



January 20, 2025

Environmental Justice
Environment and Climate Change Canada
125 Zaida Eddy Private
Ottawa, ON K1R 0E3

Submitted via email: EJ-JE@ec.gc.ca

RE: RESPONSE TO FOUNDATION DOCUMENT 4 - INDIGENOUS ENVIRONMENTAL JUSTICE

Legal Advocates for Nature's Defence ([LAND](#)) is legal counsel to the Friends of the Attawapiskat River ([the Friends](#)), a Treaty 9 Indigenous grassroots advocacy group. The Friends provide these comments to amplify their lived experiences facing environmental racism with the hope of remedying injustices resulting from the governments' approach to resource extraction and development in Treaty 9 territory.

On behalf of the Friends, we provide these comments to the Environmental Justice staff at the Ministry of Environment and Climate Change Canada in response to the discussion questions posed in Foundation Document 4: Indigenous Environmental Justice, to support the development of the National Strategy Respecting Environmental Racism and Environmental Justice (National Strategy). These comments build on LAND's submission that was provided via email to the Ministry on December 12, 2025.

As we are submitting these comments via email, we have not submitted them through the enviroequity survey. Our comments are made without prejudice to supplemental comments we will provide as the National Strategy continues to be developed.

1. About the Friends

The Friends is an Indigenous, grassroots advocacy group dedicated to protecting the health of the waters, people and communities living downstream of the proposed Ring of Fire in the Hudson-James Bay lowlands in Northern Ontario, on Treaty 9 territory. They are community members from Attawapiskat, Peawanuck, Kashechewan, Fort Albany, Neskantaga and Moose Factory in Treaty 9

territory.¹ Together, the Friends have a shared responsibility to protect their lands from exploitation and degradation. This means safeguarding the integrity of the boreal and muskeg of the Hudson Bay-James Bay lowlands, its significant contribution to mitigating climate change, and the health of future generations.

As we share on behalf of Mike Koostachin, founder of the Friends:

We are the ancestral people of the lands where the Ring of Fire is proposed. We the Oji-cree, Ojibway, and Ojibwegowuk people have lived in harmony with these lands given to us by the Creator since time immemorial. We are the Water People. The water gives us life and we take care of the water in return. This is our duty to the Creator.

We are the ancestors of the Headmen who signed Treaty 9 with the Crown to peacefully share the lands. Our Natural Laws teach us to respect the land and to maintain our relationship with the Creator. Our traditional ways do not involve greed or violence to these lands, but love, harmony and an ongoing commitment to each other.

We have seen what these developments and broken promises can do to our people and our lands. Many of our communities have not had clean drinking water for years. Our housing crisis is only getting worse which has taken a toll on our young generation, often living with no hope and in quiet desperation.

Our communities rely on openness to thrive and all community members must be involved in any process on our lands. Our community members are often left in the dark over these issues. Our tribal council leaders accept developments without our knowledge, and we pay the price. Our suffering is a testament to that.

The Friends are inherent and Treaty rights holders who have direct, lived experience advocating for their rights and the protection of the environment for the benefit of current and future generations, in alignment with Indigenous Natural Law and knowledge. As rightsholders and community members who still travel and live on their waterways and rely on the lands for food, water, medicine, and sacred spaces, they stand to be directly impacted by resource development in Treaty 9 territory. The Friends are committed to amplifying the voices of the Indigenous grassroots before government, industry and decision-makers so that rights to know, participate and conserve the environment are respected and upheld.²

¹ In providing these comments, the Friends are not speaking on behalf of any of the communities or its leadership where its members are based (including but not limited to Neskantaga, Peawanuck, Kashechewan, Attawapiskat, Moose Factory and Fort Albany First Nations), but rather sharing the views and concerns of the grassroots. Furthermore, these comments do not constitute consultation in any way, nor discharge the Crown's duty to consult per section 35 of the *Constitution Act, 1982*.

² Our continued opposition to resource extraction projects in the area where the Ring of Fire is proposed is documented on our [Resources page](#), including submissions regarding provincial and federal impact assessments, policies and guidelines, laws and regulations, and the Regional Assessment.

2. Resource extraction in Treaty 9 territory exemplifies environmental racism

While there is no concrete definition of environmental racism, it is a concept that acknowledges that marginalized communities in Canada, including Indigenous communities, often bear a disproportionate burden of human health, social, cultural, ecological and other adverse impacts of environmental harm while being denied benefits.³ These inequitable burdens undermine human dignity, equality and non-discrimination.⁴

Environmental racism faced by Indigenous people is a product of colonialism, as the Crown's history of broken Treaty promises, discriminatory acts and policies aimed at assimilation, and appropriation of land and resources to the exclusion of Indigenous people continues to shape environmental policies and practices today.⁵ This has been acknowledged by the Ontario Superior Court, who found that "[h]istoric and continuing degradation of air and water quality in and near First Nations communities have been well documented",⁶ and is demonstrated by the Crown's actions regarding resource extraction in Treaty 9 territory.

Mining and resource development in Treaty 9 territory is a textbook example of environmental racism against Indigenous community members. The Friends and their communities are disproportionately impacted by mineral development on their territory because of their physical proximity to mining sites (increasing their exposure to harmful pollutants through air, food and water) and their culture (mineral development impacts the ability to exercise Treaty rights, including the right to hunt, fish and trap, and inherent rights, including the right to determine the use and development of Indigenous lands and resources and to [protect and conserve their lands and waters](#)). **By authorizing resource extraction in Treaty 9 territory without the consent of the communities who rely on the lands and waters for their mental, physical and spiritual health (and who have historically been excluded from the decision-making table due to colonization and disenfranchisement), the Crown "widens the gap between the historically disadvantaged group and the rest of society rather than narrowing it"⁷, which is discrimination.**

The impacts to the health and wellbeing of the Friends is directly related to the impacts to the health of the Hudson-James Bay lowlands - known as the 'Breathing Lands' which has sustained Treaty 9 communities since time immemorial. It is a region of profound cultural and ecological significance that has been [declared protected](#) by the Friends under their laws. It is a refuge for wildlife, including the endangered boreal caribou, and an [immense carbon sink](#) (storing [more than 5 times more carbon](#) per

³ Larissa Parker, "[Not in Anyone's Backyard: Exploring Environmental Inequality under Section 15 of the Charter and Flexibility after Fraser v Canada](#)" (2022) 27 Appeal 19 at 21-22.

⁴ Maia Dombey, "[Environmental Racism: How Governments are Systematically Poisoning Indigenous Communities & the UN's Role](#)" (2020) 27 U Miami Int'l & Comp L Rev 131 at 145.

⁵ Maya Venkataraman et al, "[Environmental racism in Canada](#)" (2022) 68:8 Can Fam Physician 567 at 567.

⁶ *Association of Iroquois and Allied Indians v. Ontario (Minister of Environment, Conservation and Parks)*, 2022 ONSC 5161 (CanLII) at [para 72](#), citing excerpt from Environmental Council of Ontario Report, Chapter 3, Record, pp. 2404-2453, CaseLines A2833-A2882.

⁷ *Kahkewistahaw First Nation v Taypotat*, [2015 SCC 30](#) at para 20.

square hectare than the Amazon rainforest) making its protection [critical to combating climate change and biodiversity loss](#). When the health of Treaty 9 lands and waters are threatened, the Friends' ability to maintain their spiritual and intrinsic connection to their homelands - which is foundational to their Indigenous identities - also becomes compromised. This demonstrates how the Friends are disproportionately impacted by resource extraction on their homelands.

Mining can cause toxic contamination of water sources that supply First Nation communities, causing serious health impacts to communities who often already face water insecurity.⁸ The the United Nations Special Rapporteur on the human right to safe drinking water and sanitation [met with the Friends](#) during his visit to Canada in 2024, and the Friends expressed that non-Indigenous people don't understand the struggles they face as Indigenous people - Canada is a prosperous country but it feels like Indigenous communities are still living in third-world conditions. Without access to clean water, community members suffer from rashes and other skin related issues. Threats of mining activities contaminating their rivers and muskeg (peatlands) further impact community members, inducing fear and anxiety. In recognition of these concerns, the Rapporteur [stated](#) that "Indigenous Peoples disproportionately face the brunt of risks of toxic water contamination with serious health impacts. It is regrettable that those who cause damage to or pollution of water sources are not being held accountable and required to compensate for the harms." Among the 'deep reforms' recommended by the Rapporteur are laws which promote a human rights-based ecosystem approach, with equal participation of Indigenous Peoples and governments guaranteeing the principle of free prior and informed consent.

Due to [systemic racism](#) and colonization, community members continue to be excluded from decision-making processes, resulting in mining permits being issued [without their consent](#) or meaningful consultation. The perspectives of the Friends continue to be overlooked by decision-makers. For the last several years, the Friends have been actively involved in the protection of the area where the Ring of Fire is proposed, including by raising their longstanding concerns with the provincial and federal governments in response to proposed laws⁹, regulations¹⁰, permits¹¹ and projects¹². They have repeatedly called for the protection of this region's sensitive wetlands and many rivers, based on their inherent, Natural laws¹³, with more than 1000 endorsements from citizens, civil society groups and

⁸ See page 2 of the [End of Mission Statement](#) by the United Nations Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Pedro Arrojo-Agudo at the conclusion of the country visit to Canada (April 19, 2024).

⁹ See, for instance, the Friends' [submission](#) to the Ontario Standing Committee on the Interior in response to the proposed Bill 5, *Protect Ontario by Unleashing Our Economy Act, 2025*, calling for its full withdrawal, including the withdrawal of Schedule 3 which terminated the provincial environmental assessment for the Eagle's Nest Mine (May 2025).

¹⁰ See, for instance, the Friends' [submission](#) to the Ontario government regarding the proposed regulation for designating Special Economic Zones under the *Special Economic Zones Act, 2025* (November 2025).

¹¹ See, for instance, the Friends' [comments](#) opposing Ontario's proposals to issue multiple mineral exploration permits in the Ring of Fire area (December 2024).

¹² See, for instance, the Friends' [comments](#) opposing IAAC's draft Tailored Impact Statement Guidelines and draft Indigenous Engagement and Participation Plan for the Northern Road Link Project (June 2023).

¹³ See the Friends' [Protection Declaration](#), calling for protection of their lands and waters in the region where the Ring of Fire is proposed in alignment with their Natural Laws; See their [Open Statement](#) to the governments of

impacted community members. They have also expressed, to the United Nations Expert Mechanism on the Rights of Indigenous Peoples, alleging that Canada's approach on the proposed Ring of Fire stands contrary to the principles enshrined in the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)* which safeguard the individual and collective rights of Indigenous people, and impose a duty on Canada to obtain the free, prior and informed consent of Treaty 9 members before any development or use of resources on the land occurs.¹⁴ Despite their efforts, some 40,000+ mining claims have been staked in this region - absent Indigenous free, prior and informed consent and to the detriment of the stewardship of their lands and waters and the survival of their Indigenous Natural Laws.

3. Environmental justice and Indigenous inclusion must be embedded into government decision-making

The National Strategy must facilitate a whole-of-government response to environmental racism, embedding environmental justice considerations into all decision-making processes, including legislative decisions. Environmental racism is being perpetuated against Treaty 9 communities by way of Bill 5, the *Protect Ontario by Unleashing Our Economy Act*, and Bill C-5, *Building Canada Act*, both of which support mining and extractivism of so-called 'critical minerals' in Treaty 9 territory ([specifically](#) in the Hudson-James Bay lowlands where the Ring of Fire mining project is proposed). These laws provide sweeping powers to the government to override Indigenous and Treaty rights, environmental protections, and other key legal safeguards.¹⁵

Canada's commitment to addressing environmental racism cannot be separated from their commitment to domestically implement *UNDRIP* by way of the federal *UNDRIP Act*. Both represent key steps in advancing reconciliation, addressing injustices and eliminating all forms of racism and discrimination against Indigenous people. Relevant *UNDRIP* articles that ought to be upheld in any practical approach to preventing and addressing environmental racism include:

- Article 8(2)(b), which requires effective mechanisms for the prevention of and redress for any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- Article 15(2), which requires effective measures, in consultation and cooperation with the Indigenous peoples concerned, to combat prejudice and eliminate discrimination and promote tolerance, understanding and good relations;
- Article 18, which provides 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, and to maintain and develop their own decision-making institutions;

Canada and Ontario calling for an immediate moratorium in the proposed Ring of Fire for all mineral exploration, assessments for proposed road projects, and other potential developments until protection plans for the region's sensitive wetlands and watersheds are in place, and access to clean water, housing and health services have been secured for all upstream and downstream communities (February 2021).

¹⁴ See the Friends' [submission](#) to the United Nations Expert Mechanism on the Rights of Indigenous Peoples.

¹⁵ For more information on how Bill 5 will exacerbate environmental racism, see pages 10-12 of [this submission regarding Bill 5](#), submitted to the Ontario Legislative Assembly by Michel Koostachin, Founder and Director of the Friends.

- Article 19, which calls on states to consult and cooperate with Indigenous peoples in good faith through their own representative institutions to obtain their free, prior and informed consent before adopting or implementing legislative or administrative measures that may affect them;
- Article 21, which provides the right without discrimination to the improvement of social and economic conditions, including in the areas of education, employment, housing, sanitation and health
- Article 22(2), which calls on states to take measures, in conjunction with Indigenous peoples, to ensure that Indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination, recognizing that resource extraction projects can lead to increased violence against Indigenous women (see pp 584-594 of the [Final Report](#) of the National Inquiry into Missing and Murdered Indigenous Women and Girls (Volume 1a));
- Articles 23 and 32(1), which provide the right to determine and develop priorities and strategies for exercising their right to development and use of their lands or territories and other resources;
- Article 26, which provides the right to own, use, develop, protect, and control the lands, territories and resources which they have traditionally owned, occupied or used/acquired;
- Article 28, which provides the right to redress for their lands, territories and resources which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent;
- Article 29(1), which provides the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources;
- Article 29(2), which requires states to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of Indigenous peoples without their free, prior and informed consent; and
- Articles 32(2) and (3), which requires states to consult and cooperate with Indigenous peoples in good faith through their own representative institutions to obtain their free, prior and informed consent before approving 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, and to provide effective mechanisms for redress for any such activities.

The federal government ought to apply an environmental justice lens to all decision-making, the requirements of which include but are not limited to:

- 1) Assessing the decision against the principles of:
 - a) **Distributional justice:** The inequitable distribution of environmental burdens and benefits (ex. access to clean drinking water, exposure to toxic substances, etc.), taking into account the factors which make certain individuals or populations disproportionately impacted (such as race, gender, socioeconomic status, etc.);
 - b) **Procedural justice:** The inclusivity of decision-making procedures and practices such that the communities who stand to be impacted are involved in and benefiting from decision-making processes; and

- c) **Recognitional justice:** The deeper systemic issues (i.e. colonization) leading to the rights of certain populations (ex. affluent, caucasian) being upheld more than others (ex. low-income, Indigenous);¹⁶
- 2) Prioritizing the commitment to reconciliation by implementing *UNDRIP* and applying the principle of free, prior and informed consent, with full respect to the traditional governance and participation avenues of Indigenous peoples¹⁷; and
- 3) Taking action to realize the human right to safe drinking water and sanitation, including by recognizing First Nations' jurisdiction over water resources and using a human-rights based ecosystem approach to planning and managing transboundary watersheds with the equal participation of Indigenous peoples.¹⁸

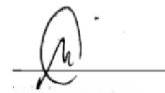
4. Conclusion

Thank you for your consideration of our comments. We trust that the Ministry will ensure meaningful consultation with impacted community members throughout the development and implementation of the National Strategy, recognizing its high value in upholding the public's trust in the government's commitment to advancing environmental justice.

Sincerely,



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¹⁶ Distributional, procedural and recognitional justice are the three key dimensions of environmental equity and justice ([European Environment Agency](#), "Delivering Justice in Sustainability Transitions", February 28, 2024).

¹⁷ See page 5 of the [End of Mission Statement](#) by the United Nations Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Pedro Arrojo-Agudo at the conclusion of the country visit to Canada (April 19, 2024).

¹⁸ See page 5 of the [End of Mission Statement](#) by the United Nations Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Pedro Arrojo-Agudo at the conclusion of the country visit to Canada (April 19, 2024).