Deshkan Ziibiing
Chippewas of the Thames
First Nation Treaties, Lands
and Environment

May 17, 2025

VIA EMAIL and ERO POSTING

Ministry of Citizenship and Multiculturalism
Ministry of the Environment, Conservation and Parks
Ministry of Infrastructure
Ministry of Energy and Mines
Ministry of Economic Development, Job Creation and Trade

Chippewas of the Thames First Nation (COTTFN) writes to formally oppose Bill 5, Protect Ontario by Unleashing Our Economy Act, 2025, which encompasses the associated Environmental Registry of Ontario (ERO) proposals listed below:

- Proposed Amendments to the Ontario Heritage Act, Schedule 7 of the Protect Ontario by Unleashing our Economy Act, 2025 – ERO No. 025-0418
- Proposed interim changes to the Endangered Species Act, 2007 and a proposal for the Species Conservation Act, 2025 – ERO No. 025-0380
- Removing Environmental Assessment Requirements for the York1 Waste Disposal Site Project – ERO No. 025-0389
- Special Economic Zones Act, 2025- ERO No. 025-0391
- Proposed amendments to the Mining Act 1990- ERO No. 025-0409
- Addressing Changes to the Eagle's Nest Mine Project – ERO No. 025-0396
- Protect Ontario by Unleashing Our Economy Act, 2025 – ERO No. 025-0416

The proposed changes outlined in Bill 5 and the associated Environmental Registry of Ontario (ERO) postings represent a direct and serious infringement on the constitutionally protected Aboriginal and Treaty Rights of First Nations in Ontario. These actions threaten to undermine the inherent jurisdiction, authority, and sacred responsibility of First Nations, including Deshkan Ziibiing, to act as stewards of the lands, waters, and species within their territories. This legislation would lead to the erasure of First Nations histories, accelerate environmental degradation, and contribute to the further loss of biodiversity across Turtle Island. This bill is being proposed without the free, prior, and informed consent of affected First Nations, and without adequate or meaningful consultation — a clear violation of the Crown's obligations. Providing First Nations with only one month – starting just before a long weekend - to review and respond to this legislation, while rushing through the legislative process, demonstrates a profound lack of respect and consideration. It undermines the principles of meaningful consultation and informed participation on matters of critical importance to First Nations rights, governance, and the future of the lands and waters we are all responsible for. Without prejudice to any of the protected rights and interests of COTTFN, we outline our concerns and objections in detail:

Section 35 (1) of the Canadian Constitution, Honour of the Crown, UNDRIP and Reconciliation:

The rights that Deshkan Ziibiing exercises in relation to our lands and waters are inherent. These rights are embedded in our continued relationship to our territory and in the exercise of our self-determination. They are recognized and affirmed in multiple legal and political instruments, including the Royal Proclamation of 1763, our Treaties, Section 35(1) of the Constitution Act, 1982, and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).[1]

Ontario bears a constitutional obligation to uphold the honour of the Crown — a foundational principle that requires the Crown to act with integrity, transparency, good faith, and fairness in all dealings with Indigenous peoples. The Supreme Court of Canada has made clear that both federal and provincial governments are bound by this duty.

Ontario's actions in relation to Bill 5 and the proposals within it amount to a clear breach of the honour of the Crown. By unilaterally proceeding with legislation that negatively affects First Nation lands, governance, and rights, Ontario has acted dishonourably. Ontario cannot credibly claim a commitment to reconciliation while enacting legislation that deliberately excludes the very Nations whose rights are most directly at stake. Such actions are not only procedurally flawed, but also are incompatible with reconciliation, and the constitutional principles that bind the Crown.

Furthermore, the UN Declaration on the Rights of Indigenous Peoples, as affirmed in Canadian law through the UNDRIP Act (2021), acknowledges the rights of Indigenous peoples to self-determination, participation in decision-making, and protection of their lands, resources, and cultural integrity. It also affirms the duty of states to obtain free, prior, and informed consent before adopting measures that affect Indigenous peoples[2]. Ontario's introduction and subsequent rush to pass Bill 5 blatantly violates several key articles of UNDRIP, including but not limited to the following[3]:

- **Article 8.1-** Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
- **Article 11.1** - 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. 2- States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

[1] Deshkan Ziibiing/Chippewas of the Thames First Nation Wiindmaagewin Consultation Protocol, 2023
[2] Implementing the United Nations Declaration on the Rights of Indigenous Peoples Act, Government of Canada, 2021
[3] United Nations Declaration on the Rights of Indigenous Peoples Act, United Nations, 2018

- **Article 12-** 1. 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. 2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.
- **Article 18-** Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
- **Article 19-** States 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.
- **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 and other resources and to uphold their responsibilities to future generations in this regard.
- **Article 31-** Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge, and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions. 2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.
- **Article 32-** 1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources. 2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. 3. 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.
- **Article 37**- Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

Proposed amendments to Ontario Heritage Act

Chippewas of the Thames First Nation strongly opposes the proposed changes to the Ontario Heritage Act. The amendments would allow the Ontario government to exempt almost any project from the standard provincial requirements to protect archaeological sites. Indigenous cultural heritage and sacred sites dating back thousands of years could be destroyed without any record keeping or collection of artifacts, simply because the Ontario government considers the project to be a "priority". Indigenous peoples have the right to protect and control our own cultural heritage. This attempted erasure of Indigenous history clearly violates Indigenous rights. While Bill 5 attempts to undermine the ability of First Nations to seek legal recourse for the destruction of cultural heritage, these disputes would still end up in court and ultimately delay projects much more than completing archaeological assessments.

The amendments would also allow provincial inspectors to seize artifacts and inspect sites with archaeological potential, all without First Nations monitors present. Provincial inspectors could remove artifacts from sites or misrepresent findings with no accountability. This is unacceptable.

The only amendment that should be maintained is allowing materials to be deposited with Indigenous communities, in addition to public institutions. The Ontario must make it easier to return Indigenous material culture to Indigenous communities.

Proposed interim changes to ESA and its replacement with the SCA

Chippewas of the Thames First Nation opposes the proposed changes to the ESA and the proposed language for the new SCA. Chippewas of the Thames First Nation affirms the sacred responsibilities of First Nations to act as stewards of the land, water, air, and all living beings of Turtle Island. This obligation is rooted in Anishinaabe creation stories and natural law, predating colonial occupation. Other species are living relatives with inherent rights to exist and thrive and must not be sacrificed for short-term economic gain.

1. Undermining the Purpose of the ESA

The proposed shift in the purpose of Ontario's Endangered Species Act (ESA) is deeply troubling. The original intent of the ESA (2007) was to protect and recover species at risk based on the best available science and Aboriginal Traditional Knowledge. This aligns closely with First Nation worldviews that uphold the intrinsic value of all life. Inserting "economic development" as a key consideration reframes the Act as a tool for facilitating industrial expansion. The Ontario government cannot reduce biodiversity protection to a cost-benefit analysis without violating the rights and obligations of First Nations.

2. Redefining Habitat: A Narrow, Colonial Perspective

The redefinition of "habitat" under Schedule 2 of Bill 5 is a regressive and harmful move that undermines not only the survival of Ontario's species at risk but also First Nations laws and

responsibilities that uphold relational accountability to all living beings. The proposed definition, which restricts habitat to narrowly defined areas immediately surrounding "dwelling places", ignores the holistic understanding of habitat held by First Nations, which encompasses entire ecosystems and the interdependent relationships that sustain life. For the Anishinaabe and many other First Nations, habitat is not confined to a physical space immediately surrounding an individual; habitat includes the water, air, food sources, migration routes, breeding grounds that collectively support a being's full life cycle (directly or indirectly). By imposing a narrow definition of habitat, Ontario will accelerate habitat loss and weaken protections for species at risk. This change will have devastating consequences for biodiversity and First Nation rights, while placing an even greater burden on First Nations to defend what should be universally protected.

3. Excessive and Unaccountable Ministerial Discretion

Bill 5 grants sweeping new powers to the Minister and unelected staff, further eroding trust, transparency, and accountability. The rule of law requires that decisions be made according to clear legal standards and not on an arbitrary or discretionary basis[4]. Granting a Minister unchecked discretion to determine which species are protected erodes legal predictability and opens the door to decision-making that is discretionary, opaque, and politically motivated and/or biased. For First Nations, such concentrated and unbounded discretion, particularly in matters that directly impact lands, waters, and species with which we hold sacred, represents a direct violation of the honour of the Crown.

The removal of the automatic requirement to list species recommended by the Committee on the Status of Species at Risk in Ontario (COSSARO) is dangerous. The Cabinet, if Bill 5 is passed, can choose to ignore independent scientific assessments and First Nation knowledge alike. It appears the Ontario government is actively paving the path to eliminate COSSARO altogether. If Cabinet is allowed to ignore COSSARO's expert recommendations, it undermines the committee's credibility and signals a deliberate move toward dismantling it entirely. When independent experts are disregarded, members may feel their expertise is devalued, leading to disengagement or resignation. This paves the way for the collapse of COSSARO, stripping the ESA of its scientific backbone and leaving species protections at the mercy of political and economic agendas.

4. Removing "Harassment" Protections: A Step Backwards

Removing "harassment" from the ESA's definition of harm is both ecologically and morally indefensible. Many First Nations across Ontario and Turtle Island understand species not as "resources" to be managed, but as relatives with whom we share a sacred relationship. Harassment will disrupt critical behaviours like nesting, feeding, and migration, and can lead indirectly to death. When paired with Ontario's narrowed definition of habitat, this change creates a dangerous loophole that allows people to legally harass species outside narrowly defined habitat areas, using disturbance as a deliberate tactic to displace species and avoid regulatory consequences. For

[4] CELA Submission Bill 5, 2025

example, aggregate pit operators could be just outside the immediate protected area where Bank Swallows have nested and harass them to the point that the birds abandon their nests/eggs.

This change also distances Ontario's regime from the federal Species at Risk Act and the Fish and Wildlife Conservation Act, which recognize disturbance as a significant threat to species. A more respectful path would be to strengthen the ESA in partnership with First Nations and keep it aligned with federal and First Nation legal standards[5].

5. Repeal of Recovery Strategies and Management Plans

Without Recovery Strategies and Management Plans, the essential framework for accountability is lost. These documents not only set clear, science and knowledge-based goals for species recovery but also establish measurable actions, timelines, and responsibilities for the province and other stakeholders. They serve as a formal commitment by the province that ensures progress is monitored, reported, and adjusted as needed. When these documents are removed or repealed, there is no formal mechanism to hold the province accountable for protecting species at risk. Without clear targets or required actions, the government can acknowledge the existence of endangered species without being obligated to prevent their decline or extinction. Repealing these sections effectively strips the ESA of its recovery framework, creating a legal regime in which the province acknowledges species are at risk but declines to act/protect them facilitating, if not ensuring, their continued decline or extinction.

6. Automatic approval to do harm-SCA

The proposed registration-first approach under the Species Conservation Act, 2025, is deeply concerning, especially in light of the Ontario Auditor General's 2021 report, which found that the Ministries responsible for the Act (MECP and MNR) had never denied an application to harm a species at risk or its habitat, nor had it conducted inspections to ensure compliance[5]. Allowing proponents to begin activities immediately upon registration, without any site-specific review or prior approval, opens the door to exacerbating past mistakes and enables unchecked destruction of vulnerable species and their habitats.

The shift away from permitting limits opportunities for First Nations to be consulted before harm occurs to species and habitats within their territories. This registration-first-worry-later model reflects a continued disregard for First Nations' rights, knowledge systems, and stewardship responsibilities.

7. An Unjust Burden on First Nations

The Ontario government, having contributed to ecological harm through decades of weak environmental policies, is now trying to offload the consequences of Bill 5 onto First Nations. First

[5] Auditor General Value-for-Money Audit: Protecting and Recovering Species at Risk Report, 2021

Nations will not only be the first to suffer the effects of dwindling species populations and a reduced ability to practice inherent Aboriginal and Treaty Rights in the future, but will also be left to try to protect these species with minimal support, reduced legal tools, and no assurance of meaningful involvement in decision-making. Bill 5 strips away vital protections and downloads the responsibility for conservation onto the very Nations whose rights, knowledge, and relationships with the land are being ignored.

8. ESA Auditor General's Findings Ignored

When the provincial government responds to the Auditor General's findings—confirming MECP and MNR's failure to administer the ESA and protect species at risk[6]—by further weakening the very ESA it failed to enforce, it is clearly not acting in good faith. Further to this point, in the three years MECP has overseen the ESA without MNR, it has used that time not to strengthen the Act but to undermine it, from weakening protections for Redside Dace to advance Highway 413, to pausing safeguards for Black Ash in favour of economic interests, and now with Bill 5.

In conclusion, Bill 5 represents a dangerous dismantling of Ontario's Endangered Species Act and a direct threat to the inherent rights and responsibilities of First Nations. The Chippewas of the Thames First Nation upholds its sacred duty to protect the land, waters, and all living beings—a responsibility rooted in Anishinaabe law and affirmed by the Constitution. Yet Bill 5 disregards science, ignores Traditional Knowledge, and hands unchecked power to political decision-makers, all while removing key environmental and species protections and accountability mechanisms. If passed, this legislation will not only accelerate biodiversity loss but violate the Crown's constitutional obligations to First Nations. Ontario must stop this legislative backsliding and instead uphold its commitments to reconciliation and maintaining ecological and political integrity.

Removing a Comprehensive Environmental Assessment for York 1

The Ontario government's plan to eliminate Environmental Assessment requirements for the York1 Waste Project is an urgent crisis that threatens First Nations' rights, environmental health, and community safety. We outline our concerns in detail below and demand that the comprehensive EA be required once again.

1. Duty to Consult

The Ontario government's proposal to remove Environmental Assessment (EA) requirements for the York1 Waste Project through the Protecting Ontario by Unleashing Our Economy Act, 2025 raises serious constitutional and legal concerns for Chippewas of the Thames First Nation (COTTFN). The project is located within the McKee Treaty Territory, to which COTTFN is a signatory, and within COTTFN's broader traditional territory. Aboriginal and treaty rights protected under Section 35 of the Constitution Act, 1982 require the Crown to consult and accommodate First Nations when those rights may be impacted. By removing the EA process after previously acknowledging its importance,

the government is undermining the Honour of the Crown and denying COTTFN a fair opportunity to participate in decisions affecting our lands, waters, and community well-being.

- Environmental Assessments are one of the few formal tools available to First Nations for evaluating both immediate and cumulative impacts of development. While not perfect, they provide a structured process for First Nations communities to raise concerns, share knowledge, and propose solutions. The Supreme Court of Canada has consistently affirmed that consultation must be meaningful, timely, and capable of influencing outcomes. Removing the EA at this stage undermines these legal principles and contradicts Canada's commitment to the United Nations Declaration on the Rights of Indigenous Peoples.
- The government's claim that Environmental Compliance Approvals (ECAs) will continue to regulate the project misses the point. ECAs are narrow, technical instruments focused on specific emissions or discharges. They do not address the broader ecological, cultural, or rights-based implications of a project. Replacing the EA with ECAs removes the primary mechanism that ensures First Nations have the ability to participate in decision making.

2. York1 Compliance issues

The above concern is compounded by York1's troubling compliance history. In April 2025, the company was convicted under the Environmental Protection Act for providing false or misleading information about its Trillium Transfer site in Toronto. This followed an earlier conviction and fine in 2022 related to the death of an employee due to the absence of proper safety procedures at another waste processing site. Despite being fully aware of these serious violations, the provincial government maintains that an Environmental Assessment is not needed for the proposed York1 Dresden Landfill. This raises fundamental questions about the government's commitment to public safety, environmental oversight, and the fair application of regulatory standards. Allowing a company with a record of noncompliance to bypass a comprehensive review process simply because the province claims to need more landfill capacity sends a dangerous signal. It suggests that economic interests outweigh the duty to uphold environmental protections and constitutional obligations. It also casts doubt on the government's ability to manage other discretionary powers that would be granted under Bill 5, including decisions related to species at risk and Special Economic Zones.

3. COTTFN's lived experience

COTTFN's concerns are grounded in lived experience. The Green Lane landfill, located just a few kilometers from COTTFN's community, now holds millions of tonnes of Toronto's waste. When the City of Toronto acquired the site, which was then a much smaller privately owned facility, the project underwent an Environmental Assessment to expand. Despite that process, COTTFN and its neighbours, Oneida Nation of the Thames and Munsee Delaware Nation, continue to experience serious impacts from Green Lane's operations, including ongoing odour issues.

The York1 Dresden site closely mirrors the Green Lane landfill in its origins, as it is also a preexisting landfill slated for expansion and upgrades. However, the critical difference is that this time, the provincial government is proposing to proceed without the scrutiny of a comprehensive Environmental Assessment. This would ultimately result in far greater and more widespread impacts on the surrounding land, water, air, local species, and nearby towns and cities.

For all these reasons, COTTFN strongly opposes this legislative rollback. We urge the Ontario government to reinstate the full Environmental Assessment process for the York1 project and to fulfill its legal and moral responsibility to engage in meaningful consultation with First Nations. Our rights, lands, and communities deserve more than procedural shortcuts. They require respect, accountability, and genuine partnership.

Special Economic Zones

Chippewas of the Thames First Nation is deeply concerned by the government's proposal to enact the Special Economic Zones Act, 2025 under Bill 5. The powers outlined in this legislation would allow the province to create regulation-free zones, exempting selected "trusted proponents" from provincial laws or municipal by-laws within those designated special economic zones. This level of discretionary authority undermines the rule of law and sets a dangerous precedent for overriding First Nations rights. By removing the decisions that would normally trigger consultation, it is unclear how the duty to consult would be fulfilled. Once again, the Crown cannot legislate its way out of its constitutional duty to consult and accommodate First Nations.

COTTFN sits at the center of ongoing and intensifying development pressures in Ontario, including the expansion of housing and related infrastructure, highways, energy corridors and powerplants, and industrial development. If Bill 5 is passed, it would grant the provincial government sweeping authority to bypass consultation and legal oversight at will. This poses a direct threat to our already diminished lands, waters, and constitutionally protected rights. Much of COTTFN's traditional and treaty territory has already been lost to farmland, urban sprawl, and industrial zones. The forests the Anishinaabe once relied on to hunt and gather are now so small and fragmented they can no longer support hunting or gathering. COTTFN's waters are so polluted that many community members do not feel safe fishing, eating the fish, or even going out on the water. Giving the government the power to declare 'special economic zones' and enable 'trusted' proponents to push forward projects guarantees further harm to our lands, waters, and way of life. This will ultimately threaten the current and future generations' ability to exercise their constitutionally protected rights and maintain their relationship with the land and water.

Even more troubling is the inclusion of immunity provisions in this section of Bill 5, which strongly suggests the Ontario government anticipates backlash, environmental harm, and significant impacts to First Nations communities and the public. If the province truly believed these developments would not cause harm, it would not be preemptively shielding itself and its partners from legal accountability. This is a clear admission that Bill 5 will cause serious and lasting damage, particularly for First Nations like COTTFN, who already live with the cumulative effects of pollution, land loss, and decades of inadequate consultation. COTTFN will not accept being shut out of decisions that threaten what little remains of our lands, waters,

and way of life. Ontario must honour its constitutional duty to consult and accommodate.

Mining Act, Ontario Place and Eagle's Nest Amendments

Chippewas of the Thames First Nation supports the concerns raised by other First Nations across Ontario regarding the broader impacts of Bill 5 beyond COTTFN's Treaty and Traditional Territory, like the Mining Act, Eagles Nest, and Ontario Place Acts.

Conclusion

Moving forward with Bill 5 will undermine any genuine partnership with First Nations and shows a deep disregard for First Nations laws, rights, and jurisdiction. It not only violates Ontario's legal obligations but also erodes trust, dishonours Treaty relationships, and reverses hard-won progress on reconciliation. As outlined above, nearly every proposal in Bill 5 risks directly violating the inherent and constitutionally protected Aboriginal and Treaty rights of First Nations across Ontario—while drastically weakening the Crown's duty to consult and accommodate. COTTFN and other First Nations are fully prepared to defend our rights, lands, and responsibilities through all available legal and political avenues to prevent this bill from becoming law. The Ontario government is not advancing reconciliation, it is regressing.

Instead of weakening protections for species at risk, removing environmental assessments, and treating First Nations history as a barrier to development that can be erased, the Ontario government should properly fund its ministries and First Nation consultation units so that meaningful consultation can occur at a pace that meets Ontario's needs.

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