



## **MOOSE CREE FIRST NATION**

P.O. Box 190  
Moose Factory, ON  
P0L 1W0

---

Tel: (705) 658-4619  
Fax: (705) 658-4734

### **May 16, 2025 – Comments on Bill 5**

ERO No. 025-0391	Special Economic Zones Act, 2025
ERO No. 025-0409	Proposed amendments to the Mining Act 1990, Electricity Act 1998, and Ontario Energy Board Act 1998, to protect Ontario's Economy and Build a More Prosperous Ontario
ERO No. 025-0380	Proposed interim changes to the Endangered Species Act, 2007 and a proposal for the Species Conservation Act, 2025
ERO No. 025-0396	Addressing Changes to the Eagle's Nest Mine Project

As the Director of Lands and resources for Moose Cree First Nation ("Moose Cree"), I am writing to register Moose Cree's serious concerns about the proposed *Protect Ontario by Unleashing Our Economy Act, 2025* ("Bill 5"). My comments relate to the above-noted postings on the Environmental Registry of Ontario.

Moose Cree recognizes your government's interest in "cutting red tape" to accelerate mining and infrastructure projects in response to President Trump's tariffs and threats against Canada's economy—however, development cannot occur in Moose Cree's Homeland without our consent. Moose Cree strongly opposes unilateral efforts by Ontario to rush development in our Homeland. Accelerated strategic development can be possible but it must be done in partnership with us. Moose Cree requests that Bill 5 be fully withdrawn and redeveloped in consultation with First Nations including Moose Cree.

### **Moose Cree First Nation and Industrial Development in the Moose Cree Homeland**

Moose Cree is the largest First Nation in northern Ontario. Our Homeland spans over 60,000 square kilometers in northeastern Ontario and will be central to Ontario's plans for strategic resource development to fortify the economy against tariffs and threats from President Trump. It has been identified as having some of the province's most significant and cost-effective hydroelectric potential and is home to several mining claims.

We have Treaty rights, Aboriginal rights, and other interests throughout our Homeland, including an inherent right to decide how the lands and waters in our Homeland are used and developed. This inherent right is articulated in the United Nations Declaration on the Rights of Indigenous Peoples ("UNDRIP") at Article 32. UNDRIP also articulates other

rights, including the rights to self-determination and self-government (Articles 3 and 4); the right to maintain and strengthen our distinctive relationship with our territory (Article 25); and the right to own, use, develop, and control our lands (Article 26); the right to conservation and protection of the environment (Article 29). The Supreme Court of Canada has recently confirmed that UNDRIP “is incorporated into the country’s domestic positive law.”<sup>1</sup> These inherent rights can also be understood as sacred responsibilities, bestowed upon us by the Creator, to steward our lands and waters for future generations of Moose Cree people.

The history of industrial development in the Moose Cree Homeland shows clearly that successful development can only be done in partnership with us. Moose Cree partnered with Ontario Power Generation (“OPG”) on the Lower Mattagami River Project—an investment to redevelop hydro dams on the Lower Mattagami River and the largest hydroelectric project to happen in northern Ontario in over 40 years. The partnership allowed Moose Cree and OPG to move past a bad history associated with the original construction of the dams and forward together on new projects and opportunities. Now, Moose Cree is leading a co-planning process with Ontario to explore new hydroelectric development in the Moose Cree Homeland, in accordance with the Moose River Basin and Northern Rivers Commitments.

Our Homeland is also home to the Detour Lake Mine—the largest gold-producing mine in Canada. In 2022, Moose Cree members voted to support the continued operation of the Detour Lake Mine and the development of its West Detour Project. We also had a long and productive relationship with DeBeers in relation to the Victor Diamond Mine which closed in 2019. These projects went forward because they were planned for and implemented with Moose Cree—in a manner that is consistent with our peoples’ relationship with the lands and waters of our Homeland and that contributes to the well-being of our community. They were done in partnership. Given this history, the large and obvious gaps created by Bill 5 for meaningful engagement and partnerships with First Nations is deeply concerning.

Alongside our partnerships on development in our Homeland, Moose Cree is engaged in work to protect our Homeland and plan for its future, in accordance with our responsibility as stewards. This work stands to be affected by the almost unfettered powers given to the executive branch of government in Bill 5.

Part of this work is our land use planning process with Ontario’s Ministry of Natural Resources (“MNR”) to develop a Community-Based Land Use Plan under the *Far North Act*,

---

<sup>1</sup> Reference re An Act respecting First Nations, Inuit and Métis children, youth and families, 2024 SCC 5 at para 15; *Dickson v Vuntut Gwitchin First Nation*, 2024 SCC 10 at paras 47, 117.

2010. Throughout this process, Moose Cree has been clear that our interest and intention is to do land use planning for our *whole* Homeland with your government, not just the portion that is north of the Far North boundary. Our draft terms of reference for the Community-Based Land Use Plan acknowledges that the area south of the Far North boundary is not subject to planning under the *Far North Act, 2010*, but that “Moose Cree is interested in working with Ontario to advance land use management and protection interests in this portion of the Moose Cree Homeland, including the part of the North French River watershed south of the Far North boundary.”

Protecting the North French River watershed is a critically important priority for Moose Cree. The area is one of unparalleled cultural and spiritual importance to Moose Cree people that must be preserved for future generations. For thousands of years, Moose Cree people have used this area for harvesting and for cultivating and maintaining our cultural and spiritual connection to the land and to our traditional way of life. In 2022, Moose Cree had productive conversations with your Ministry of Environment, Conservation and Parks about expanding an existing conservation reserve to protect the North French River watershed under Ontario law. Former Minister Piccini shared our interest in protecting the area for future generations, but our conversations stopped in early 2023 before a recommendation could be made.

Moose Cree wrote to Premier Ford in early 2025—before President Trump declared economic war on Canada—to communicate the urgent need for our governments to come together to explore common interests, build our relationship, and plan for the future of Moose Cree’s Homeland, in order for the Government of Ontario to achieve its goals for resource development and economic growth. Now, the goal has evolved to protect Ontario’s economy from foreign threats, but the path forward is the same: partnership with Indigenous nations, like Moose Cree, is the only way to speed up approvals for priority projects to fortify Ontario’s economy.

Bill 5, as a whole, proposes changes to legislation that will, if passed, have the effect of significantly reducing government oversight of destructive activities and, as a result, opportunities for our governments to build relationships in relation to proposed projects. This is the opposite of what is required for expedited development. The following outlines Moose Cree’s primary concerns with Bill 5.

### **Special Economic Zones – the proposed *Special Economic Zones Act, 2025***

Moose Cree is concerned that Ontario’s proposed *Special Economic Zones Act, 2025*, will lead to the establishment of areas within our Homeland where Ontario will allow proposed

industrial activities to go ahead unchecked, leading to destructive and unsustainable development and irreversible impacts to our Homeland and our rights.

The *Special Economic Zones Act, 2025*, would allow Ontario to create “special economic zones” where certain permitting and approvals processes under other Ontario laws could be modified or exempted for preferred proponents and projects. The Lieutenant Governor in Council will have the authority to prescribe criteria for special economic zones, as well as proponents and projects eligible to benefit from the same. Ontario says that the proposed law “is meant to quickly advance strategically important economic activity and priority projects” and expects the first zone to be established by September 2025.

By reducing or removing requirements for permitting and approvals, Ontario would be removing opportunities to understand potential impacts of proposed activities to the land, water, wildlife, and the rights of our people. These are vital opportunities for First Nations to engage with Ontario and proponents before a proposed activities proceeds. For example, Ontario’s “consultation framework” for implementing its duty to consult and accommodate Indigenous peoples on mining activities relies on permitting processes set out in the *Mining Act*. It is therefore unclear how Ontario plans to fulfil its duty to consult on mining activities if the permitting regime set out in the *Mining Act* is changed or removed. Removing these opportunities for engagement and consultation puts undue burden on First Nations to monitor activities throughout their vast territories and interfere with our inherent rights to conserve our lands and decide how they are used. This will undoubtedly lead to more unmitigated impacts from industrial activity. Fewer opportunities for meaningful engagement with First Nations will lead to projects being held up, *not* accelerated. The history of hydroelectric development in the Moose River Basin shows this to be true. After four hydro generation stations were built on the Mattagami River without our participation and without our consent, it took *decades* before First Nations would allow further hydroelectric development to happen. Our people suffer from the trauma caused by that development to this day. This cannot be allowed to happen again.

Moose Cree also has serious concerns about the sweeping powers given to executive branch of government with respect to special economic zones, “trusted” proponents, and “vetted” projects—including nearly unfettered power to determine which regulations, permits, approvals, and other similar processes will be exempted or altered. With these powers, the executive can create what will essentially be lawless zones where development can proceed for the benefit of the economy regardless of competing concerns for environmental and social wellbeing. This is undemocratic and eliminates the safeguards that are necessary to ensure that the government is accountable to Ontarians.

Schedule 9 of Bill 5 must be withdrawn and Ontario must engage with First Nations—including Moose Cree—about a strategy for accelerating strategic projects in a way that respects the rights of First Nations to decide how their homelands can be used and ensures that potential impacts of proposed activities will be properly understood and mitigated before they can proceed.

### **“One Project, One Process” Approach for Mine Permitting – proposed amendments to the *Mining Act***

Similarly, Moose Cree is concerned that proposed amendments to the *Mining Act* in Schedule 5 of Bill 5 create uncertainty with respect to how Ontario will fulfil its duty to consult Moose Cree on mining activities and will result in fewer opportunities for meaningful engagement on potential impacts of proposed mining activities in the Moose Cree Homeland.

The proposed amendments, if passed, will allow the Minister to establish a Mine Authorization and Permitting Delivery Team (“MAPDT”) for designated projects, which would be responsible for preparing an integrated plan for obtaining the permits and authorizations required under Ontario law, and coordinating with government ministries to expedite the process for obtaining those permits and authorizations. The proposed amendments also say that the MAPDT “may support” government efforts to fulfill the duty to consult and accommodate, including by coordinating communication between Indigenous nations, the proponent, and affected ministries.

Currently, Ontario’s performance of its duty to consult with respect to mining activities is guided by its “consultation framework”.<sup>2</sup> This involves coordinating communications between the proponent and First Nations and delegating procedural aspects of the duty to consult to proponents in later stages of the mining sequence. The proposed amendments in Schedule 5 create uncertainty with respect to how First Nations, including Moose Cree, will interact with Ontario and proponents with respect to mining activities. They call into question how First Nations will exercise their inherent rights and responsibilities to protect and control how their homelands are used. In particular, Moose Cree is concerned that “integrated permitting plans” will reduce opportunities for meaningful engagement between Moose Cree and Ontario. The combined effects of lighted requirements for permitting and approvals in a special economic zone and an “expedited” process for receiving any permits that are leftover could mean that there is almost no opportunity for

---

<sup>2</sup> Ontario, “Consultation framework: implementing the duty to consult with Aboriginal communities on mineral exploration and mine production in Ontario” (December 8, 2021), online: <https://www.ontario.ca/page/consultation-framework-implementing-duty-consult-aboriginal-communities-mineral-exploration>.

engagement or oversight of the potential impacts of proposed activities. Moose Cree will not allow mining activities to proceed in our Homeland unless they receive our consent, consistent with our inherent rights articulated in UNDRIP. Full and meaningful consultation and engagement is required.

Ontario's free-entry mining regime already falls short of meeting the Crown's obligations to consult Indigenous peoples about mining activities in their territories.<sup>3</sup> Changes to the *Mining Act* that add uncertainty to an already deficient regime are unacceptable. Schedule 5 must be withdrawn and redeveloped in consultation with First Nations, including Moose Cree, to account for how Ontario will fulfill its duty to consult and accommodate.

### **“Registration-First” Approach to Protecting Endangered Species – proposed changes to endangered species legislation**

The proposed changes to endangered species legislation—including “immediate” amendments to the *Endangered Species Act, 2007* (“ESA”) followed by a repeal of that legislation and replacement with the proposed *Species Conservation Act, 2025*—will not adequately protect species at risk and their critical habitats and are likely to result in impacts to the rights and interests of Moose Cree people. Endangered species legislation must be aimed at the protection and recovery of endangered species. This objective should *not* be balanced against “social and economic considerations including the need for sustainable economic growth in Ontario.” Schedules 2 and 10 must be withdrawn in their entirety.

Under the current ESA, activities that are harmful to species and their habitats are prohibited, but the Minister can issue a permit for harmful activities in certain circumstances. If the proposed changes are passed, harmful activities are prohibited *unless a proponent registers the activity first*. Only in limited circumstances (which are not defined in Bill 5) will harmful activities require a permit, and critical habitat will no longer be protected from damage or destruction. Furthermore, Ontario will have no responsibility to develop plans and strategies for the recovery and management of endangered species. These changes are unacceptable.

By eliminating permitting requirements, Ontario is eroding the process it relies on to perform its duty to consult. Courts have recognized that *registration-first* approaches that

---

<sup>3</sup> *Ross River Dena Council v Government of Yukon*, 2012 YKCA 14; *Gitxaala v British Columbia (Chief Gold Commissioner)*, 2023 BCSC 1680; *Mitchikanibikok Inik First Nation (Algonquins of Barriere Lake) c Procureur général du Québec*, 2024 QCCS 4007. *Frontenac Ventures Corporation v Ardoch Algonquin First Nation*, 2008 ONCA 534 at paras 61 and 62.

remove opportunities for Crown consultation may be unconstitutional.<sup>4</sup> No matter what expectations and rules are set out in regulations for the proponent to follow with respect to their harmful activities, this minimalist, hands-off approach will result in unchecked harm to species and the critical habitat—forests, rivers, and wetlands—they need to survive. It fails to recognize the inherent value of species and the value of species to Moose Cree people, and leaves no opportunity for considering the impacts of “registered” harmful activities to rights and interests of Moose Cree people. If Schedules 2 and 10 are passed, Ontario’s endangered species legislation will become virtually ineffective.

### **Changes to the Eagle’s Nest Mine – proposed changes to the *Environmental Assessment Act***

Moose Cree is opposed to proposed changes to the *Environmental Assessment Act* to cancel a voluntary agreement for comprehensive assessment of the Eagle’s Nest Mine and revoke the terms of reference for the same. Ontario must ensure that the impacts of proposed mines are properly studied and understood before they are allowed to go ahead. Currently, Ontario’s environmental assessment regime does not require assessment of proposed mines. In the absence of a voluntary agreement, Ontario must designate the Eagle’s Nest Mine, and all other future proposed mines, to comprehensive environmental assessment.

### **Conclusion**

Rushed development has the potential to cause irreversible adverse impacts to Moose Cree’s Homeland and the rights of our people. The proposed changes have the effect of removing oversight and reducing opportunities for meaningful engagement between Ontario and Moose Cree on important projects which Ontario relies on to perform its duty to consult. Bill 5 is entirely silent on processes to fill these voids. The proposed changes are entirely inconsistent with Ontario’s commitment to reconciliation with Indigenous peoples, respect for UNDRIP and the inherent rights and responsibilities of Indigenous peoples, and the ongoing duty to consult owed to First Nations groups in the province.

Accelerated development will not happen unless there are partnerships with First Nations. Ontario’s strategy to do accelerated development must be informed by First Nation input and aimed at securing the free, prior, and informed consent of First Nations prior to

---

<sup>4</sup> *Ross River Dena Council v Government of Yukon*, 2012 YKCA 14; *Gitxaala v British Columbia (Chief Gold Commissioner)*, 2023 BCSC 1680; *Mitchikanibikok Inik First Nation (Algonquins of Barriere Lake) c Procureur général du Québec*, 2024 QCCS 4007.

development.<sup>5</sup> As the Supreme Court of Canada noted, “[n]o one benefits—not project proponents, not Indigenous peoples, and not non-Indigenous members of affected communities—when projects are prematurely approved only to be subject to litigation.”<sup>6</sup> Bill 5 must be withdrawn in full and redeveloped in consultation with First Nations including Moose Cree.

---

<sup>5</sup> UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/RES/61/295 (2007), art 32(2); *Kebaowek First Nation v Canadian Nuclear Laboratories*, 2025 FC 319.

<sup>6</sup> *Clyde River (Hamlet) v Petroleum Geo-Services Inc*, 2017 SCC 40 at para 24.