



## CHIEFS AND COUNCILS SAUGEEN OJIBWAY NATION

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### SENT VIA COURIER

September 9, 2010

The Honourable MP Larry Miller  
1131 2nd Avenue East, Suite 208  
Owen Sound, ON  
N4K 2J1

### **Re: REQUEST FOR IMMEDIATE APOLOGY AND RETRACTION**

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On behalf of the Saugeen Ojibway Nation (“SON”) we are calling for an immediate apology and retraction of the divisive and offensive statements made by you this past weekend during the Owen Sound Salmon Spectacular that you attended. Not only were your statements misguided, uninformed and erroneous, they continue to show a fundamental misapprehension of the nature of our relationship with the Crown. Copies of your statements to the media and an audio tape of a statement you made to the press are enclosed with this letter. The press release on your website states:

#### **Reports of commercial fishing activities in Colpoys Bay frustrate Miller.**

**Owen Sound- Larry Miller, MP for Bruce-Grey-Owen Sound** – a report from an Oxenden Bay resident that commercial fishers are setting nets in Colpoys Bay this morning has Miller fuming. “I will be contacting the MNR to verify this information and if I find it to be true, I will expect charges to be laid!” said Miller. Mr. Miller is under the understanding that putting nets across Colpoys Bay contravenes the original fishing agreement between the Province of Ontario and the local native commercial fishermen. Today’s activity is complicated by the fact that the existing agreement has expired and is under renegotiation. “I will be discussing this matter as soon as possible with Bill Murdoch. This is a safety issue, and I don’t want to see another situation like happened on Providence Bay on Manitoulan Island where several fishermen drowned when their equipment caught in a net and pulled their boat under”. Miller added, “this is not the first time this has happened, they cannot plead ignorance of the laws, this is being done deliberately and charges need to be pressed by the MNR. They cannot continue to be allowed to deliberately flaunt the laws and get away with it!”

Mr. Miller is currently volunteering at the Owen Sound Salmon Spectacular tent from 11:00 to 3:30 and will be available for comment.

Let us be very clear: At no time has SON ever surrendered our constitutionally recognized and protected rights to fish within our traditional waters. These proven aboriginal and treaty rights include Owen Sound and Colpoy's Bay by our preferred means of fishing.

We have had occasion to review an interview you provided to CPAC on June 10, 2010 that is posted on your website in which you express your views on how you prefer to deal issues in your riding and elsewhere.<sup>1</sup> At 16:28 of the podcast you express to the reporter that your preference is to speak to people directly and address issues as they arise - personally if possible. It is to be noted that at no time did you ever attempt to contact any member of SON, let alone its leadership, to discuss the events over the weekend as they were unfolding. In fact, as it turns out, a racing buoy in Colpoys Bay was mistakenly identified as a gill net. This led to an irrational and uninformed storm of controversy that can only serve to foster continuing racism and misunderstanding between SON and our neighbours in Owen Sound and Wiarton. Indeed, following the misinformed complaints by you and others, 3 armed MNR officers confronted Wilmer Nadjiwon, 90 year old SON elder and former chief, while he was on the dock at Colpoys Bay. Your public comments only serve to exacerbate an uninformed and fundamental misunderstanding of our proven and protected *Section 35 rights*. Mr. Miller, we expect more of an elected official sworn to uphold the rule of law and the *Constitution Act, 1982*. This oath most certainly requires that as an elected official you respect and inform yourself about our proven aboriginal and treaty rights. Some brief history may assist you.

Our historic exclusion from our traditional waters which include Owen Sound and Colpoys Bay for the benefit of non-native fishermen (commercial and recreational) is well documented by Mr. Justice Fairgrieve in *R. v. Jones and Nadjiwon*, a copy of which is enclosed for your review. We urge you to read the decision as it clearly establishes that we have both an aboriginal *and* treaty right to fish for commercial purposes within our traditional waters. It was not until 1993 that our rights - which were ignored and disregarded in favour of other interests for decades - were vindicated and are now protected under s. 35 of the *Constitution Act, 1982*. Since 1993, we have attempted to make progress through negotiated agreements based on good faith and mutual respect. Your comments are an affront to the progress that we have made to date and are also detrimental to the ongoing negotiation. Your comments also clearly reflect a policy that continues to seek to limit our rights and the adverse impact governmental action has upon them. For example, the Owen Sound Salmon Spectacular especially depends on Pacific salmon, one of the exotic species stocked in our traditional waters, with the financial support of the government of Ontario. The stocking of exotic species has continuing adverse impacts on our proven aboriginal and treaty rights, and occurs over our continued protestation.

We continue to see history repeating itself in your reactionary comments and a call for charges. For your information a commission of inquiry on Indian affairs in 1844 observed in relation to the Saugeen fisheries that the "fishing is very productive, and has attracted the notice of the white people, who annoy the Indians by encroaching on what

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<http://cpac.ca/forms/index.asp?dsp=template&act=view3&pagetype=vod&lang=e&clipID=4174>

they consider their exclusive right . . ." <sup>2</sup> On June 10, 1843, in an effort to protect encroachment on our fishing rights by settlers, SON sought further written reaffirmation of our rights. <sup>3</sup> In 1847 the Imperial Crown issued a proclamation in the form of letters patent under the great seal of the Province of Canada. <sup>4</sup> The 1847 proclamation not only serves as evidence of the Crown's obligation to *protect our rights*, it also imposes *positive obligations on the Crown in respect of them that continue to day*. The 1847 proclamation declares that the Saugeen Ojibway "forever shall possess and enjoy" the tract and its "rents, issues, and profits . . . without any hinderance whatever on our part, or on the part of our heirs and successors, or of our or their servants or officers." Should you wish to read more about our history and the legal basis for our proven rights, please find enclosed a peer reviewed article by Professor Mark Walters of Queens University entitled: "Aboriginal Rights, Magna Carta and Exclusive Rights to Fisheries in the Waters of Upper Canada" (1998), 23 Queen's L.J. 301.

Mr. Miller, when the commercial fishery was valuable we were excluded from it for over 150 years. Now that the Bays are economically valuable we are expected to be absent and excluded from the waters that have been essential to our cultural identity from time immemorial. If we choose to exercise our proven and protected rights within the Bays, we are threatened by a sitting MP with charges. This is not consistent with the honour of the Crown.

On behalf of SON and all of its 5000 members we request an apology and retraction of your statements immediately. Comments like these offend all First Nations.

Yours truly,



Chief Ralph Akiwenzie  
Chippewas of Nawash Unceded First Nation



Chief Randall Kahgee  
Chippewas of Saugeen First Nation

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<sup>2</sup> Canada, Legislative Assembly of Canada, Report on the Affairs of the Indians in Canada (22 January 1844) in Journals of the Legislative Assembly of Canada (1845), Appendix EEE, s. 2, ll.15 at 43.

<sup>3</sup> Letter of Chief Wahbahdick to the Colonial Secretary, (10 June 1843) NA RG1 L3 vol. 538 "W" Bundle 1843-44, 29m-29o.

<sup>4</sup> Declaration by Her Majesty in favor of the Ojibway Indians respecting certain lands on Lake Huron (29 June 1847) NAC RG68, vol. LIBER AG. SPECIAL GRANTS 1841-1854, C-4158. The Bays are included in this proclamation.

Cc: National Chief Shawn A-in-chut Atleo, Assembly of First Nations  
Cc: **Ontario** Regional **Chief** Angus Toulouse, Chiefs of Ontario  
Cc: Premier of Ontario, The Honourable Dalton McGuinty  
Cc: Attorney General and Minister of Aboriginal Affairs, The Honourable Chris Bentley  
Cc: Minister of Indian and Northern Affairs, The Honourable John Duncan  
Cc: Minister of Natural Resources, The Honourable Linda Jeffrey  
Cc: Aboriginal Affairs Critic, The Honourable Jean Crowder, NDP  
Cc: Aboriginal Affairs Critic, The Honourable Todd Norman Russell, Liberal Party of  
Canada