

MEMBERSHIP UPDATE ON ABORIGINAL TITLE CLAIM



We write to share the news that Joint Council has decided not to proceed with our Aboriginal title claim to the waters of Saukiing Anishnaabekiing.

Since time immemorial, our people have used and cared for the waters of Saukiing Anishnaabekiing. These waters are part of who we are. We travel through them, harvest fish from them, and care for them through ceremony. Our waters sustain us, and we protect them. We know that taking care of our waters, and the spirits contained within them, is our inherent responsibility and right. Our jurisdiction over our water Territory is confirmed by Anishinaabe law.

Yet, for far too long, Canada and Ontario have simply ignored and suppressed our jurisdiction over its water Territory. They have allowed stressors and developments like invasive species, unnatural fish stocking, shoreline hardening and nuclear projects to harm our water Territory and disrupt our ways of life. And, at every stage, the Crown governments have failed to meaningfully take into account our fishing right, and our responsibility and relationship to our water, let alone recognize us for what we are: a self-determining Nation.

Canada and Ontario's failure to fulfill their obligations has forced us to seek other ways to protect our rights. One of those ways is our Aboriginal title claim in Canadian courts. In this claim, the Chippewas of Nawash Unceded First Nation and Saugeen First Nation asked for the Canadian court to legally recognize that water Territory belonged to our people. The hope was legal ownership under Aboriginal Title would ensure Crown recognition of our responsibility to our water Territory.

In 2021, the trial judge dismissed the Aboriginal title claim. She found that we had not met the Canadian law test for Aboriginal title to the entire water Territory. In 2023, the Court of Appeal said that the trial judge should have considered whether we could establish title to smaller portions of the water Territory. This question of whether we had title to smaller portions was sent back to the trial judge.

This spring, we held many membership meetings and focus groups about whether to move forward with the process about the smaller portions. We heard your concerns that the Canadian legal system is still very colonial. It does not understand our Anishinaabe perspective or way of life. Many members also feel the Canadian law of Aboriginal title is unfair. We agree. It is entirely backwards: it assumes Crown ownership as the default, and forces us to prove we were using our own Territory. But our people know we have always been on the water Territory, and we have never ceded the water Territory, or our jurisdiction and responsibilities to it.

Like many of you, we also felt there was something fundamentally wrong about going forward with a claim to a tiny portion of our water Territory, when we know we hold responsibilities and obligations to care for the whole Territory.

MEMBERSHIP UPDATE ON ABORIGINAL TITLE CLAIM



We also heard your concerns about resources. A lot of time, effort, and money has been spent on this claim over the last 20 years. We know that the claim is complex. There would be many more hearings and years until the claim is done. At the end of the day, we do not trust that the Canadian courts will provide a just result for our First Nations.

Given all of this, Joint Council decided to discontinue the Aboriginal title claim. This was a very difficult decision, but it was unanimous. Many Leaders, Elders, and SON Members before us poured their hearts into this claim. We will continue to honour their vision. Even though the Aboriginal title claim in the Canadian courts will end, we have not given up on the water Territory. We will keep defending our water Territory using all the tools we have available to us – including our own Anishinaabe laws and protocols.

We would like to hold a water ceremony to ensure Nibi, the Water, knows we honour and respect her and will do all we can to continue to be in good relation with her. Details will be shared soon. Please join us to honour our obligations to the water Territory.

Chief Conrad Ritchie
Saugeen First Nation

Chief Gregory Nadjiwon
Chippewas of Nawash Unceded First Nation