



## TEMAGAMI FIRST NATION/ TEME-AUGAMA ANISHNABAI



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### BACKGROUNDER – November 20, 2023 News Release

**This is not an issue of “overlapping” rights.** Temagami holds and exercises inherent, Indigenous rights within N’dakimenan which are protected under section 35(1) of the *Constitution Act, 1982*. This fact has been confirmed by the Supreme Court of Canada in *Bear Island* and recognized by Ontario.

**There are no Métis communities who hold established or credibly asserted rights within N’dakimenan.** The fact that Ontario and the Métis Nation of Ontario (MNO) have agreed to recognize the existence of purported historic Métis communities does not establish a credible claim for Métis rights in our territory.

**To be recognized under Canadian law, Métis rights must meet the threshold established by the Supreme Court in *R v Powley*.** This includes establishing the existence of a historic Métis community which existed in a specific area prior to the date on which Europeans established effective control, and the existence of a contemporary rights-bearing community which is a continuation of the historic community. Unless the *Powley* test has been met, Métis individuals and communities cannot hold section 35 rights.

**We are the sole rights-bearing entity within N’dakimenan to whom the Crown owes a duty to consult and accommodate when considering conduct that may adversely impact established Aboriginal rights.**

**Any Indigenous individuals with historic ties to the lands and waters of N’dakimenan have been naturalized into the Teme-Augama Anishnabai. Also, the boundaries of N’dakimenan are not disputed by our First Nations neighbours.**

**In 1975 and 1976, we exercised our inherent right to determine our citizens. All known descendants of the Teme-Augama Anishnabai were recognized and confirmed under Teme-Augama Anishnabai law and governance, supported by the Temagami First Nation.** Our citizens include all those Indigenous peoples whose ancestors lived within N’dakimenan and are recognized by the Teme-Augama Anishnabai community; this includes non-status individuals who were previously referred to in the colonial record as unregistered Indians, métis, or half-breeds.

**There are several examples of clearly fraudulent identity claims by MNO, using our documented Teme-Augama Anishnabai ancestors as “Métis root ancestors.”** We take issue with any claims by “citizens” of the MNO claiming Métis status as descendants of John Turner of N’dakimenan. Oocham (old John Turner), from Moose Factory, arrived N’dakimenan in the 1860’s as an employee of the HBC and built a new post at Bear Island. He was adopted under Teme-Augama Anishnabai laws and provided a trapping ground (see attached map).

**We oppose the Government of Canada’s Bill C-53 on two major grounds: (1) fraudulent claims to Indigenous identity and Indigenous rights in N’dakimenan by the MNO; and**



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**(2) lack of consultation by Canada or Ontario with the Teme-Augama Anishnabai and Temagami First Nation, who are the sole bearers of Indigenous Rights in N'dakimenan.** Our inherent rights are recognized (not created) and protected by section 35 of the *Constitution Act, 1982*.

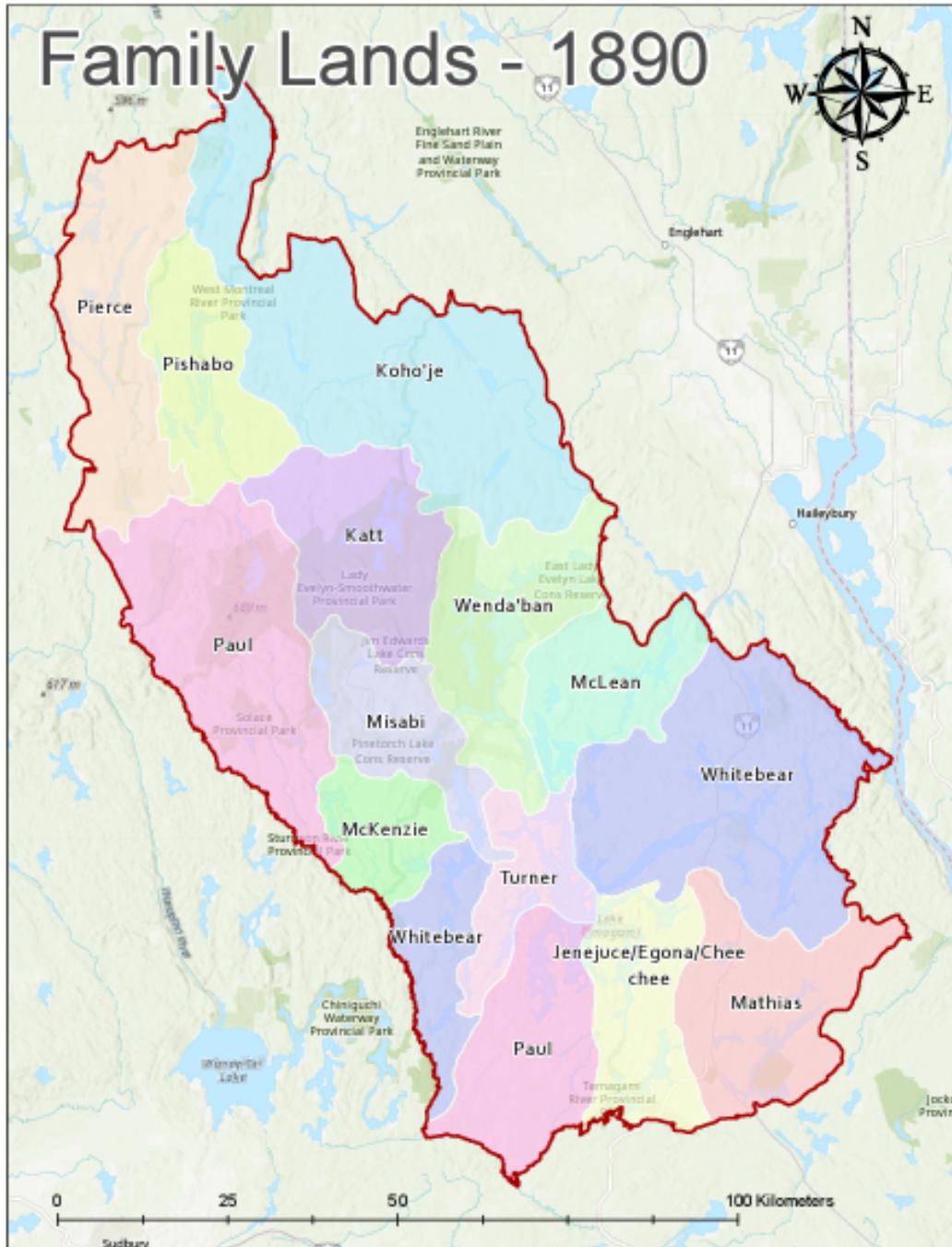
**We hold the Ontario Ministry of Natural Resources and Forestry (OMNRF) responsible for compensating Marc Descoteaux and Peter Descoteaux for losses incurred because the OMNRF shirked its fiduciary obligation to uphold our established inherent rights within the recognized boundary of our territory, N'dakimenan.** The OMNRF's decision to allow the construction of the cabin at Pond Lake is deeply flawed and appears to be a willful misinterpretation of law and historical fact.

**The OMNRF has failed to meaningfully respond to our serious concerns regarding the exercise of asserted Métis rights within N'dakimenan.** We contend that permitting Métis individuals or organizations to hunt, harvest and erect structures within N'dakimenan constitutes an infringement of our section 35(1) rights which Ontario is constitutionally obligated to attempt to justify.

### **Chronology of Recent Events**

- From August 2020 and up to August 2023, our Chiefs and Councils, Lands Managers, and legal representatives sent correspondence to the OMNRF, the Ontario Ministry of Indigenous Affairs, and the MNO, including MNO members Pete Descoteaux and Marc Descoteaux who had erected a cabin at Pond Lake. This correspondence contested the nuisance cabin and all MNO claims and encroachments on N'dakimenan.
- We have received no response to our letter of June 24, 2022 sent to MNO President Margaret Froh in which we said that we were the sole rights bearers in N'dakimenan and that reasonable requests for permission to access N'dakimenan for harvesting purposes may be granted under our authority.
- A Notice of Eviction was issued September 14, 2023 to MNO members Marc Descoteaux and Peter Descoteaux. On September 17, 2023, a peaceful protection camp was established at Pond Lake, according to TAA protocol and law.
- A Notice of Restricted Access was issued to the Descoteaux brothers on October 29, 2023, pursuant to the Notice of Eviction. A locked chain barrier was then installed across the entrance of the roadway to Pond Lake.
- A Statement of Claim was filed at the Ontario Superior Court of Justice by the Temagami First Nation and the Teme-Augama Anishnabai (collectively the "TAA") against the His Majesty the King in Right of Ontario, Marc Descoteaux and Peter Descoteaux regarding breaches of Crown obligations and unjustified infringements of TAA rights that are protected under section 35 of the *Constitution Act, 1982* in respect of N'dakimenan.





**Appendices:**

1. Letter to Deputy Minister of Ministry of Northern Development, Mines, Natural Resources and Forestry, *dated June 20, 2022*
2. Letter to Métis Nation of Ontario, *dated June 24, 2022*
3. Notice of Eviction, *dated September 14, 2023*



June 20, 2022

Monique Rolf Von Den Baumen-Clark  
Deputy Minister  
Ministry of Northern Development, Mines, Natural Resources and Forestry  
*Via email*

Shawn Batisse  
Deputy Minister  
Indigenous Affairs  
*Via email*

Dear Deputy Ministers:

## **Re: Unauthorized Métis Cabin at Pond Lake**

We write on behalf of Temagami First Nation and Teme-Augama Anishnabai (collectively, Temagami) further to the Ministry of Northern Development, Mines, Natural Resources and Forestry's letter of March 25, 2022.

Thank you for providing the following two historical reports upon which Ontario based its assessment of the credibility of asserted Métis rights within Temagami's territory, n'Daki Menan:

1. "Historic Métis in Ontario: Timmins, Cochrane and the Abitibi Region" by Gwen Reimer and Jean-Philippe Chartrand; and
2. "A Historical Profile of the James Bay Area's Mixed European-Indian or Mixed European-Inuit Community" by Gwen Reimer and Jean-Philippe Chartrand

(collectively, the "Reports")

As Ontario is aware, to be recognized under Canadian law Métis rights must meet the threshold established by the Supreme Court in *R v. Powley*. This includes establishing the existence of a historic Métis community which existed in a specific area prior to the date on which Europeans established effective control, and the existence of a contemporary rights-bearing community which is a continuation of the historic community.

The Reports demonstrate no evidence of a Métis community with a distinctive collective identity within n'Daki Menan at the relevant time period. Consequently, the Reports do not support the existence of credible Métis rights within n'Daki Menan.

Ontario has provided authorization to Métis individuals to harvest and erect structures within n'Daki Menan without satisfying the requirements of the *Powley* test and without evidence of even a credible assertion of Métis rights within the area.



Ontario's authorization of a Métis cabin on Pond Lake constitutes an unjustified infringement of Temagami's section 35(1) rights.

We have provided Ontario ample opportunity to justify this infringement. Having failed to do so, it is clear that Ontario's authorization of the Pond Lake cabin as an incident of Métis rights has no basis in law and must be immediately withdrawn.

Our client demands that within 30 days of the date of this letter, Ontario provide Temagami with written confirmation that it has cancelled its approval of the Pond Lake cabin and confirm that it will not issue further authorizations based on asserted Métis rights within n'Daki Menan.

Sincerely,



Bruce McIvor

First Peoples Law LLP

c.c.

Kim Groenendyk, Manager, Indigenous Policy Section, MNRF, [kim.groenendyk@ontario.ca](mailto:kim.groenendyk@ontario.ca)

Mike Mazzetti, District Manager, Northeast Region, Timmins, [mike.mazzetti@ontario.ca](mailto:mike.mazzetti@ontario.ca)

Sylvain Lévesque, Director, Northeast Region and Far North Branch, [sylvain.levesque@ontario.ca](mailto:sylvain.levesque@ontario.ca)

Heidi Etzel, District Manager, Northeast Region, North Bay, [heidi.etzel@ontario.ca](mailto:heidi.etzel@ontario.ca)

Ogimaa (Chief) Shelly Moore-Frappier, Temagami First Nation, [chief@temagamifirstnation.ca](mailto:chief@temagamifirstnation.ca)

Ogimaa (Chief) Leanna Farr, Teme-Augama Anishnabai, [taachief@temagamifirstnation.ca](mailto:taachief@temagamifirstnation.ca)



June 24, 2022

Ms. Margaret Froh, President  
Métis Nation of Ontario  
Provisional Council of the Métis Nation of Ontario (PCMNO)  
Via email [MargaretF@metisnation.org](mailto:MargaretF@metisnation.org)

Dear Ms. Froh:

**Re: Unauthorized Use of N'Daki Menan**

Kwe Kwe,

The Ontario Ministry of Northern Development, Mines, Natural Resources and Forestry (Ontario) has issued a permit to a member of the Métis Nation of Ontario (MNO) purportedly authorizing access to lands and resources for harvesting purposes within n'Daki Menan, the territory of the Teme-Augama Anishnabai.

In our roles as Ogimaak, it is our responsibility to inform you that the Teme-Augama Anishnabai with Temagami First Nation does not recognize this permit as it has not been issued by our governing councils.

The Teme-Augama Anishnabai have inherent rights to self-determination within our homelands of n'Daki Menan. Our rights include the responsibility to protect and manage the resources of n'Daki Menan in accordance with our laws and policies.

We understand the MNO has entered into an agreement with Ontario regarding the use of lands and waters by Métis individuals wishing to hunt and fish. This agreement was developed and implemented without consulting the Teme-Augama Anishnabai and Temagami First Nation and without our consent. Consequently, the agreement and any permits issued pursuant to the agreement are void to the extent they purport to grant rights or privileges to MNO members within n'Daki Menan.

The traditional land governance and stewardship practices of the Teme-Augama Anishnabai with Temagami First Nation have always been grounded in respect and reciprocity. Reasonable requests for permission to access n'Daki Menan for harvesting purposes have and continue to be granted provided they do not harm or place unbearable burden on the wellbeing of Teme-Augama Anishnabai citizens. Should an individual wish to harvest within n'Daki Menan they must contact our leadership for permission.

We remind you that any Indigenous individuals with historic ties to the land and waters of n'Daki Menan have been naturalized into the Teme-Augama Anishnabai and the boundaries of n'Daki Menan are not disputed by our First Nations neighbours. Accordingly, the Teme-Augama Anishnabai and the Temagami First Nation are the sole rights-bearing entities within n'Daki Menan entitled to protections under section 35.

For greater clarity, there are no Métis communities who hold established or credibly asserted rights within n'Daki Menan. The fact that Ontario and the Métis Nation of Ontario have agreed to recognize the existence of purported historic Métis communities does not establish that such rights exist and are entitled to protection under section 35.

Moving forward we trust you will refrain from engaging with Ontario in a manner which attempts to undermine the sovereignty of Teme-Augama Anishnabai with Temagami First Nation for the purpose of obtaining purported permits to harvest within n'Daki Menan.

Sincerely,



Ogimaa Shelly Moore-Frappier  
Temagami First Nation



Ogimaa Leanna Farr  
Teme-Augama Anishnabai



September 14, 2023

To: Peter and Marc Descoteaux

**Re: Notice of Eviction from Unauthorized Cabin at Pond Lake**

This is a Notice of Eviction with respect to the unauthorized cabin at Pond Lake, which is located within N'dakimenan.

This eviction is being effected due to your failure to confirm that you are citizens of the Teme-Augama Anishnabai, as you were required to per our letter dated December 8, 2022.

As you are aware, the Teme-Augama Anishnabai are the sole Indigenous nation and bearer of inherent rights within N'dakimenan.

Accordingly, the exercise of an Indigenous right within N'dakimenan may only be undertaken by a recognised citizen of the Teme-Augama Anishnabai, our descendants, and those holders of valid Shipman letters.

As you failed to reply to our letter dated December 8, 2022 confirming that you are citizens of the Teme-Augama Anishnabai, you have no Indigenous rights within N'dakimenan and no right to occupy the cabin.

This Notice of Eviction will take effect on Thursday, September 14, 2023.

Sincerely,

Ogimaa Shelly Moore-Frappier  
Temagami First Nation

Ogimaa Michael Paul  
Teme-Augama Anishnabai

cc:

Margaret Froh, Chief Captain of the Hunt  
Denis Lefebvre, Captain of the Hunt, Region 5  
Greg Rickford, Minister of Northern Development and Minister of Indigenous Affairs  
Graydon Smith, Minister of Natural Resources and Forestry  
Anthony Rota, Member of Parliament Nipissing/Timiskaming  
Vic Fideli, Member of Provincial Parliament Nipissing  
Jane Thomas, Senior Negotiator at Ontario Ministry of Indigenous Affairs  
Jeremy Morrison, Manager, Federal Negotiations  
Regional Chief Glen Hare, Chiefs of Ontario  
National Chief Joanna Bernard, Assembly of First Nations