to be something that we take through a Canadian court and spend a copious amount of money on to argue our rights. It should never come to that. Yes, courts are always available but it should be a more respectful relationship. If we are going to talk about true reconciliation it shouldn't be through the lens of litigation that we talk about it.

We do have a Sarnia environmental health study that has been something in the works since 2007, back when Ron Plain and Ada Lockridge were part of the environment committee and are both strong advocates for the community. Additionally, Minister Chris Ballard, the Minister of the Environment at that time, was feeling the pressure from the media from a Global News story, and stated he would support the health study. Before that, no one would support the health study, but it is now in the works and we have been working with the government for two years on it: what is an exposure study and what it will look like when it comes to communities.

As far as local cancer rates go, there are anecdotal stories related to cancer. Since 2007, I have had ten people I have worked with pass away due to cancer. When you look at deaths in the community, we probably lose one community member a month, according to the stats in our audit on how much we spend on graves and funerals, due to an illness such as cancer, heart disease, and the like. What people need to take away from this information is we are working to make sure we are asserting our rights. Using Notice of Violation is one way to get rid of the regulatory gap we face. Putting these tools and instruments into play will be better for all our communities - You will have control and can say these are the conditions and what we want done. The numbers are bad, but overall we are working and asserting our rights to make sure that our community is protected.

Stacey Phillips commented about this being an eye opening experience on the feds and the province and it is a prime example of them failing not only the rights of the Anishinabek people but also Ontarians and Canadians as a whole. A past Lands and Resources Forum, Everything is Connected, spoke to the notion the environment should be a priority as everything depends on land and air and water.

## Our Organizers

**Jason Laronde**, Director - Lands & Resources and Economic Development

**Rhonda Gagnon**, Policy Analyst - Lands & Resources

**Lynn Moreau**, Coordinator, Agriculture & Food - Lands & Resources

**Elaine Commanda**, Administrative Services Assistant - Lands & Resources

**Megan Goulais**, Economic Policy Analyst - Economic Development

**Brandon Manual**, Economic Project Coordinator - Economic Development



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Listen and learn from this year's  
**Lands & Resources and Economic Development Forum**  
by visiting:

**[youtube.com/AnishinabekNation](https://www.youtube.com/AnishinabekNation)**

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## Nation Councils

The Anishinabek Nation is supported by three Nation Councils: Kwe-Wuk Advisory Council, Getzidjig Advisory Council, and Eshekenijig Advisory Council. These Councils meet from time-to-time as individual groups or collectively, to discuss areas of concern, review and provide advice on Anishinabek Nation program initiatives and engage in nation-building activities.

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### GETZIDJIG ADVISORY COUNCIL

**Nmishomis Gordon Waindubence**, Anishinabek Nation Head Getzit

**Nokomis Elsie Bissaillon**, Lake Huron Region

**Nmishomis Glen Marsden**, Southeast Region

**Nmishomis Mike Esquega**, Northern Superior Region

**Nmishomis Roy Michano**, Northern Superior Region

**Nmishomis Leroy Dolson**, Southwest Region

### KWE-WUK ADVISORY COUNCIL

**Donna Debassige**, Lake Huron Region

**Marina Plain**, Southwest Region

**Nora Sawyer**, Southeast Region

**Evelyn Stone**, Northern Superior Region

### ESHEKENIJIG ADVISORY COUNCIL

**Quinn Meawasige**, Head Youth Member - Bonnet Holder

**Nathalie Restoule**, Head Youth Member - Bonnet Holder

**Lance Copegog**, Southeast Region

**Pierre Debassige**, Lake Huron Region

**Autumn Bressette**, Southwest Region

**Alexei Meegwan Beauclair**, Northern Superior Region

(Interim Appointment)

