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## **Mississaugas of Scugog Island First Nation**

Written Submission for ERO 019-8320

Regulation detailing new Minister's Permit

and Review powers

under the Conservation Authorities Act.

May 6, 2024

Chief Kelly LaRocca



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## Mississaugas of Scugog Island First Nation

### Introduction:

From time immemorial, the Mississaugas of Scugog Island First Nation (MSIFN) have lived on the shores of Lake Scugog, North of what is now Port Perry. MSIFN is widely considered a model of a successful First Nation government in Canada. In part due to its exceptional financial management and foresight, MSIFN has provided their community with thousands of jobs, and charitable donations to organizations throughout the region.

Additionally, MSIFN has become a leading advocate for matters related to the environment. Among the First Nation's key interests are providing for their community now without compromising the ability of future generations to thrive. MSIFN considers protecting the environment essential to achieving that goal.

### Request:

We urge the provincial government to maintain conservation authorities' authority to grant permits as needed. MSIFN believes this authority should be maintained for two key reasons:

1. The Environment: It's our duty to safeguard the environment, necessitating careful assessment of every governmental decision, weighing short- and long-term effects.
2. Consultation Processes: The government must consult Indigenous communities before decisions affecting our inherent rights and territories are made, as per *Section 35 of the Constitution Act, 1982*.

### The Environment

At the forefront, government officials and public servants have the responsibility of protecting the environment, as mistakes cannot be reversed. There is no turning back and the consequences, such as loss of a carbon sink, ecosystem, and biodiversity, will not just be



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severe, they will compound as time progresses, exposing future generations to immeasurable harm.

The Ford government's new proposal gives the Minister of Natural Resources the power to take over permitting processes from conservation authorities for issues that pertain to “provincial interest”. This includes areas like housing, transportation, and infrastructure. Phil Pothen, head of the Ontario environmental program at Environmental Defense says “The new regulation will allow the minister to cut conservation authority experts completely out of the decision. It encompasses almost all the circumstances that are likely to create natural hazards”. Various environmental and advocacy groups claim that the vague description of provincial interest could be extended too far, furthering the power imbalance between government and public interest.

This is also not the first time the powers of conservation authorities have been challenged. In 2019 and 2022, the provincial government limited its authority and expertise in addressing the protection of watersheds and the housing crisis respectively. Additionally, this is the third time the government has transferred new powers to the Minister of Natural Resources away from other decision-makers: firstly in 2020 with Bill 229, and secondly in 2022 with Bill 23, the More Homes Built Faster Act. Before Bill 23, each of Ontario’s 36 conservation authorities was governed by its own regulations. This move was criticized at the time for limiting the authorities' focus to natural hazard prevention instead of their particularities.

To protect the environment from further damage, we oppose granting the Minister more power over conservation authorities. Each conservation authority across Ontario was established for a specific purpose, as they possess the specialized expertise required to tackle intricate environmental issues. Appointed members of staff have the expertise to protect and prevent hazards - a depth of understanding that the Minister may lack. Stripping them of their discretion to issue permits as they deem appropriate not only lacks equity but also poses potential dangers in times of crisis, leading to irreversible damage.

### **Consultation Processes**

The government of Canada must consult and, where appropriate, accommodate Indigenous groups where it considers conduct that might adversely impact potential or established aboriginal or treaty rights. This duty comes from *Section 35 of the Constitution Act, 1982*, which recognizes and affirms the rights of Aboriginal people. However, despite this duty, consultation



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has continued to fall short of its intended purpose, often leaving Indigenous voices marginalized and our rights inadequately protected.

Currently, First Nations peoples are often left out of formal consultation processes, as the duty to consult is treated as a mere formality. When an Indigenous community opposes projects or proposed accommodations from the government, our dissent is all too often dismissed. Consequentially, the burden of proof often falls on Indigenous communities, who must navigate complex and varied processes with limited resources and capacity.

If allowed, this new proposed regulation will exacerbate these inequalities, making it harder for Indigenous communities to control what happens to their land and peoples. Although federal law states that the government must consult Indigenous people for regulatory project approvals, including the licensing of permits, giving the minister the final word is a step in the wrong direction. Not only does this go against the law, but it also hinders the reconciliation process that this country so desperately needs.

As Canada navigates the complexities of reconciliation, it is essential to remember that consultation without action is meaningless. True reconciliation requires action, grounded in respect, equity, and justice. It is time for Canada to listen, learn, and act in partnership with indigenous peoples to build a more inclusive society.

### **Conclusion:**

For the reasons outlined above, MSIFN urges the Ford government to reassess the delegation of power from conservation authorities to the Ministry of Natural Resources concerning permitting procedures. Conservation Authorities play a vital role in Ontario, offering specialized knowledge that safeguards natural resources for the benefit of the economy, society, and the environment. This not only upholds the rights of Indigenous communities to participate in political decisions but also fosters a sustainable legacy for future generations of Ontarians.

MSIFN's Chief and Council would be happy to provide additional input on these areas.