



Odanak, June 9, 2022

Honorable Steven Guilbeault
Ministre de l'Environnement et du Changement climatique
ec.ministre-minister.ec@canada.ca

Honorable Mark Miller
Ministre des Relations Couronne-Autochtones
Marc.Miller@parl.gc.ca

Re : Consultation on the amendment to Schedule 1 of the *Species at Risk Act* – Black Ash designation

Kwai M. Guilbeault, kwai M. Miller.

On January 14, 2020, the Grand Council of the Waban-Aki Nation (GCNWA) received correspondence from the Director General of Environment and Climate Change Canada's (ECCC) Canadian Wildlife Service, Julie Spallin, inviting to provide comments regarding proposed amendments to the *Species at Risk Act* (SARA) Schedule 1. Among these amendments, it is proposed that the black ash be added to the list of threatened species. The listing of this species on Schedule 1 of the Act could have major impacts on the inherent and Aboriginal rights of the First Nations, particularly the W8banaki (Abenaki), Kanien'kehá:ka (Mohawk) and Mi'kmaq Nations, through the ban of the right to possess, collect, buy, sell or trade black ash¹ that would result from it.

In particular, the ECCC, through the Canadian Wildlife Service, informs us that the Crown does not consider the sale of these products to be an Aboriginal right and that no accommodation measures (i.e. exemptions) can be secured to prevent the application of these prohibitions to Indigenous peoples and their territories. However, the exchange and sale of black ash baskets is an inherent part of this traditional practice and has been since time immemorial. Given this, the Chiefs of the Councils of Odanak and Kahnawake as well as other signatory chiefs below are currently opposed to the amendment of Schedule 1 of the *Species At Risk Act* to add Black Ash to the list of threatened species. The application of the Act's prohibitions would unjustifiably infringe on our inherent and Aboriginal rights and would have significant and disproportionate adverse effects on Indigenous rights and culture. The right to harvest, possess, collect, buy, sell or trade black ash is asserted as an inherent right and Aboriginal right within the meaning of section 35(1) of the *Constitution Act, 1982*. In addition, any measures to protect the black ash must be developed in collaboration with us and, given the significance of the impacts of listing the black ash on Schedule 1 of the *Species At Risk Act*, our free, prior and informed consent is required prior to the adoption of this or any other measures pertaining to the black ash².

¹ Section 32(2) of the *Species At Risk Act*

² See articles 8 2) a) and b), 11-13, 19, 20, 26 and 32 of the *United Nations Declaration on the Rights of Indigenous Peoples*.

Indigenous harvesting of black ash is so minimal that it has no impact on the species. These harvesting activities are underpinned by a body of traditional ecological knowledge and a territorial ethic that aims to ensure the sustainability of the stands. In this sense, it is a disproportionate infringement of the rights of Indigenous peoples that threatens their cultural integrity and without any satisfactory scientific justification. The failure to secure an exemption will result in our continued opposition to the listing of black ash on Schedule 1. However, as Indigenous peoples we remain concerned and dedicated to the protection and recovery of the black ash. Therefore, if exemptions to the prohibitions cannot be secured and that the listing cannot take place, we would also support and advocate for the development and implementation of recovery plans and measures for the black ash outside of the formal *Species At Risk Act* process.

Therefore, the Chiefs of Odanak and Kahnawake and other signatory chiefs hereby request a formal meeting with you to discuss ECCC's intention to list black ash and to determine how to secure an exemption to the Act's prohibitions for Indigenous peoples and territories. If such an exemption is not possible, we can discuss the possibility of developing and implementing a recovery plan and measures for the black ash outside of the *Species At Risk Act* process.

Veillez agréer, Messieurs Guilbault et Miller, nos salutations distinguées.

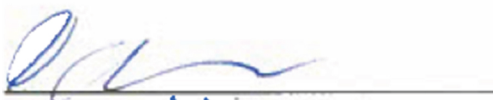
SIGNATORY CHIEFS



Chef d'Odanak



Chef de Kahnawake



Chef de Wôlinak



Chef de Gesgapegiag



Chef de Wendake

Steeve Mathias

Chef de Long Point First Nation



Chef de Essipit

Terry Shaw

Chef de Nation Micmac de Gespeg

C.C.

Daniel G. Nolett, Directeur général du Conseil des Abénakis d'Odanak. djnolett@caodanak.com

Suzie O'Bomsawin, Directrice générale adjointe du Conseil des Abénakis d'Odanak. sobomsawin@caodanak.com

Christine Hogan, Sous-Ministre, Environnement et Changement climatique Canada. christine.hogan@ec.gc.ca

Sue Milburn-Hopwood, Environment and Climate Change Canada, Assistant Deputy Minister, Canadian Wildlife Service, sue.milburn-hopwood@canada.ca

Julie Spallin, Director General, Environment and Climate Change Canada, Wildlife Management, julie.spallin@ec.gc.ca

Madame Marie-Hélène Dickey, Agente de coordination, consultation et liaison autochtones, Service canadien de la faune (Région du Québec), marie-helene.dickey@canada.ca