

COURT OF APPEAL FOR ONTARIO

IN THE MATTER OF A REFERENCE to the Court of Appeal pursuant to section 8 of the *Courts of Justice Act*, RSO 1990, c. C.34, by Order-in-Council 1014/2018 respecting the constitutionality of the *Greenhouse Gas Pollution Pricing Act*, Part 5 of the *Budget Implementation Act, 2018, No. 1*, SC 2018 c. 12.

**RECORD OF THE INTERVENER
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1. Affidavit of Tribal Chief Patsy Corbiere sworn December 18, 2018

COURT OF APPEAL FOR ONTARIO

IN THE MATTER OF A REFERENCE to the Court of Appeal pursuant to section 8 of the *Courts of Justice Act*, RSO 1990, c. C.34, by Order-in-Council 1014/2018 respecting the constitutionality of the *Greenhouse Gas Pollution Pricing Act*, Part 5 of the *Budget Implementation Act, 2018, No. 1*, SC 2018 c. 12.

AFFIDAVIT OF CHIEF PATSY CORBIERE

Sworn December 18, 2018

I, PATSY CORBIERE, of Aundeck Omni Kaning in the Province of Ontario MAKE OATH AND SAY AS FOLLOWS:

1. I am Chief of the Aundeck Omni Kaning First Nation and the Tribal Chair of the United Chiefs and Council of Mnidoo Mnising (UCCMM), and as such, I have personal knowledge of the matters hereinafter deposed to.

2. I swear this Affidavit in support of UCCMM's Motion for Leave to Intervene in this matter.

3. The UCCMM and its members apply for leave to intervene in this matter to assist the Court.

UCCMM

4. UCCMM is a Tribal Council representing six First Nations, namely: the Aundeck Omni Kaning, Sheguiandah, M'Chigeeng, Sheshegwaning, Whitefish River and Zhibaaahaasing First Nations. In total, the UCCMM Nations represent approximately 4,518 First Nation members.

5. We are member Nations and leaders in a broader Anishinabek Nation which has traditionally occupied the lands and waters in and around the Great Lakes.
6. The traditional territories of the UCCMM Nations are primarily situated on the island of Mnidoo Mnising (Manitoulin Island, Ontario), the islands surrounding it, and the north shore of the Georgian Bay.
7. We are the traditional leaders in our territory and we exercise inherent jurisdiction under our traditional laws. We are also bands under the *Indian Act*¹ and have recently negotiated a Framework Agreement for self-government with Canada.
8. Many of the First Nations that together form the UCCMM are signatories to Treaties and other solemn agreements with the Crown, including the 1836 Bond Head Treaty, the 1850 Robinson Huron Treaty, and the 1862 Articles of Agreement. In addition, the UCCMM First Nations are presently engaged in exploratory discussions with Canada regarding the exercise of jurisdiction by each First Nation, and to support and implement a renewed Nation-to-Nation relationship. As Treaty partners with the Crown, the UCCMM First Nations have a clear role to play in any jurisdictional dispute or tripartite process involving the federal and provincial orders of government.
9. For millennia, we have been successful in coexisting sustainably with other elements of our environment. I believe that this is primarily due to our traditional understanding that humans are a part of the ecosphere and connected to our environment rather than something separate from it.

¹ *Indian Act*, RSC 1985, C. I-5.

10. Throughout this deeply rooted relationship with our traditional lands and waters, with which we have interacted for centuries, our people have developed an abundance of knowledge which has been continuously passed on from generation to generation.

11. In my experience, the knowledge passed on through the stories of our ancestors, continues to guide our interaction with other elements of our environments.

Mnidoo Mnising

12. Mnidoo Mnising is the largest freshwater island in the world, nestled within Lake Huron, the fourth largest lake in the world.

13. According to Anishinabek beliefs, Mnidoo Mnising is a sacred territory. It translates to “spirit island” in Anishinaabemowin. The island is the sacred place where the Spirits retreat and where our elders are buried.

14. The water in and around Mnidoo Mnising supports many plants and animals and ecosystems, and is a source of drinking water, food, and spiritual and cultural significance.

15. I believe and have been informed through my experience as Tribal Chair that of all the Islands in the Great Lakes, Mnidoo Mnising is the richest in biodiversity, but also the most at risk. It supports many species at risk and some of the globe’s rarest vegetation such as Pitcher’s Thistle, Lakeside Daisy, and Dwarf Lake Iris.

The Impacts of Climate Change on Mnidoo Mnising and the UCCMM Nations

16. In my experience as Tribal Chair, the UCCMM Nations are already feeling the impacts of climate change. UCCMM fears climate change will continue to have a major negative impact on our customs, practices, and traditions as well as the intergenerational transfer of such. We strongly believe that the survival of our way of life is at risk.

17. **Biodiversity:** We have noticed a decrease in native species that are at the core of our customs, practices, and traditions. For instance, I have witnessed, along with many of our members, a significant decline in moose populations who continue to move north, as well as a decrease in the sustainability of whitefish in favour of many invasive species. These are sources of food that the Anishinabek have relied on for subsistence for millennia.

18. **Food sovereignty and food security:** I have witnessed how increasingly difficult it is for our members to feed themselves and their families in accordance with our traditional customs and practices. This is at the heart of our mental and physical well-being.

19. Instead, I have witnessed our members being forced to rely on a colonial food system completely inconsistent with our traditional diet. This has led to ill health and the emotional stress associated with not being able to feed our families.

20. **Traditional medicines:** I know that natural medicines are now harder to come by in the area. As our climate changes, UCCMM now expects the geographic ranges of important plants and animals to continue moving north. We believe the methods by which we have ensured our health and well-being since time immemorial are now at risk.

21. **Changes in precipitation:** I have personally witnessed an increasing change in precipitation patterns. There is less rain in the summer season, which has increased the risk of forest fires. At the same time, we have witnessed more intense bouts of precipitation, which has led to more flooding. As stewards of our environment, we are finding it increasingly difficult to care for the well-being of our traditional lands and waters in and around Mnídoo Mnísing.

22. **Warmer temperatures:** We are experiencing increasingly warmer temperatures throughout the year, but especially in the summer months.

23. This environmental change disproportionately affects our elders and children who are more susceptible to the effects of heat waves; and dangerously interferes with the ecosystems of this unique environment.

24. **Loss of ice cover:** Warmer temperatures are leading to less ice cover, which impacts our communities' ability to ice fish in the winter. In our experience, it also leads to higher rates of water evaporation and bigger storms, further interfering with the integrity of our unique environment.

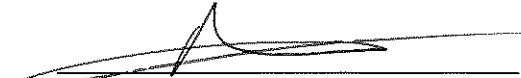
25. **Water quality:** We have observed that water quality is decreasing, resulting in part from the bloom of green algae linked to warmer temperatures. As island Nations, water is at the core of our way of life. It is a key source of subsistence and central to many of our sacred customs. Our relationship with our waters is at the heart of who we are.

26. **Extreme weather:** We have observed that we are experiencing more severe storms, including micro bursts that deteriorate our environment in a moment's notice. Bigger storms lead to more water runoff which sends pollution into the waters upon which we depend. These storms also threaten our infrastructure, notably flooding our roads.


27. **Tourism and recreation:** We know that many of our community members make a living through tourism and recreational activities, such as snowmobiling, ATV, and ice fishing. However, warming temperatures, loss of ice cover, and extreme weather is threatening these livelihoods. Climate change is threatening our economic development and financial independence further jeopardizing our efforts to self-determine.

28. In summary, climate change is already impacting the UCCMM Nations, and we anticipate these impacts will get progressively worse. We believe that without significant mitigation of greenhouse gas emissions, this environmental injustice will only worsen.

SWORN before me at)
Aundeck Omni Kaning in the)
Province of Ontario this)
18^h day of December, 2018)



Chief Patsy Corbiere



A Commissioner for taking affidavits, etc.

**Susan Jennifer Mullen,
a Commissioner, etc.,
Province of Ontario,
For Manitoulin Legal Clinic.**

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PROCEEDING COMMENCED AT TORONTO

**AFFIDAVIT OF CHIEF PATSY CORBIERE
SWORN DECEMBER 18TH, 2019**

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