

14 August 2019

Canadian Environmental Assessment Agency
Att: Webequie Supply Road Project
600-55 York Street
Toronto, Ontario M5J 1R7

Via email: CEAA.Webequie.ACEE@canada.ca

Re: Webequie Supply Road Project Project Description

To whom it may concern:

We are providing comments on the proposal by Webequie First Nation (WFN) to the Canadian Environmental Assessment Agency (CEAA) who are determining whether a federal environmental assessment is required for the designated project (Webequie Supply Road Project; WSRP), given its potential for causing adverse environmental effects in the far north in Ontario.

This letter contains our rationale for two principal recommendations: 1) a federal assessment must be undertaken for the WSRP and 2) Immediate attention by the federal Agency should be focused on the Ring of Fire area as a pilot regional assessment under the new Impact Assessment Act to address anticipated social and ecological cumulative effects.

Our expertise:

We are submitting this feedback in our capacities as Wildlife Conservation Society (WCS) Canada scientists conducting research on species and ecosystems to inform conservation decisions. WCS Canada is a national non-government organization that has been engaged in Ontario since 2004, with research and conservation priorities in Ontario, largely focused on the far north. Dr. Justina Ray was a member of the Far North Science Advisory Panel, the Ontario Wolverine Recovery Team, the Ontario Caribou Science Advisory Panel, and the Committee on the Status of Species at Risk in Ontario (COSSARO). Dr. Cheryl Chetkiewicz has conducted applied research on cumulative effects, promoted [regional and strategic impact assessment](#) in the far north, and is an active board member with Ontario Association of Impact Assessment (OAIA). Importantly, we are some of the few scientists with continuous presence in the region. We have extensive research and conservation experience with caribou and wolverine and currently have ongoing field-based research programs on wolverine and lake sturgeon; we support and collaborate with Weenusk First Nation on community-based monitoring, in part, due to concerns of development upstream of the Winusk River in the Ring of Fire; and, with academic and government researchers conducting ecological and social research in the region.

We have been actively involved in the federal impact assessment (IA) reform process since it was first launched in 2016, have engaged directly with CEAA and other agencies on multiple occasions, provided public comments, in person and in writing, throughout the process, and are highly familiar with both the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) and the new *Impact Assessment Act* (IAA) as well as the significant published literature on impact assessment. Similarly, we are very familiar with

Ontario environmental assessment and land use planning laws, policies and processes; we have provided many written comments to Ontario during the past year on substantial changes being made or considered to many environmental laws, including the proposal to “modernize” Ontario’s *Environmental Assessment Act* (EAA) (ERO No. 013-5101, 013-5102).

Recommendation 1. A federal assessment must be undertaken for the WSRP

Federal engagement in the environmental assessment of projects, including this one, is necessary in the far north given the social, ecological, and economic context. We remain deeply concerned about the piecemeal approach that Ontario and Canada are currently taking in the Ring of Fire and the general lack of transparency and proceeding in parallel processes. The project description for the WSRP clearly notes that the ultimate goal is to have an “all-season road connection between the provincial highway and the McFaulds Lake area to ensure the viability of mine developments” (page 1), but it is clear from our careful reading of the 81-page document that many key decisions, beginning with the WSRP, need to be made to consider the magnitude of this project and its potential impacts.

The following considerations are germane to CEAA 2012:

1) The proposed road intersects with multiple areas of federal legislative authority (jurisdiction):

- Seventeen kilometres of the road corridor occurs on reserve lands of Webequie First Nation, which are under federal jurisdiction;
- Potential environmental effects on fish and fish habitat, given multiple water crossings and effects on significant wetlands and the probable need for *Fisheries Act* authorization; From our mapping, we have counted at least 54 water crossings.
- Potential adverse effects on migratory birds through removal of nesting habitat, particularly in upland habitats;
- Potential adverse effects on species at risk that frequent the area, but most notably caribou and wolverine, for which surveys have found this ecotone between the Hudson Bay Lowland and Boreal Shield to be disproportionately important, and not acknowledged as such in the project description;
- Potential changes to the environment that affect First Nations Treaty and Aboriginal rights is acknowledged in the project description, primarily through brief summaries of consultations, but will be disproportionately affected by the process, particularly communities downstream or not currently supportive of the approach being taken by the proponent;
- Regarding changes to the environment that might result from federal decisions:
 - There is no information about who is funding Webequie First Nation to be the proponent in this process, but we understand that the federal government supported the All Season Community Roads project described in the Project Description as evidence of consultation and engagement on the current project;
 - The Project Description makes clear that the WSRP is only useful in the context of a mining or resource road if it is coupled with both the Marten Fall’s road and the missing link of road (currently proponent-less, pending negotiations with

First Nations), which suggests a much more significant overall undertaking in spite of the relative narrow scope of the WSRP description.

- 2) **The proposed road meets the requirement in the project list regulation for CEAA 2012 for federal attention**, given the length of this new right-of-way, which certainly exceeds 50 km.
- 3) **This proposed road is located in a potential area for a pilot regional assessment**, having been put forward as one of 22 potential regions in Canada that require attention¹. This approach is something WCS Canada has championed through provincial, federal, and First Nations pathways since 2012. See additional details below.

Although the above reasons should be more than sufficient for the Agency's decision under CEAA 2012, we put forward the following additional considerations for why this project requires federal attention:

- 4) **Project substitution (e.g., by provincial assessment processes), should not be considered for this project**, even if CEAA 2012 allows it, because:
 - The current Ontario EAA is inherently weak and, in our experience, limited in its application, particularly in consideration of cumulative effects, climate change, and species-at-risk. The current provincial government has sought public consultation to revise the EAA in an effort to reduce red tape, with a focus to “streamline” project decision making and weaken environmental rules. For example, private proponents such as mining companies are subject to different conditions and their assessment under the EAA is voluntary. More importantly in the Ring of Fire, the EAA does not address cumulative effects and Ontario has neither guidance nor requirements beyond Ministerial discretion to do so. Furthermore, in our experience, the review processes of EA materials led by the provincial assessment agency are neither thorough nor transparent.
 - We are aware that Ontario provincial government has provided the funding to the proponent for this assessment, e.g., engagement of the consulting company to conduct the assessment, including requisite studies. If Ontario (ultimately taxpayers) is funding the proponent and the EA and is also the regulator and facilitator of mine development in the north, we contend that this is a potential conflict of interest, regardless of how narrowly scoped the WRSP is, that would require direct federal engagement in the process.
- 5) **This project description indicates a narrow and conventional approach to the assessment of this project, which will only perpetuate prevailing concerns about project decision making that have underscored the need for the federal impact assessment reform process since 2016.** While we recognize that the proponent has the right to choose to have this undertaking be considered under CEAA 2012, rather than the new IAA that will go into force on August 28, we submit that the federal law reform process has made clear what is needed to improve CEAA 2012. By this reasoning, we urge federal engagement in this assessment in a coordinated fashion with the province to ensure it is as robust as possible on matters such as tailoring the assessment to the most consequential matters, while broadening the scoping of the assessment

¹ Presentation entitled, “Addressing Cumulative Effects of Resource Development” by Dr. David Nanang at the [Cumulative Effects Conference](#), July 5-6, 2019 and subsequent follow-up conversations with Natural Resources Canada staff.

in a similar fashion to Section 22 in the IAA. This would mean consideration of the impact of the project on Canada's environmental obligations and climate change commitments, true consideration of alternative means, and the project's contribution to sustainability.

We are very concerned from our reading of the project description that the consultants for the proponent intend to adopt the same boilerplate approach that we have seen many times over, resulting in large volumes of material with little meaningful introspection and analysis tailored to the project at hand. For example:

- The long list of species at risk in the project description provides no indication of which species will require the most attention in the assessment process, offering little confidence that the design of baseline and other studies will be meaningful or informative.
- There is little attention in the project description to the knowledge and experience of First Nations or how it will be considered in the impact assessment despite a First Nations proponent. Pages are taken up with lists of consultants and some summaries of “concerns”, but little evidence of findings as they relate to important considerations that will need to receive special attention. We suggest this is because the consultation on the project still needs to be done and must consider the bigger picture and the regional scope of this undertaking.
- The project description contains little acknowledgement of the scientific information on road impacts. For example, there no mention of the role of roads and construction activities in the introduction of invasive species exacerbated by climate change in the far north and highlighted as a key issue by the [Far North Science Advisory Panel \(2010\)](#). There is no information on anticipated traffic levels nor types of traffic anticipated making it difficult to assume that best practices mitigation will be adequate. We know from the base case for Cliff’s Chromite Project anticipated 50 to 100 truckloads of concentrate leaving the site each day during full production. Noront’s Eagle’s Nest Project anticipates twelve (35 tonne capacity) trucks will transport concentrate to the trans-load facility each day. Additional trucks will deliver supplies to the mine site and dispose of solid waste to off-site licensed facilities².
- Greenhouse gas emissions need to be considered as a cumulative effect and within a much larger context. It is faulty logic to compare this project’s emissions with that of Ontario’s or Canada’s and interpret the inevitably small emission volume to be inconsequential, as indicated in this initial project description. Rather, impacts should be considered relative to internationally recognized climate change significance thresholds, which have already been exceeded. Furthermore, there is no indication in the project description that this proponent will consider the carbon in peat or the impacts of mines and additional exploration activity facilitated by the roads. A cumulative effects assessment is needed to determine how this project contributes to GHG emissions in terms of impacts.

Recommendation 2: Give immediate attention to the Ring of Fire area as a pilot regional assessment under the IAA to address anticipated social and ecological cumulative effects.

² With the WSRP, we note that Noront’s original project description is changed.

The inability of prevailing (especially provincial) processes to address the potential social and ecological cumulative effects in the Ring of Fire creates high uncertainty given transportation infrastructure associated with mines are high risk, require high **public** investment and complex organization, and do not generate high income for the region. We are also concerned by the lack of outcomes from the [Regional Framework Agreement](#) between Ontario and the Matawa First Nations that was considering issues such as regional infrastructure in a more equitable way.

We recommend a regional approach, ideally a regional impact assessment to address the cumulative effects of new roads and mines in the Ring of Fire in advance of decision making on individual undertakings. We also note that this is now possible through the federal IAA and that the Ring of Fire has been identified as a possible pilot project. Equally importantly, regional infrastructure was an objective under the Matawa Regional Framework Agreement³.

In general, transportation has the potential to cause significant regional environmental impacts, which tend to be far more significant than the more direct and local impacts with which this particular assessment process (judging from the project description) is preoccupied, albeit superficially at this point. Direct impacts on this new corridor will include the creation of physical barriers to animal movement, habitat fragmentation, including stream habitats that are critical for spawning and movement, alteration of soil properties and surface water flows, and increased access through otherwise inhospitable terrain for invasive species, as well as predators, and hunters and anglers. These changes in turn alter interspecies dynamics and affect the abundance and distribution of species.

We contend, however, that it will ultimately be much more important to give careful consideration to the more indirect effects of this road combined with other segments of the road and the projects mining projects that will become more economically vital. Once one road is built, to serve a single purpose or development project as is the case with WSRP, it opens up the potential for further development, and creates pressure to build more road networks and power transmission lines. Roads invite cumulative effects and are often growth-inducing agents of fundamental change to a region. The effects of roads are incremental and cascading. Although a particular corridor may be built to serve a single purpose or development project, the prevailing pattern is for this to facilitate additional uses for different purposes, more road networks, and power transmission lines.

The project description clearly states that although an environmental assessment is contemplated for the WSRP, it is expected that there will ultimately be an all-season road connection between the McFaulds Lake area and the provincial highway system to “ensure/maximize the viability of mine developments”. Similarly, the project description states that, “It is in this scenario that the potential positive and negative cumulative effects of the Project on Indigenous communities would likely be realized or felt to the fullest.” (page 41). We note with much concern, however, that community concerns described in the consultation record, particularly for the All-Season Community Roads study, are minimized in the project description on the stated basis that the WSRP does not connect to the provincial highway network – a direct contradiction of the stated purpose of the project. We suggest that the purposeful narrow scoping on the project is disingenuous and inappropriate given the social, ecological, and economic context of the Ring of Fire.

When one considers the potential impacts of the WSRP, together with the emerging Marten Falls Community Road and the segment of road that has yet to be claimed by a proponent, but is certainly

³ https://www.mndm.gov.on.ca/sites/default/files/rof_regional_framework_agreement_2014.pdf

envisioned, these have the collective potential to play a decisive role in the industrialization of the far north. The WSRP will have obvious spillover effects on regional development by promoting the aggregation of industry, an increased population in the north, and the well-known legacy impacts associated with mining, including First Nations dependency on the boom-bust economy of mineral exploration and mining while also impacting the land, water and wildlife on which First Nations depend.

In this process, First Nations may see some more immediate economic and social benefits associated with the construction and maintenance of the road as well as providing services for the mine and mineral exploration companies. While we respect the right of Webequie First Nation to determine and develop strategies for exercising their right to development as well as develop their traditional territories (as per UNDRIP⁴ Articles 3, 20, 23, 32, etc.), it is well known from previous experience that the current project-by-project approach is inadequate to address the social, ecological, and economic risks that Webequie would take on by both enabling and depending on mineral exploration and mining on their traditional lands. That said, it is telling that Webequie First Nation would need to gain consent from mining claim holders in developing this project given the claim holders did not seek consent from Webequie First Nation in the first place (page 19). This highlights the inequity in development in the far north as we have come to understand it in our 15 years of experience.

Finally, the Project Description (section 6.1.3, page 52) describes First Nations support for a regional approach in that, “most Chiefs and Councils made it clear that they had to balance the advantages and disadvantages of an all-season road with their broader interests in land development in the Region, including the development of mineral resources around the McFaulds Lake area”. Given that the Regional Framework Agreement did not produce any final public outcomes, and its fate is uncertain at best under the new Ford provincial government, we suggest the first road proposal, WSRP, is the time to address these concerns.

Moving forward, we would like to be included in any further communications around the project as an interested party. We are available to engage in any discussions regarding our recommendations and comments and you may contact either one of us to do so.

Yours sincerely,



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⁴ <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>