



## **INDIGENOUS SOLIDARITY AT SCAN!**

### **SCAN! INDIGENOUS SOLIDARITY FUND: PROTECT THE BREATHING LANDS**

“The names given to the vast peatlands of Ontario’s north are “Yehewin Aski” and “Bakitanaamowin Aki,” meaning the Breathing Lands.

Several First Nations from Treaty 9 territory, which covers about 2/3 of Ontario from Timmins north, are launching a historic case in Ontario court against the federal and provincial governments. The case is a head-on challenge to the Crown governments’ purported unilateral jurisdiction and decision-making control throughout Treaty 9 territory.

The ten Nations that have agreed to sign on to the legal challenge so far, are:

- Attawapiskat First Nation
- Aroland First Nation
- Ginoogaming First Nation
- Kashechewan First Nation
- Apitipi Anicinapek Nation
- Fort Albany First Nation
- Neskantaga First Nation
- Kitchenuhmaykoosib Inninuwug First Nation
- Constance Lake First Nation
- Eabametoong First Nation

This case involves Indigenous Rights in the context of the federal and provincial governments’ priority to promote mining of critical minerals on Indigenous territory as part of a “climate plan” to develop an electric vehicle industry in Ontario.

The court challenge is asking that the court:

- “Issue injunctions to stop any resource-related permitting before Indigenous consent is given.
- Provide compensation for damages caused by over a century of resource extraction.
- Recognize a legal requirement that First Nations must give their Free, Prior, and Informed Consent to any development in Treaty No. 9 territory.”
- “provide \$95 billion” compensation”

The case says that the actual Treaty agreed to by the First Nations and the Crown was that First Nations would retain their decision-making governance over the lands and resources, and that the Crown governments would have some governance rights but not the right to take over. What was agreed to was co-jurisdiction or parallel consent; both First Nations and the Crown have to consent to developments and activities on the Treaty 9 lands.

“The heart of the case is the interpretation of Treaty No. 9. as it concerns co-jurisdiction. The written version of Treaty No. 9 says that First Nations under the Treaty must “cede, release, surrender, or yield up their rights to the land.” This interpretation contradicts what the Plaintiff Nations understood when signing the Treaty. Evidence of the oral agreement that was reached shows that Indigenous leaders agreed to share the land with settlers, so long as they preserved *bimaadiziwin* in Ojibwe or *pimaatisiium* in Cree — happiness, prosperity, and protection of their traditional way of life.

This case aims to prove that an interpretation of Treaty No. 9 as an agreement for co-jurisdiction — not surrender — of lands means that today, Indigenous Nations must play a meaningful role in determining the fate of their homelands.”

[Raven Trust/The Breathing Lands](#)