



Mr. Steve Winsor  
Sioux Lookout District  
49 Prince Street, PO Box 309  
Sioux Lookout Ontario P8T 1A6

September 11, 2014

Submitted via EBR Registry and via e-mail to Mr. Harry Wabasse and Mr. Travis Spence

**RE: Webequie First Nation Terms of Reference Community Based Land Use Planning Initiative 2014. EBR Registry Number: 012-2120**

Dear Steve, Harry, and Travis,

Thank you for the opportunity to provide comments on **Webequie First Nation's Terms of Reference** for their Community Based Land Use Plan. I am submitting this input as a Wildlife Conservation Society (WCS) Canada scientist<sup>1</sup> specializing in fish and wildlife ecology, conservation biology, co-management, and landscape ecology in northern Ontario. I am grateful for the opportunity to comment on this process and to learn from community members at various meetings, including the Matawa Land Use Planning meetings in Thunder Bay, hosted by Ontario Ministry of Natural Resources and Forestry (MNRF) and Four Rivers.

I remark below on two issues. First, mainly directed at MNRF, I focus on issues related to the implementation of Ontario's *Far North Act* (hereafter "Act"), given its objectives as well as the what is actually emerging from approved community-based land-use planning (CBLUP) processes. These comments are broadly relevant to the current Terms of Reference (ToR) and subsequent proposals developed by MNRF. The ultimate success of meeting the ambitious mission and objectives of Webequie First Nation's land use plan hinge on careful implementation of the Act. I try to make this link between CBLUP processes and the Act explicit. Second, I provide some specific comments on the current policy proposal.

---

<sup>1</sup> WCS Canada ([www.wcscanada.org](http://www.wcscanada.org)) was established in May 2004 as a Canadian non-government organization with a mission to conserve wildlife and wild lands by improving our understanding of, and seeking solutions to, critical problems that threaten key species and large wild ecosystems throughout Canada. We implement and support comprehensive field studies that gather information on wildlife needs and then seek to resolve key conservation problems by working with First Nation communities, Government and regulatory agencies, conservation groups, and industry.

## 1. Land-Use Planning under the Act

CBLUP has an important role to play in the Far North given that First Nations are the main population and have Aboriginal and treaty rights across the region. The current approach developed by MNRF addresses Objective 1 of the Act by creating a significant role for First Nations in planning. Under CBLUP, Ontario recognizes the need for planning with First Nations and the importance of consultation. MNRF is engaged with 32 of 36 First Nations communities are currently engaged with MNRF, suggesting most communities are interested in pursuing planning using this process. Finally, my experience suggests there are both social and economic opportunities afforded to First Nations communities that agree to engage with Ontario's planning process. I do, however, have the following concerns about CBLUP to deliver conservation and development outcomes mandated in the Act.

- In general, the CBLUP approach is occurring at various scales depending on the Area of Interest for Planning (AIP). As such, CBLUP cannot adequately address the ecological processes and functions Ontario is committed to conserving under Objective 3 of the Act. Objective 3 focuses on the maintenance of biological diversity, ecological processes, and ecological functions, including the storage and sequestration of carbon in the Far North. I suggest the Far North Land Use Strategy, also mandated by the Act, could be a regional-scale planning approach to meet Objective 3. While MNRF has finally begun the process of releasing its vision for the Strategy to the public, the initial release provides no detail on how MNRF will address conservation and development at a regional scale or how this Strategy will affect current CBLUP processes and outcomes like those desired by Webequie First Nation. It is not clear how this Strategy will apply (retroactively) to approved land use plans. To be clear, the Far North Land Use Strategy should address Objective 2 to meet the conservation target, Objective 3 of the Act, and identify how it will enable Ontario to meet their existing regional policy commitments (e.g., species at risk) and strategic plan on climate change adaptation. Because neither the detail nor the process for the Strategy are available at this stage, I am unable to comment on whether it will in fact be adequate in providing the "big-picture, broad-scale interests" to CBLUP. While this current ToR acknowledges that it will take into account the Strategy, if it is in place at the time the land use plan is prepared, it remains less clear how it will do so. The ToR, as well as the draft plan, should indicate how the goals and objectives of the Far North Land Use Strategy will be met.
- The boundaries of CBLUP developed to date lack obvious relationships to ecological boundaries. As such, they are not able to consider freshwater conservation (quality, quantity, fisheries), cumulative effects, and other ecological processes such as fire. Given this, it is impossible to determine how effective MNRF is being in tracking toward meeting Objective 3 or meeting the minimum conservation target mandated in Objective 2. One consistent change would be to include the ecological value of the AIP from both a terrestrial and aquatic ecological classification rather than relying solely on terrestrial-based trapline boundaries.
- Concurrent environmental assessment processes where development decisions are being made occur regardless of CBLUP processes. Development decision-making processes affect the AIP directly,

indirectly, and/or cumulatively depending on the location and nature of the developments. This lack of integration puts First Nations, the environment, and Ontario's public interest at significant risk because neither address sustainability, downstream impacts, cumulative effects of industrial development and climate change at adequate scales. Infrastructure (and access) planning, in particular, needs to be considered at a regional scale with more comprehensive assessment of the ecological and social direct, indirect, and cumulative impacts than Ontario's current planning approach, whether through project-by-project environmental assessment or CBLUP can deliver. While CBLUP may identify First Nation interests in all-weather roads, new transmission, etc. and help create an approved zone for this use, these community interests and needs have been well known for a number of decades and did not require community planning to make happen. At present, most of the impetus for infrastructure (roads, rail, transmission) and energy in the Ring of Fire is driven by industry<sup>2</sup> and Ontario.

- There appears to be little evidence that CBLUP addresses Objective 4 in the Act regarding sustainable development that benefits First Nations. For example, the current focus on zoning in CBLUP cannot address decision-making about the intensity or rate of land use within the general use zone in particular. This can have significant implications for the location, size and nature of protected areas being decided in CBLUP. More attention could be given, at the planning stage, to discussion and inclusion of legacy effects of mines, the boom-bust nature of development in the north, and the implicit reliance on single industries for economic opportunities. CBLUP needs to include much more attention to sustainability (e.g. assessments, criteria) than it currently does and find ways to consider intensity and rate of development rather than relying on environmental assessment processes. In addition, the current negotiations between Ontario and Matawa First Nations explicitly include infrastructure and environmental assessment, both of which have significant implications for CBLUP and create some uncertainty about the outcomes of CBLUP with Matawa communities at this stage. Because the Act includes provisions for Ontario to exempt development activities (section 12(4)) "in the social and economic interests of Ontario" and can override community based land use plans, it is unclear how MNRF can deliver positive conservation outcomes for the sustainability of First Nations and the environment through CBLUP. It is unclear how CBLUP decisions impact treaty and Aboriginal rights.
- The overall plan-by-plan approach to addressing overlap is worrisome. This is particularly challenging for understanding how CBLUP unfolds given the Ring of Fire developments and planning for infrastructure which affects multiple Matawa communities and downstream Mushkegowuk communities.

In conclusion, CBLUP is currently not designed to address many of these issues in its current form of practice and needs to be reframed within a broader, regional and strategic process for environmental planning and urge MNRF to consider, with relevant ministries such as Ontario's Ministry of Environment (MOE) and Ontario's

---

<sup>2</sup> Hjartarson, J., L. McGuinty, S. Boutilier, and E. Majernikova. 2014. Beneath the Surface: Uncovering the Economic Potential of Ontario's Ring of Fire. Ontario Chamber of Commerce. 35 pp. Available online: <http://www.occ.ca/portfolio/beneath-the-surface-uncovering-the-economic-potential-of-ontarios-ring-of-fire/>

Ministry of Northern Development and Mines, the creation of a regional strategic environmental assessment (R-SEA)<sup>3</sup>. A recent WCS Canada report highlights these issues and includes information on future scenario planning for industrial development in watersheds, infrastructure planning, climate change, and the legacy impacts of mining and boom-bust economic models on First Nations and the environment in the Far North (*sensu* sustainability). The report also supports the Environmental Commissioner of Ontario's recommendation that the Government of Ontario "establish a strategic environmental review and permitting process for the Ring of Fire that expressly addresses cumulative impacts" (ECO 2013: 75)<sup>4</sup>. A regional environmental assessment process could help address the risks created by project-by-project planning and piecemeal land-use planning.

### **Planning for Protection under Ontario's *Far North Act***

Ontario's Far North Science Advisory Panel recommended MNRF consider a "conservation matrix model approach" to land-use planning in the Far North because of the intact and globally significant nature of the ecological systems in the region. This approach requires landscape-scale planning, identification of "benchmark" areas with no development, and a proactive approach to development planning to support adaptive management. On the latter, monitoring and the collection of scientific and traditional knowledge are essential to support decision-making. However, there is no regional perspective to protected area planning for aquatics, wetlands and peatlands and only limited attention to conservation of wide-ranging mammals - caribou remain an important exception. Protected area planning at a regional scale should also support Ontario's interests in addressing climate change mitigation and adaptation planning and could provide an important vehicle for addressing ecosystem services, a conversation that is surprisingly absent in Ontario's Far North planning processes. MNRF should consider how to apply the conservation matrix model in CBLUP and the Far North Land Use Strategy.

## **2. Comments on the ToR.**

### **1 Introduction and Purpose**

- Webequie First Nation explicitly acknowledge and recognize the challenge of land use planning given the concurrent process for development in the Ring of Fire. As mentioned above, this challenge is a threat to ensuring ecological and social sustainability in the region and warrants a more comprehensive process than current practice.

### **3 Scope of Planning**

- The attention to shared lands and adjacent communities is highly relevant and Webequie First Nation appear to be creating a process that supports discussion and decision-making together. I look forward to learning about how the planning area adjustments will be made and why in the draft land use plan.

---

<sup>3</sup> Chetkiewicz, C. and Lintner, A.M. 2014. Getting it right in Ontario's Far North. The Need for A Regional Strategic Environmental Assessment in the Ring of Fire [*Wawagajing*]. Wildlife Conservation Society Canada and Ecojustice. 136 pp.

<sup>4</sup> Environmental Commissioner of Ontario (ECO). 2013. *Serving the Public*. Annual Report 2012–2013. Environmental Commissioner of Ontario, Toronto.

### 3.2 Planning Subjects

#### Cultural Heritage Protection and Enhancement

- The attention to defining what is cultural heritage from Webequie First Nation's perspective is helpful in understanding how features and sites will be considered for protection.
- In recognition of Webequie's statement of "community-driven protection for individual sites and features", Webequie planning staff are encouraged to explore the potential opportunities to recognize their efforts under the IUCN criteria for protection by local communities and/or Indigenous Peoples<sup>5</sup>. Local communities and/or Indigenous Peoples worldwide are being increasingly recognized for their role in protecting and conserving biodiversity as well as cultural values through Indigenous Peoples and Community Conserved Territories and Areas (ICCAs). ICCAs can be officially recognized throughout the world, including North America<sup>6</sup>, through the work of the ICCA Consortium<sup>7</sup>.

#### Traditional Land Use

- Recognizing that changes in location of traditional use will occur is important and supports both the revision of plans as mentioned, but also requires understanding of and coordination with activities on the broader landscape, some of which may not be contained in Webequie's land use plan e.g., upstream activities, migratory species, infrastructure planning, climate change. In order to have options to support changing locations of traditional use and activities, there needs to be a broader, regional perspective on factors that can impact these activities.

#### Environmental Protection and Enhancement

- Acknowledging the needs of species at risk is significant. How will the land use plan support caribou, wolverine and lake sturgeon conservation going forward?
- Unlike other Terms of Reference reviewed to date, I am encouraged that Webequie First Nation is aware of, and includes tools related to provisional protection under the Act as well as opportunities to withdraw land for Sites of Aboriginal Cultural Significance (SOACS).
- The attention to connectivity within the planning process is commendable. WCS Canada scientists would be very interested in supporting further discussions about how to do this from an ecological perspective.
- The emphasis on source water, and waterway protection is important. The ToR directs that land use plans address the broader watershed issues and I look forward to seeing how this can occur in the land use plan.
- Given the significance of the remaining issues such as cumulative impacts, climate change, and carbon storage require attention in the land use plan, they should have their own sections in the plan. For example, climate change scenarios can support adaptation planning since it will affect infrastructure and community development, forestry opportunities, and renewable energy. Planning should therefore be considered more explicitly in the planning objectives for these subjects. Similarly, for cumulative effects, I recommend

---

<sup>5</sup> [https://www.iucn.org/about/work/programmes/gpap\\_home/gpap\\_capacity2/gpap\\_bpg/?13678/Governance-of-Protected-Areas-From-understanding-to-action](https://www.iucn.org/about/work/programmes/gpap_home/gpap_capacity2/gpap_bpg/?13678/Governance-of-Protected-Areas-From-understanding-to-action)

<sup>6</sup> [http://www.iccaconsortium.org/?page\\_id=192](http://www.iccaconsortium.org/?page_id=192)

<sup>7</sup> [http://www.iccaconsortium.org/?page\\_id=55](http://www.iccaconsortium.org/?page_id=55)

scenario planning under a variety of development and climate change futures and the development of cumulative effects assessment. WCS Canada is willing to help in this area where requested (see A Fork In the Road available at: <http://www.wcscanada.org/AboutUs/Publications.aspx>).

- Given significant changes to fisheries protection and habitat conservation due to federal legislation (*Fisheries Act, Navigable Waters Act*), MNRF should try to convey the implications of these changes on planning with First Nations in Ontario.
- MNRF could acknowledge the development of its Provincial Fish Strategy for Ontario which will provide strategic level direction on fisheries management, including for First Nations.<sup>8</sup> It is unclear how this interacts with current planning efforts in the Far North.
- MNRF should acknowledge it is undertaking a comprehensive review of commercial and recreational bait use<sup>9</sup> which will be relevant to First Nations interested in tourism and recreational fishery economies as well as bait activities in protected areas and conservation reserves. It is unclear how this process interacts with current planning efforts in the Far North.

#### Renewable Energy - Hydro Electric/Wind Power/Solar/Biofuels

- It is unclear from the ToR, how the hydroelectric development opportunities are being presented for remote communities. One recommendation would be to also consult with Ontario Waterpower Association.

#### Mineral Exploration and Development

- Currently, 8.6% of Webequie First Nation AIP is covered in mineral claims. It is unclear how economic opportunities can be determined for these sites, but I welcome the chance to learn about this in the land use plan.
- As mentioned above, given negotiations for regional issues around environmental assessment and infrastructure in the Ring of Fire, it would be useful to identify the area considered to be the Ring of Fire for planning purposes.

#### Aggregate Use

- It is possible that aggregate occurs on sites that are culturally significant and should be considered for protection along with vegetation, landform and wildlife.

### 4. Planning Process

#### 4.1 Phases and Timelines

- The timeline is very helpful. It remains unclear how comments from groups, like our own, on either the ToR or the draft land use plan will be considered in the process. Suggest including a "review, consider and

---

<sup>8</sup> [http://www.ebr.gov.on.ca/ERS-WEB-](http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTlwODEx&statusId=MTgwODU4&language=en)

[External/displaynoticecontent.do?noticeId=MTlwODEx&statusId=MTgwODU4&language=en](http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTlwODEx&statusId=MTgwODU4&language=en)

<sup>9</sup> [http://www.ebr.gov.on.ca/ERS-WEB-](http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTlxNTcz&statusId=MTgyMTM1&language=en)

[External/displaynoticecontent.do?noticeId=MTlxNTcz&statusId=MTgyMTM1&language=en](http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTlxNTcz&statusId=MTgyMTM1&language=en)

incorporate comments" bullets with outreach efforts in Phases 2 and 3. This issue is broadly addressed in "5. Information Management".

#### 4.2 Planning Structure

- Having a transparent governance and social institution developed by Webequie First Nation to support land-use planning processes in the community seems important. This level of transparency on roles and responsibilities as well as the accountabilities of each group and Chair is encouraging. The addition of spiritual advisor and translator is also significant for encouraging community participation and understand the implications of the planning process.
- The attention to seeking resource support in terms of Elders, youth, other experts and the Community Based Land Use Planning Advisory Team is noted. WCS Canada would be happy to provide technical advice where requested to ensure the best available information is available.

#### 4.3 Approvals

- It would be useful to identify how the public will be informed of amendments to Terms of Reference going forward. The Environmental Registry could be used for this purpose. WCS Canada would like to be considered an interested party for the purposes of direct follow-up from MNRF and Webequie First Nation on this planning process.

#### 4.4 Dispute Resolution

- This information is very helpful and I respect the use of traditional means in which the community will be engaged in this process .

Thank you for the opportunity to comment on this important document and process. I am available to discuss any of the information in this letter.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Cheryl Chetkiewicz".

Cheryl Chetkiewicz, Ph.D.

cc: Harry Wabasse, Band Councillor via e-mail: [harryw@webequie.ca](mailto:harryw@webequie.ca)

cc: Travis Spence, Community Land Use Plan Coordinator via e-mail: [travis.s@webequie.ca](mailto:travis.s@webequie.ca)