



Maw-lukutijik **Saqmaq**  
Assembly of Nova Scotia  
**Mi'kmaq Chiefs**

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June 8<sup>th</sup>, 2023

The Honourable John Lohr  
Minister of Housing and Municipal Affairs  
Department of Municipal Affairs and Housing  
14th Floor North, Maritime Centre  
1505 Barrington Street  
Halifax, N.S., B3J 2M4  
Email: [dmamin@novascotia.ca](mailto:dmamin@novascotia.ca)

**RE: Continuing Consultation on the Highway 101 Three Mile Plains to Falmouth Twinning Project**

Minister Lohr,

We recognize the serious threat that wildfires pose to all of us here in Mi'kma'ki, and we resonate with the desire to do whatever is necessary to protect the safety and property of all Nova Scotians. The Assembly of Nova Scotia Mi'kmaq Chiefs (ANSMC) deeply appreciates the immense efforts contributed by all the first responders including firefighters, the Department of Natural Resources staff, police, search and rescue, and all other organizations and agencies that worked and continue to work tirelessly to keep people and property safe from the threat of these devastating wildfires.

As you are aware, on June 1, 2023, you declared a state of emergency for the area around and including Pisiquid Lake, Windsor, Hants County of Nova Scotia, and issued a ministerial directive to the owners and operators of the Avon causeway gated structure, instructing that it be operated as directed by the Provincial Fire Marshal with the goal of maximizing the water supply resource available for the wildfire suppression efforts. Our concern lies not with the decision to take action for the protection of property and for the health and safety of persons in Nova Scotia, but with the specific action that you chose to take.

We would appreciate your rationale as to why the only action taken in response to this emergency situation was to direct the "owners and operators of the sleway connected to Pisiquid Lake, and any associated infrastructure, manipulate that sleway as directed by the Provincial Fire Marshal, in his role as the fire suppression and prevention co-ordinator, with the goal of maximizing the water supply resource available for the wildfire suppression efforts".

The operation of the gates to maintain the freshwater reservoir (Lake Pisiquid) blocks fish passage and does not maintain at all times the characteristics of the water and the water flow downstream of the causeway that are sufficient for the conservation and protection of the fish and fish habitat. As such, the presence of a reservoir above the causeway infringes upon Mi'kmaq Rights and Title. To mitigate impacts brought about by that federal order, the

Mi'kmaq worked diligently and collaboratively with various stakeholders, agencies and levels of government to find solutions that also provided for the betterment of the ecosystem and Nova Scotians as a community. Ski Martock is one example, where funding was secured and construction completed to enable this important community stakeholder to withdrawal water under natural river state. Given the concern surrounding the dry hydrants that was cited in part for declaring this state of emergency, a solution to supply water for local firefighting purposes can be arranged by providing a directive to utilize Ski Martock's pumphouse and reservoir while actions to relocate or improve access to water via dry hydrants is taken, as you have the power to do under section 14 (b and e) of the *Emergency Management Act*. If there exists such an urgent need to maximize the water supply resource available for wildfire suppression efforts, why are restrictions on car washing or watering lawns not issued? It was stated that this order is intended to support firefighting activities locally and across the province – with a lack of rain across the province, why is this the only structure subject to a ministerial directive issued through a state of emergency? There are numerous other structures that can operate to impound water but have not been subject to a directive.

Are the provincial helicopters and the exceptionally skilled pilots within the Department of Natural Resources able to utilize water from surrounding lakes or from the Avon River under natural river state (conditions that exist under DFO ministerial order)? Are water bombers able to utilize water from the reservoir above the Avon causeway now that the reservoir is filled? Where is the nearest body of water available for use by water bombers other than the Avon River above the Avon causeway? Were any of these or other alternative measures considered prior to issuing your ministerial directive, which we consider drastic measures, on June 1, 2023?

The ANSMC would appreciate receiving a copy of the record of communications between the municipal fire services and your office that occurred prior to issuing your directive, regarding the concern that water levels were not sufficient to support fire suppression efforts in the area, as well as the directive that the Provincial Fire Marshal, in his role as the fire suppression and prevention co-ordinator, issued to the owners and operators of the sleway connected to Pisiquid Lake, and any associated infrastructure. We would also appreciate a record of minutes with the Executive Council regarding the decision to declare this state of emergency. We wish to both understand the process of which this directive was decided and to ensure the proper process was followed.

Collaborative efforts between various levels of Government, the Mi'kmaq and local residents in 2022 was a step in the right direction. The seeding of sandbars was a success in building relationships and aided in the mitigation of dust storms and the recovery of this sensitive tidal river ecosystem, which was incredible to witness. Migratory birds had returned, fish were able to complete their lifecycles and a myriad of wildlife and vegetation were starting to flourish.

Unfortunately, a lot of this ecosystem has likely been destroyed due to your decision to impound freshwater above the causeway, a decision that was made without any consideration for alternative measures or the Mi'kmaq and which clearly impacts Rights and Title. Certainly, there has been devastating impacts to migratory birds, nests, fish and fish habitats, and the longer freshwater is allowed to be impounded the more severe these impacts will be.

s.19(1)

Correspondence from your department states that local fire services were concerned that the current water levels are not sufficient to support fire suppression efforts in the area and that the order will be in place as long as it is needed for public safety, based on the recommendations of local and provincial fire resources. To this regard, what water levels above the Avon causeway are sufficient to support fire suppression efforts in the area? We must remind you that there is a consultation process in this province that must now be followed, and for which your government is a signatory. We urgently request that we work collaboratively to employ alternative measures to ensure water access for firefighting through other means that do not destroy the ecosystem that nature intends to exist, and which does not infringe our Rights.

We request the federal ministerial order issued March 2021 be reinstated immediately.

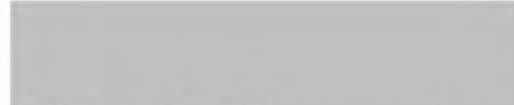
At a minimum, we request that similar gate operations be carried out as occurred after the May 28, 2020 fish kill such that a minimum of 10 mins of saltwater entry for upstream passage and 10 min of water release for downstream passage occur on every tide (twice daily) until the federal order is reinstated.

The Mi'kmaw Nation in Nova Scotia has a general interest in all lands and resources in Nova Scotia as the Mi'kmaq have never surrendered, ceded, or sold the Aboriginal Title to any of its lands in Nova Scotia. The Mi'kmaq have a Title claim to all of Nova Scotia and as co-owners of the land and its resources it is expected that any potential impacts to Rights and Title shall be addressed.

Yours in Recognition of Mi'kmaw Rights and Title,



Chief Sidney Peters  
Glooscap First Nation  
Assembly of Nova Scotia Mi'kmaw Chiefs



Chief Gerald Toney  
Annapolis Valley First Nation  
Assembly of Nova Scotia Mi'kmaw Chiefs

c.c.:

Tim Houston, Premier of Nova Scotia  
Beata Dera, Director of Consultation, Nova Scotia Office of L'nu Affairs  
Kevin Bekkers, Director, Resources Sustainability, Nova Scotia Department of Agriculture  
The Honourable Kim Masland, Minister of Public Works  
The Honourable Greg Morrow, Minister of Agriculture  
The Honourable Joyce Murray, Minister of Fisheries, Oceans and the Canadian Coast Guard  
Doug Wentzell, Regional Director General  
Betty Cogle, Fisheries and Oceans Canada  
Melanie Leblanc, Transport Canada