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INDIGENOUS PROTECTED AND CONSERVED AREAS:
A DYNAMIC RESPONSE TO BIODIVERSITY LOSS IN NORTHERN ONTARIO

PREPARED FOR

Native Women's Association of Canada

L'Association des femmes autochtones du Canada

ECCCO CONSERVATION AND BIODIVERSITY CONSERVATION PROJECT
BY ALEXANDRA BRIDGES

ON BEHALF OF



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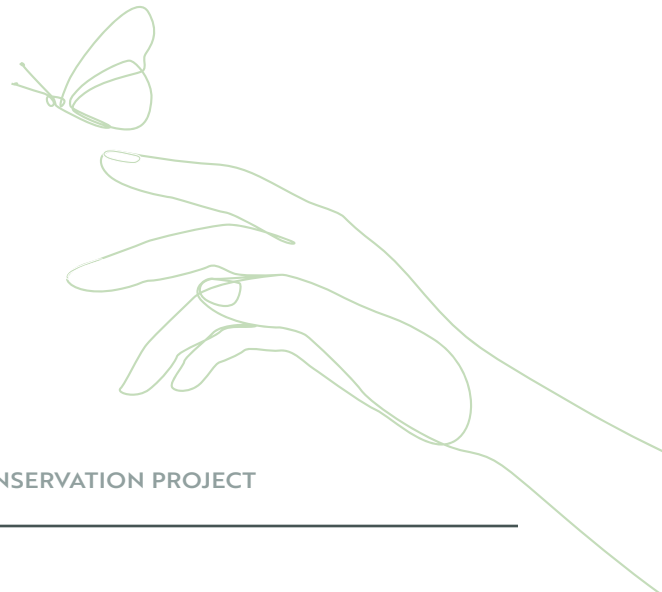
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INTRODUCTION

The establishment of Indigenous Protected and Conserved Areas (IPCA) should be considered a multi-purpose and effective tool in land protection and conservation measures in Canada. First Nations communities across Canada do not hold 'Title to Land' as is recognized by the state (i.e. Canadian Government). Indigenous Peoples were assigned reservations on allocated plots of land, which is also held 'in common,' limiting the ability of Indigenous Peoples to have control over the resources within their territories (Pereira, R. 2014). Permanent sovereignty over natural resources as a right of the people has been an emerging concept as non-state entities (such as Indigenous Peoples) have been slowly eroding the traditional concept of sovereignty as a state specific power (Pereira, R. 2014). Dialogue over impacts of land usage and environmental degradation have been circulating for decades regarding resource development projects and the encroachment of development on traditional territory. What about Indigenous Peoples that refuse development and look toward conservation, land protection, or seek some balance in between? The concept of control over 'natural resources' also necessitates making space for those who wish to protect and conserve areas. Over time, the inability for Indigenous Peoples to participate in the goings-on of land planning and land uses has shifted from exclusion, to marginalized participation. The concept of what constitutes Indigenous rights, environmental rights, and other ways of knowing and doing, are increasingly called upon in discussions regarding land management practices. Combined with Indigenous culture and livelihood being inextricably linked to the natural world and the land upon they occupy, the need for Indigenous inclusion in conservation efforts is paramount in meeting international obligations, reconciling for past harms, and planning conserved areas with all available information from western and Indigenous Knowledge Systems.





METHODOLOGY

Relevant literary sources in this research, such as government reports, conference proceedings, academic literature, environmental, legal commentary, and case protecting studies, were reviewed. This research is spurred by the need to uplift Indigenous-led solutions in the natural environment. It outlines laws and policies impacting IPCA and their application, such as The Indian Act, Ontario Parks Act, Ministry of the Environment and Climate Change, Government-funded publications, international agreements such as UNDRIP, and the Aichi Biodiversity Targets. The main foundation of this report draws from information found in the We Rise Together Report regarding the findings of the Indigenous Circle of Experts (ICE). This literary review is an effort to contribute to existing contemporary research into this topic and make recommendations toward IPCA establishment options in northern Ontario and Treaty 9 Territory,

FINDINGS:

DIVERSE KNOWLEDGE SOURCES ARE VALUABLE AND NECESSARY

When considering the worldviews of Indigenous and European people regarding the natural world, there are many similarities showing ways people have come to know nature. Both Indigenous and European Peoples' knowledge emerged from the need to make sense of the natural world to understand how to take care of themselves. Both systems are a culmination of knowledge gathered through observations, and each share intellectual processes such as questioning, looking for patterns, predicting, verifying, problem solving, adapting, and more (Aikenhead, G. 2011). Over time, each has evolved to encompass a separate set of priorities, and therefore, different types of knowledge collected. The concept of what constitutes knowledge has diverged. Indigenous Peoples are holistic, relational, and place-based, and tends to focus on spirituality, emotion, physical, and mental balance. European knowledge has shifted toward reductionist, anthropocentric, and generalizable knowledge that has a strong focus on intellectual and physical growth (Aikenhead, G. 2011). An example of natural



FINDINGS CONT.

law as understood by Indigenous People is that the beings of creation are always in constant motion—changing, transforming, decomposing, growing—nothing is ever stagnant in the natural world (Little Bear, L. 2000). Knowledge of all creation is impossible for any one person, and therefore, Traditional Knowledge is not uniform across all Indigenous cultures (Battiste, M. 2000). Cognitive and cultural pluralism has been practiced by Indigenous groups over centuries. The ability to not only tolerate but celebrate and respect diversity will lead to peace and cooperation for a sustainable future (Nelson, M. 2008). Everything is interrelated and connected to each other, humans are part of this web of life too (Little Bear, 2000). “If everything is animate, then everything has spirit and knowledge. If everything has spirit and knowledge, then all are like me. If all are like me, then all are my relations,” (Little Bear, L. 2000). In an animate world, the water is alive, the rocks are alive, the wind is alive, and thunder and lightning are alive. Being open to diverse knowledge sources and respecting different forms of knowledge is an essential component of meaningful change. The concept of animacy may be difficult to fully grasp considering the scope of originating protected area plans and project implementation. Bureaucratic processes leave little room for matters of emotion or spirituality. However, with open and empathetic collaboration much more protected lands could be established utilizing scientific evidence of ecological values and Indigenous rights, Knowledge, and nationhood, to create tailored IPCA to benefit all beings of creation. Chief Patricia Faries, of Moose Cree First Nation, said, “In my Cree Nation ... maintenance and sustainability was who we were as a people. ... All was managed...” (Ontario Nature, 2018).





INTERNATIONAL LAW:

ADVANCEMENT IN ENVIRONMENTAL PROTECTION

United Nations Declaration on the Right of Indigenous Peoples

The right to self-determination for Indigenous Peoples is a core part of UNDRIP resolutions. UNDRIP is currently not ratified into law, except for in British Columbia (Lamirande, T. 2019). Therefore, it holds no tangible accountability or actionable measures besides being endorsed by the Canadian Federal Government, however this limitation is set to change soon. UNDRIP article 29 (1) states: "Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement programmes for Indigenous peoples for such conservation and protection, without discrimination," (UNDRIP, 2008). The UNDRIP declaration presents an opportunity for Canada to right past wrongs and acknowledge inherent rights of Indigenous Peoples in meaningful, significant ways. On December 3, 2020, Bill C-15 titled, United Nations Declaration on the Rights of Indigenous Peoples Act was introduced. The UNDRIP Act came into Royal Assent on June 21, 2021, (Attorney General of Canada, 2021). There is currently a call for proposals from Indigenous nations and organizations across Canada to collectively articulate a framework to aligned with federal laws. This opportunity opens input for an action plan for the implementation of the new act (Government of Canada, 2021). This is a positive step forward for land protection and the incorporation of Traditional Knowledge Systems (TKS) in land management, stewardship, and planning.



The Convention of Biological Diversity

Canada is not a party to the Cartagena Protocol or the Nagoya Protocol; however, they are part of the Convention on Biological Diversity (CBD), (Secretariat of the Convention on Biological Diversity, n.d.). This has implications on the formation of IPCA within Canada. Article 8(j) of the CBD states that members should, “Subject to its national legislation respect, preserve and maintain knowledge, innovation and practices of Indigenous and local communities,”(United Nations, 1992; Scott, J & Hillel, O., 2019). Protecting Indigenous practices is one of the main benefits of IPCA. This is because IPCAs are often Indigenous-led and increase the rights and responsibilities of Indigenous Peoples (Enns, E.; et al, 2018).

Aichi Biodiversity Targets

While Canada is a non-party to the Cartagena and Nagoya protocols it has made commitments to conserve land under the Aichi Convention. One of the ways this is being done is with Land Trusts, which can be a partner in supporting and assisting in the development of IPCA (Mrema, E., n.d.). In the preamble of 2020 Biodiversity Goals and Targets for Canada, there will be a reliance on, “Meaningful, full, and effective participation of Aboriginal peoples,” (ADM-level Biodiversity Steering Group, n.d.). However, preambles are meaningless unless they are backed up within legislation. Targets that are applicable to IPCA include Target One: Protection of 17 percent of terrestrial areas and 10 percent of coastal areas. Target Three is the protection and conservation of wetlands, which is applicable in Treaty 9 (ADM-level Biodiversity Steering Group, n.d.). Target 12 would allow for customary use by Indigenous Peoples. Target 15 is the promotion and respect of Traditional Knowledge in conservation and management (ADM-level Biodiversity Steering Group, n.d.). Target 15 would be easier with the establishment of IPCA because they are led by Indigenous People.



RECONCILING PAST HARMS

Environmental and Restorative Justice

Environmental justice is the equitable distribution of environmental burdens across all economic, racial, and ethnic groups (McGregor, D. 2014). The disproportionate environmental impacts affecting Indigenous Peoples is continually perpetuated by government, laws, and policies that systematically and institutionally assault Indigenous lands and lives (McGregor, D. 2012). The establishment of IPCA impacts the well-being of First Nations through restoration and continuity of land-based practices. These practices protect and cultivate nationhood. They maintain sustainable and healthy relationships of Indigenous Peoples to their homelands (Corntassel, J. 2012). The restoration of land-based and water-based cultural practices is a means of redressing cultural harms perpetrated against Indigenous groups by colonial entities. This includes historically, in law and policy; and presently, with resource development and extraction projects, which destroy entire ecosystems along with Indigenous Peoples' connection to place (Corntassel, J. 2012). The establishment of IPCA could be constructed as a type of reparation for past harms, which ultimately benefit all beings of creation, and not just Indigenous people.

Truth and Reconciliation Commission

Reconciliation is the process of identifying appropriate healing processes for restoring relationships (Enns, E.; et al., 2018). This takes place first between Crown and First Nations, and secondly between all people and the land (Enns, E.; et al., 2018). In the Truth and Reconciliation Commissions Calls to Action, Numbers 43 and 44 state that reconciliation will begin when provincial, territorial and federal governments adopt and implement UNDRIP as the framework of reconciliation and develop a national action plan to implement the articles under UNDRIP (TRC, 2015). Indigenous-led conservation, such as IPCA, are turning point in Canadian conservation. Conservation of lands and waters, in partnership with Indigenous Peoples, is an excellent way to protect biodiversity and remain consistent with domestic and international obligations in upholding respect for the rights of Indigenous Peoples (Moola, F. 2018).



CANADA'S NATIONAL PARKS EVOLVING HISTORY

Historically, motivations for establishing protected areas and parks within Canada were founded upon recreation and personal enjoyment of the outdoors, rather than the preservation of the health, integrity, and/or cultural significance of a particular piece of wilderness (Enns, E.; et al, 2018). Indigenous communities were typically viewed as obstacles in the process of enjoying nature and were often exploited in a racist fashion as part of the “park experience” (Enns, E.; et al, 2018). Among Canada’s most popular wilderness parks, Banff National Park, in Alberta, has a long history of using Indigenous Peoples in heinous manners as forms of entertainment. The Park ran “Banff Indian Days,” as a tourism attraction, in the late 1800s until the early 1970s (Hamilton, 2017). Unfortunately, this type of scenario was rather common over the course of several decades, and was not limited to Alberta’s National Parks, but was also a country-wide issue (Hamilton, 2017).

Gradually, park management for Canadian National Parks has undergone major restructuring to include other important focuses, such as biodiversity, ecological integrity, and Traditional Ecological Knowledge (TEK), (Enns, E.; et al, 2018). The inclusion of Indigenous Peoples in management roles for wilderness and protected areas in their home territories, is becoming an increasingly essential component for reconciliation (Smyth, 2015). The Government of Canada has begun recognizing the potential for TEK systems in playing a major role in efficiently managing parks and protected areas, leading to the formation of early co-management and IPCA projects across the nation (Nadasdy, 2012). A major concern, however, was and is the lack of consistency for definitions of what co-management and IPCA are (Smyth, 2015).



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We Rise Together ICE Report

In the Canadian context, IPCA refers to a variety of land protection initiatives, including but not limited to; tribal parks, Indigenous cultural landscapes, Indigenous protected areas, and Indigenous cultural areas (Enns, E.; et al, 2018). Essentially, IPCAs are any partition of land or water where an Indigenous government is the primary decision maker in the protection and conservation of ecosystems under TEK, laws, and governance (Enns, E.; et al, 2018). According to ICE, IPCA have three main governance objectives: First, they are Indigenous led; secondly, they represent long-term commitments to conservation of natural resources; and thirdly, they increase the rights and responsibilities of Indigenous Peoples (Enns, E.; et al, 2018). Implementation of IPCA projects throughout Canada have been initiated with varying levels of effectiveness. British Columbia has emerged as a national leader, while Ontario has generally lagged behind in this respect. Criticisms of former projects involving Indigenous-led corporations, co-management projects, and IPCA's help understand lessons learned in developing potential strategies for Ontario, especially for Treaty 9 Territory. These help to initiate more effective IPCA projects for the future, which ultimately aids Canada in its hope to meet its targets laid out in the Aichi biodiversity report.

Issues Plaguing Co-Management and Conservation Areas Establishment

Not all IPCA, or co-management, projects are, or have been, created equally. In many circumstances, projects fail to come into fruition or meet objectives for a variety of reasons (Berkes, 2009). Increased development of logging activities and added value of wood products (particularly deciduous species) in Ontario's northeastern region—particularly within Treaty 9—provide hopes for improving living conditions for Indigenous communities; as well as relationships with major logging corporations in the region (Reid-Kuecks et al, 2012). A conservation economy is founded on the upkeep and enhancement of forested areas for their value outside of wood harvesting and associated products (Reid- Kuecks et al, 2012). The proposal focuses on developing collaborative





framework between the Northeast Superior Chiefs Forum (NSCF) and Northeast Superior Forest Communities Corporation (NSCC) with considerable depth in the foundational framework laid out in the We Rise Together Report (Reid-Kuecks et al, 2012). The issues, in this case, come down to losses in key support from declining infrastructure (i.e. closing mills), interpersonal conflict, and loss of talented and respected community leaders, to other more economically stable regions with better resources. Ultimately, this reduces the possibility of long-term success, which the We Rise Together Report cites as a widespread issue across the country for initiating successful co-management and IPCA projects (Reid-Kuecks et al, 2012, Enns, E.; et al, 2018).

James Bay Treaty (Treaty 9) Territory: Indigenous Rights to Hunt, Fish and Trap

The James Bay Treaty extinguished Indigenous signatories' rights, titles, and privileges to lands and resources within the Treaty boundaries, which encompasses most of northern Ontario today—beyond the Great Lakes watershed divide, from the Hudson and James Bay basins (Leslie, J. 2016). The written terms included annuities for Indigenous signatories and opened Ontario for development and settlement. Academic literature detailing the validity and fairness of Treaty 9 has been critically examined in the past. Pertinent to this research are the provisions

that traditional pursuits, such as hunting, fishing, and trapping, could continue as done in the past except for lands allocated for other purposes (Leslie, J. 2016). The promise that Indigenous Peoples could continue their means of subsistence, was conditional to their signing of the Treaty (Collins, M. 2010). Arguably, the Ojibwe and Cree signatories to Treaty 9 did so to preserve their way of life and not to extinguish their rights to the land (Collin, M. 2010).

Prior to colonization, Indigenous nations had processes for creating, and maintaining, diplomatic relationships with one another. These treaties were grounded in language, worldviews, and Knowledge Systems organized by clans or political structures of the nations involved. They were governed by common ethics, such as responsibility, reciprocity, respect, peace, and accountability (Simpson, L. 2008). Mino-Bimaadiziwin means 'the good life' and is achieved



CONT.

JAMES BAY TREATY (TREATY 9) TERRITORY: INDIGENOUS RIGHTS TO HUNT, FISH AND TRAP

through living in balance within ourselves, one another, and with the beings of creation (LaDuke, W. 2017). Because of the relationship that Indigenous people hold to land, Indigenous communities rely on their traditional territories as a means of subsistence for hunting, trapping, fishing, and gathering (Collins, M. 2010). The land's inherent value informs Indigenous identity, spirituality, ecology, and reality (Collins, M. 2010). There is strong argument that many of the treaties established with First Nations and the Crown encompass the right of conservation of the environment to support ongoing subsistence activities (Collins, M. 2010).

The right to hunt, fish, and trap, has been generally applied to many of the numbered treaties. Section 35 of the Constitution Act 1982 has become enshrined into the Canadian constitution, which also enshrines Treaty parameters (UBC n.d.). Historically, The Indian Act informed Indigenous policies and relations, and the numbered Treaties exacted additional submissions and delegations of power from Indigenous groups (Barsh, R.; Henderson, J. 1982). By rule of law, each Indigenous group is bound only by what has been agreed to, and the powers that Canada received, which are limited by the numbered treaties. However, by uniform application of The Indian Act over First Nations, the numbered Treaties are repudiated and undermined (Barsh, R.; Henderson, J. 1982). Because of precedent set by *Calder v. British Columbia*, 1973, the surrender of title in Treaty 9 leaves Indigenous communities, such as Cree and Ojibwe in the far north, with claims to traditional territory. This means registering with the Negotiations Branch of Ontario's

Ministry of Indian Affairs and waiting for outcomes; however, the comprehensive land claims process has been criticized heavily as an extinguishment policy and should not be viewed as a promising solution. While the subsistence rights of Indigenous Peoples is a positive for Treaty 9 and The Constitution Act—meaning it could be used in the assertion of rights within the territory— other parameters, such as the extinguishment of title limit and the removal of power from impacted Indigenous groups in the far north.



The Ring of Fire: Opportunity to Allocate Land for IPCA's

There is a massive, planned, chromite mining and smelting project inside the mineral-rich James Bay Lowlands of northern Ontario (see Figure 2). The proposed project site is within Ojibwe (Anishinaabe) and Cree (Omushkego) traditional territory (Gobby, J. 2019) and is estimated to hold multi billion dollars' worth of minerals (Gamble, J. 2017). Standard consultation measures and private agreements are not enough to protect the important ecological systems of the James Bay Lowlands. As seen in the case of Coastal GasLink Pipeline Ltd. V. Huson, 2019, consultation measures are required under The Far North Act do not have the same input standards as Free Prior and Informed Consent of UNDRIP, which requires permission from First Nations (Boutilier, S. 2017). The need for careful planning, consideration and implementation, with aggressive and informed remediation and land protection parameters, is essential in protecting the ecological diversity of this special area of land. The Ministry of Environment and Climate Change announced a regional assessment for the Ring of Fire. This assessment is under The Impact Assessment Act, 2019—the first regional assessment to be conducted under the IAA. The assessment is set to begin in March of 2022, and has been criticized by Indigenous and environmental groups heavily for a lack of rigor and accommodation.

James Bay and Hudson Bay Lowlands Ecological Features and Essential Services

The James Bay Lowlands form part of the Hudson Bay Lowlands and is the largest contiguous temperate wetland in the world (Gamble, J. 2017). Freshwater runoff is channeled through the high-water table directly into the streams and brackish water of James Bay (Gamble, J. 2017). On earth, peatlands can store up to three times as much carbon as rainforests combined, and in James Bay Lowland alone holds over 12 megatons of carbon dioxide annually (Gamble, J. 2017). Half of the wetlands in the world are in the northern hemisphere, between 50 and 70 degrees north; 95 percent of wetlands in Treaty 9 are peatland and sequesters one third of the world's carbon storage (Bridgham, Scott, et. el. 1995; Canada, 2022). In addition, the world's largest boreal forest exists in Treaty 9 Territory





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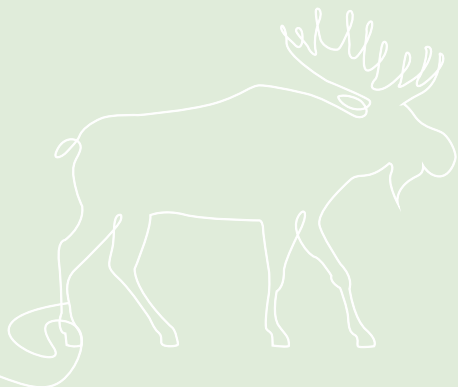
JAMES BAY AND HUDSON BAY LOWLANDS ECOLOGICAL FEATURES AND ESSENTIAL SERVICES

(Chong, 2014). Within Polar Bear Provincial Park, there exists the third -largest protected wetland in the world (Ontario Parks, 2022).

Winisk River Provincial Park is almost surrounded by the Ring of Fire proposed project site, which can be seen by following the Winisk River drainage basin line, marked in Figure 1, and comparing to the Ring of Fire project site seen in Figure 2. The Winisk River flows north into Hudson's Bay and is the largest ocean watershed in Canada (Canadian Geographic, 2022). Winisk River drains into Winisk Lake and is part of the 30 percent of freshwater flow captured. This becomes part of the freshwater runoff that mixes with the sea and provides nutrients to rich estuaries, supporting diverse marine ecosystems (Canadian Geographic, 2022). The closest communities along the river are the Wunnumin Lake First Nation, Webequie, and Peawanuck People (ATRIS, 2022).

Studies on the effects of development within northern Ontario are limited, making the regional assessment even more essential in studying impacts to these sensitive and important ecosystems. Unfortunately, from the time of announcement to present, the influences of stakeholder interests and support of conservative leadership in Ontario have eroded much potential for significant land protection opportunities in the assessment. This has contravened the interests of Mushkegowuk Peoples, opposing development in the region (Stanley, A. 2021; Baiguzhiyeva, D. 2022).

Northern Ontario is home to over 200 sensitive species, including Caribou, which are a threatened species (Wilkinson, C.; Schulz, T. 2012). Treaty 9 Territory provides habitats for many species hunted by Indigenous communities, such as wild moose, caribou, Canada goose meet, as well as lesser snow goose in the area (Gamble, J. 2017). Major disturbances, like the Ring of Fire project impacts



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in James Bay would therefore impact First Nations' community food security. Omushkegowuk (Cree) live a subsistence lifestyle dependent on hunting practices, which in 1990 was estimated to be worth 7.8 million dollars (George, P.; Berkes, F; Preston, R., 1996). This number of sensitive species demonstrates a need for conservation. In addition, the majority of protected land is on one site: Polar Bear Provincial Park (Wilkinson, C.; Schulz, T. 2012). With dependence on hunting, any protected land would not support Cree Nations, as there are more strict limitations on hunting and fishing in protected areas not co-managed, or managed, with Indigenous Peoples. Local Cree and Ojibwe People are in the communities and can use their Knowledge to observe changes in landscapes (Ontario Biodiversity Council, 2020; Canada, 2020). While climate change is a major influence on the James Bay Lowlands, negative impacts from development could be greater. Currently between one and 10 percent of the land in most of Treaty 9 is protected, and there is recognition that each ecoregion is unique (Shea et al, 2018). Recognition of IPCA would increase protected areas across Canada to at least 17 percent. Polar Bear Provincial Park can be expanded to proposed IPCA sites, as it alone covers 70 percent of den sites for polar bears, which are impacted from climate change (Ontario Parks, 2021). Management of land is important in halting biodiversity losses and not simply by expansion of protected areas (Hockings, et al, 2017). IPCA management of land includes an aspect of Indigenous culture. The need to conserve and protect greater areas of land is essential to maintain the ecosystem services and species diversity that characterizes the far north. The potential cumulative impacts to the environment, and in turn to the Cree and Ojibwe First Nations People, are grave.

IPCA ESTABLISHMENT IN NORTHERN ONTARIO

IPCAs are particularly important in regions of boreal forest and ecosystems as they protect the remaining wildlife habitats and secure traditional lands that are critical in the exercising of Indigenous rights, such as the right to hunt, trap, and fish (Moola, F. 2019). These regions have been highly altered and impacted by industrial development projects, which enforces the need for IPCA. Because of the Aichi Convention on Biological Diversity, making IPCA a cornerstone of its strategy, Indigenous People in northern Ontario have a unique ability to participate in land planning strategies to provide input on how and what areas



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IPCA ESTABLISHMENT IN NORTHERN ONTARIO

are protected and managed (Moola, F. 2019). There is tremendous opportunity for conservation in northern Ontario, particularly in Treaty 9 Territory. However, competing priorities and interests in the far north for major development projects, such as the Ring of Fire, are eroding potential areas of conservation. Ontario has a lackluster history of Indigenous inclusion in conservation areas and is non-committal in the Ministry of Indigenous Relations and Reconciliation role in biodiversity protection, as well as omitting the establishment expanding the current system of protected areas and conserved lands (Ontario, 2020). Ontario supports legislation that is problematic, such as The Far North Act, in its strategic plan (Ontario, 2020), which derogates from conservation and instead focuses on resource development.

Furthermore, the Government of Ontario recently approved a series of amendments to The Far North Act, which removed provisions to hinder economic development in northern Ontario and provide cost savings measures for project proponents. It also notably removed reference to the protection of 225,000 square kilometres of interconnected protected areas (Ministry of Northern Development, Mines, Natural Resources and Forestry, 2021). This facilitates the expansion of project overlay on sensitive watersheds and regions with significant biodiversity and peat sequestration services. This, in addition to the recent release of the draft agreement to Conduct the Regional Assessment, which excludes key terminology in its terms of reference, such as: Carbon, sequestration, and carbon sinks (Ministry of the Environment and Climate Change 2021). This contravenes and excludes Mushkegowuk Council communities opposing development in the region from choosing their own representation or having equitable share in decision making opportunities. Therefore, these communities are directly impacted by proposed development by being excluded from decision making processes and reduced to 'tokenized' roles (Baiguzhiyeva, D. 2022). The current atmosphere of changes, and push-pull of opposing worldviews in northern Ontario, is demonstrative of provincial priorities laying with project implementation at the cost of Indigenous livelihood and essential ecological services.



There is mounting evidence of success in establishing Indigenous-led conservation agreements in other parts of the country, particularly in British Columbia. Examples such as Tla-o-qui-aht establish IPCAs to protect the land, as well as to allow self-governance and sovereignty over traditional territory (Tran, T. 2019). So, why is Ontario not doing as well as British Columbia? Perhaps it is because the Tla-o-qui-aht claims of Wanachis-hilth-hoo-is (Mearnes Island) was located on unceded territory, and therefore, was contested on the grounds of pre-existing rights (Murray, G. 2017). It was based on the legal precedent of *R v. Guerin*, 1984, establishing *sui generis* title to the land, where the Crown had a fiduciary obligation to uphold Indigenous interests. The time for Ontario to take meaningful steps, and bring significant action, toward enhancing the ecological resilience (Ontario, 2020) of the land has never been more crucial. This includes Indigenous conservation actions and meaningful inclusion in major project decisions, which have generational impacts to First Nations Peoples.

RECOMMENDATIONS FOR LAND PROTECTION AND CONSERVATION IN NORTHERN ONTARIO

The current reality of our climate crisis calls for uninterrupted land protection between Polar Bear Provincial Park and Winisk River Provincial Park. If Ontario were to protect half of the far north in an interconnected way, it would far exceed Aichi Biodiversity targets in Ontario; however, policy support and funding is necessary to be successful (Wilkinson, 2010). In reflecting on the changes to Ontario's Far North Act, and unabashed support of development in the north, the likelihood of provincial initiative for land protection is grim. In the rush for development and economic benefits, the onus of land protection is again falling on First Nations People, who are publicly calling for all Canadians to consider ecological impacts and resiliency (CELA; Mushkegowuk Council; Friends of the Attawapiskat, 2022).

Expanding existing protected areas, such as Winisk River Provincial Park, to create a larger buffer zone between development operations and drainage basins, would further Canada's national and international obligations, but





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RECOMMENDATIONS FOR LAND PROTECTION AND CONSERVATION IN NORTHERN ONTARIO

seems unlikely in the current political climate. The Park was established in 1969 and does not account for any Indigenous worldview or input. Traditional Indigenous connect coastal communities through a series of hunting grounds and traplines that spans 400,000 kilometres (Enns, E.; et al. 2018). These include the Omushkegowuk's utilization of the Hudson's Bay drainage basin, connected rivers for transportation, as well as flows near Eeyou Istchee located in northern Quebec (Enns, E.; et al. 2018). Currently, the land under The 1975 James Bay and Northern Quebec Agreement is not recognized by the Federal Government as an IPCA. It does, though, provide a framework for land management that is focused on biodiversity and cultural protections and has an ongoing history of protection efforts by Cree Peoples within the territory (Enns, E.; et al., 2018). Already in existence is the Cree Regional Conservation Strategy, established in 2015, to assist in the development of protected areas in both marine and terrestrial regions of Eeyou Istchee and utilizes both western and Indigenous Knowledge Systems in guiding planning and decision making (Enns, E.; et al. 2018). This expansion would entail a joined partnership between the Ontario Provincial Government, Federal Government, and the Cree and Ojibwe Nations of the regions in question.

Another opportunity is for the Provincial Government and the Ministry of the Environment to issue strict protected area parameters, informed by Indigenous input, and outlining areas of importance both ecologically and traditionally. This would create a type of corridor within the project area, which would allow for wildlife to move in and out of Winisk Provincial Park in less dangerous ways. This could look like the shrinking of project area permits to only the most concentrated veins of minerals and leaving the rest undisturbed, or to permit exploration in stages and not simply all at once. Both recommendations can stem from Indigenous initiatives and be informed by Traditional Ecological





Knowledge (TEK) and Indigenous worldviews; however, the responsibility to intervene currently rests with the Federal and Provincial Governments, making nation to nation engagement absolutely critical in creating better project outcomes. With the Impact Assessment Act, 2019, creating more social aspects of the environmental assessment process. At the time, this accounted for 200,000 (and now up to 500,000) available for Indigenous consultations and taking more direct responsibility for consultations (Government of Canada, 2022) for Indigenous Knowledge inclusion. The push and pull between economy and ecological values have been demonstrated in fierce negotiations with high-stake costs associated with all parties (Stanley, A. 2021). Priorities in the Ontario Government is not Indigenous focused. With development pressures mounting in the north, the equitable allocation of lands between development and protection will be hard won.

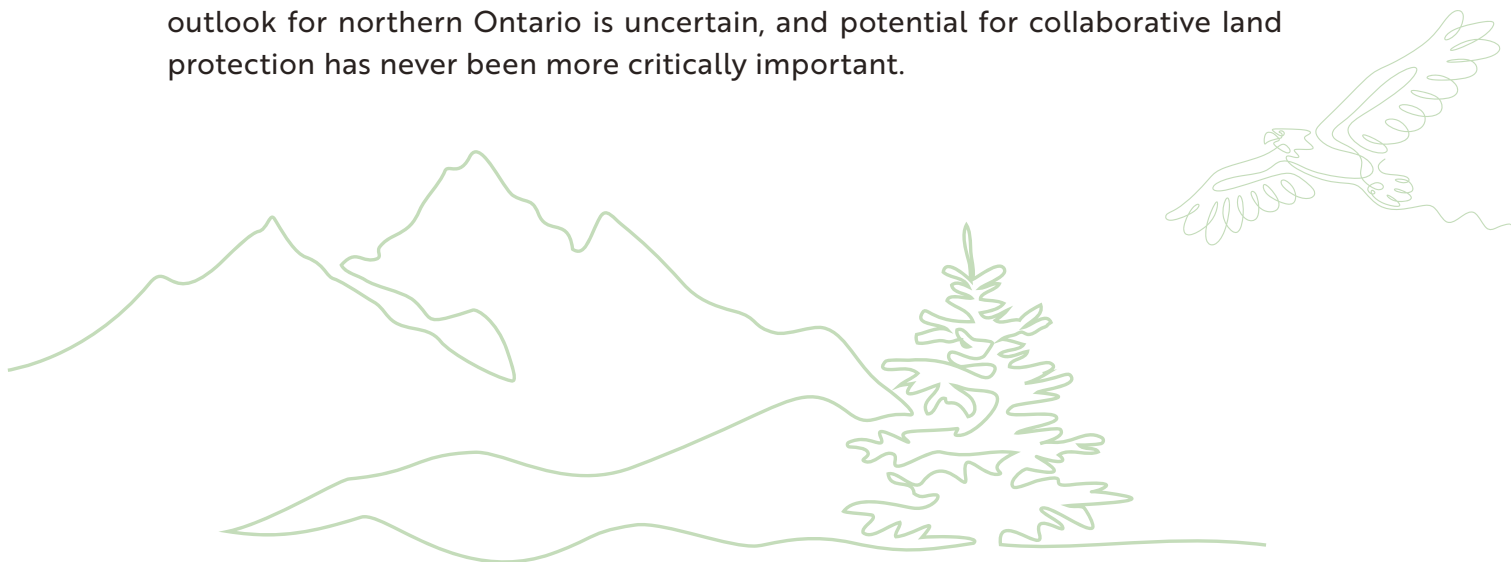
Supporting talented and effective leadership within Treaty 9 Territories is an essential component to the long-term success of these recommendations. These pieces of legislation and policies focusing on leadership development should be founded in correspondence with the framework laid out in the We Rise Together Report, particularly in regards to: Firstly, being Indigenous led; secondly, involve modern application of Traditional Values, Indigenous laws, and Indigenous Knowledge Systems; third, respect protocol and ceremony; and fourth, support the foundation of Indigenous and conservation economies (Enns, E.; et al, 2018). This would involve considerable consultation and teamwork between involved Cree and Ojibwe Nations, as well as the Government of Ontario, and Government of Canada, in order to produce a meaningful and long-term framework for establishing effective IPCA projects within Treaty 9 Territory.





CONCLUSION

The Aichi biodiversity targets could be surpassed with the empathetic, generous, and diverse application of knowledge sources toward the allocation of lands for conservation and protection. Targets one, three, 12, and 15, would all be achieved through the application of recommendations outlined above. Environmental justice would be given to Indigenous Peoples and reconcile past harms in a way that benefits all of the beings of creation. The establishment of expanded Indigenous Protected and Conserved Areas, through existing national parks, is a potential pathway toward environmental protection in northern Ontario. Rigorous conditions involving land protection could be imposed on project proponents in conditional approvals to allow for greater land protection within their parameters. The assertion of Indigenous rights and livelihood are inherent and cannot be drawn from the historical numbered Treaty 9, which effectively extinguishes title to land and resources. This would require the consideration of domestic and international obligations, such as the Truth and Reconciliation Commission of Canada, and the United Nations Declaration on the Rights of Indigenous Peoples. ICE's We Rise Together Report has also been useful in establishing frameworks for IPCA and its potential to aid Canada in meeting its contributions toward global Aichi biodiversity targets, while presenting an opportunity for improved relationships between Indigenous communities and western societies. Bringing together diverse knowledge sources, and respecting other ways of knowing and being, will bring greater protection of lands. In this competing junction between industry, government, and First Nations, the future outlook for northern Ontario is uncertain, and potential for collaborative land protection has never been more critically important.





REFERENCES

ADM-level Biodiversity Steering Group. (n.d.) **2020 BIODIVERSITY GOALS & TARGETS FOR CANADA** https://biodivcanada.chm-cbd.net/sites/biodivcanada/files/inline-files/3499%20-%202020%20Biodiversity%20Goals%20%26%20Targets%20for%20Canada%20-%20%20Final_ENG.pdf

Aikenhead, G., & Michell, H. (2011). **Comparing the two ways of knowing nature. Bridging cultures: Indigenous and scientific ways of knowing nature** (pp. 106-107). Toronto ON: Pearson. doi:978-0-13-210557-6

Anonymous. (n.d.) http://portal.usask.ca/docs/ICC/treaties/9_eng.pdf Retrieved from: https://journals-scholarsportal.info/proxy1.lib.trentu.ca/pdf/08858608/v32i0003/310_ptfnioeotna2.xml

Attorney General of Canada (2021). **United Nations Declaration on the Rights of Indigenous Peoples Act**

S.C. 2021, c. 14, Preamble (2021). doi: **Bill C-15** Retrieved from Justice Laws Website Retrieved from <https://laws-lois.justice.gc.ca/eng/acts/U-2.2/page-1.html#h-1301577>

ATRIS. (2022). **Aboriginal and treaty rights information system**. Retrieved from https://sidait-atris.aadnc-aandc.gc.ca/atris_online/Content/Search.aspx

Baiguzhiyeva, D. (2022, Jan 14, 2022). **Petition opposes ring of fire, regional assessment in the area.**

Toronto Star Retrieved from <https://www.thestar.com/news/canada/2022/01/14/petition-opposes-ring-of-fire-regional-assessment-in-the-area.html>

Barsh, R., & Henderson, J. (1982). **Aboriginal rights, treaty rights, and human rights: Indian tribes and "constitutional renewal"**. *Journal of Canadian Studies*, 17(2), 55-81.

Battiste, M., & Henderson, J. (2000). **Protecting indigenous knowledge and heritage: A global challenge**. Saskatoon: Purich.

Berkes, F. (2009). **Evolution of co-management: Role of knowledge generation, bridging organizations and social learning**. *Journal of Environmental Management*, 90(5), 1692-1702. doi:10.1016/j.jenvman.2008.12.001





REFERENCES

- Boutilier, S. (2017). **Free, prior, and informed consent and reconciliation in Canada: Proposals to implement articles 19 and 32 of the UN declaration on the rights of indigenous peoples**, 2017 CanLIIDocs 333. *Western Journal of Legal Studies*, 7(1)
- Brackley, C. (n.d.) **Map of current mining claims on Treaty 9 territory in Ontario's Ring of Fire**.
- Canadian Geographic. Retrieved from: <https://www.canadiangeographic.ca/article/whats-stake-ontarios-ring-fire>
- Bridgham, Scott, et al. (1995). **Potential feedback of northern wetlands on climate change**. (1995).
- BioScience., 45(4). **Washington D.C. American Institute of Biological Sciences**. DOI 10.2307/1312419
- Canada. (2022). **Indigenous Guardians Pilot Program**. Retrieved from <https://www.canada.ca/en/environment-climate-change/services/environmental-funding/indigenous-guardians-pilot-program.html>
- Canadian Geographic. (2022). **Protect your watershed: Hudson Bay**. Retrieved from <http://www.canadiangeographic.com/watersheds/map/?path=english/watersheds/hudson-bay>
- CELA, Mushkegowuk Council, & Friends of the Attawapiskat (2022). **Petition: We the people of treaty 9 and the descendants of the signatories of treaty 9 are standing up to protect our lands and waters, and the health of our grandchildren and those not yet born**. Unpublished manuscript. Retrieved Jan, 2022, Retrieved from https://docs.google.com/forms/d/e/1FAIpQLScxHB653MVp4FdOg0yHlulRuZsjvzlvfUMwgv-bqK4Kn_KWKw/viewform?fbclid=IwARIEO-fMDt7uCQJfYQsesP9pAbiif5aJkWhTwW886BJHn4la9wbFd9wSEM
- Chong, J. (2014). **Resource development in Canada. A Case study on the ring of Fire**. Retrieved from http://publications.gc.ca/collections/collection_2014/bd-lop/bp/2014-17-eng.pdf





REFERENCES

Collins, M.; Murtha, M. (2010). **Indigenous environmental rights in Canada: The right to conservation implicit in treaty and aboriginal rights to hunt, fish and trap**, 2010 CanLII Docs 297. Alberta Law Review Society, 47(4), 959.

Corntassel, J. (2012). **Cultural restoration in international law: Pathways to indigenous self-determination**. Canadian Journal of Human Rights, , 93-125. doi:2012CanLII Docs13

Enns, E., Littlechild, D., ICE Co-Chairs, & Government of Canada. (2018). **We Rise Together Achieving Pathway to Canada Target 1 through the creation of Indigenous Protected and Conserved Areas in the spirit and practice of reconciliation**. Indigenous Circle of Experts, 1 112. Retrieved from https://static1.squarespace.com/static/57e007452e69cf9a7af0a033/t/5ab94aca6d2a7338ecb1d05e/1522092766605/PA234-ICE_Report_2018_Mar_22_web.pdf

Gamble, J. (2017, Aug 24). **What's at stake in Ontario's ring of fire**. Canadian Geographic Retrieved from <https://www.canadiangeographic.ca/article/whats-stake-ontarios-ring-fire>

George, P.; Berkes, F.; Preston, R. (1996). **Envisioning cultural Ecological and economic sustainability: The Cree Communities of the Hudson and James Bay Lowland Ontario**. Canadian Journal of Economics, 29. Retrieved from <https://web-b-ebscobhost-com.proxy1.lib.trentu.ca/ehost/pdfviewer/pdfviewer?vid=1&sid=b50ad84f-2429-4e68-9c58-a0a23fde84df%40pdc-v-sessmgr02>

Gobby, J. (2019). **Ring of fire, Ontario Canada**. Environmental Justice Atlas, March 25th, 2020. Retrieved from: <https://ejatlas.org/conflict/ring-of-fire-ontario-canada>

Government of Canada. (2022). **Impact assessment agency of canada**. Retrieved from <https://www.canada.ca/en/impact-assessment-agency.html>

Government of Canada. (2021). **Consultation, cooperation and engagement on an action plan to achieve the objectives of the United Nations Declaration on the Rights of Indigenous Peoples Act**. Retrieved from <https://www.justice.gc.ca/eng/declaration/engagement/form/index.html#s6>





REFERENCES

- Hockings, et al, (2017) **Developing capacity for a protected Planet**. Parks. 23.2 Retrieved from: http://parksjournal.com/wp-content/uploads/2017/11/PARKS-23.2-high-res-10.2305IUCN.CH_.2017.PARKS-23-2.en_.pdf#page=63
- LaDuke, W. (2017). 2017 **geography of hope: Winona LaDuke**. Retrieved from <https://www.youtube.com/watch?v=lcTuJpmjUZI>
- Lamirande, T. (2019, Mov 28). **UNDRIP bill becomes law in B.C. after it fails federally**. APTN Nation to Nation Retrieved from <https://aptnnews.ca/2019/11/28/undrip-bill-becomes-law-in-b-c-after-it-fails- federally/>
- Leslie, J. (2016). **Treaty 9 The Canadian Encyclopedia**.
- LittleBear, L. (2000). Jagged worldviews colliding. In M. Battiste (Ed.), **Reclaiming Indigenous voice and vision** (pp. 77-85). Vancouver, BC: UBC Press. doi:9780774807456`
- Ministry of Northern Development, Mines, Natural Resources and Forestry (2021). **Proposed amendments to the far north act, 2010, 019-2684, (2021)**. Retrieved from <https://ero.ontario.ca/notice/019-2684>
- Ministry of the Environment and Climate Change. (2021). **Draft agreement to conduct a regional assessment in the ring of fire area. (). Government of Canada: Impact Assessment Agency of Canada**. doi:80468 Retrieved from Canadian Impact Assessment Registry Retrieved from <https://iaac-aeic.gc.ca/050/evaluations/proj/80468>. (Ring of Fire)
- Moola, F.; Roth, R. (2019). **Moving beyond colonial conservation models: Indigenous protected and conserved areas offer hope for biodiversity and advancing reconciliation in the Canadian boreal forest**. Environmental Review. 200-201. doi:dx.doi.org/10.1139/er-2018-0091
- Mrema, E. (n.d.). **Canada - Main Details**. Retrieved from <https://www.cbd.int/countries/profile/?country=ca#facts>
- Murray, G., & Burrows, D. (2017). **Understanding power in indigenous protected areas: The case of the tla-o-qui-aht tribal parks**. Springer Science-Business Media, LLC, (45), 763-772. doi: <https://doi.org/10.1007/s10745-017-9948-8>





REFERENCES

- Nadasdy, P. (2012). **Boundaries among Kin: Sovereignty, the Modern Treaty Process, and the Rise of Ethno-Territorial Nationalism among Yukon First Nations**. *Comparative Studies in Society and History*, 54(03), 499-532. doi:10.1017/s0010417512000217
- Nelson, M. (2008). **Lighting the sun of our future- how these teachings can provide illumination. Original instructions: Indigenous teachings for a sustainable future** (pp. 3-4). Rochester, Vermont: Bear & Company. doi:978-1-58143-079-7
- Ontario. (2020). **Biodiversity: It's in our nature | Ontario government plan to conserve biodiversity 2012- 2020**. Retrieved from <https://www.ontario.ca/page/biodiversity-its-our-nature>
- Ontario Nature. (2018) November. **Transforming Conservation: Indigenous Protected and Conserved Areas in Ontario, May 2018**[Youtube]. Retrieved from <https://www.youtube.com/watch?v=0wUxmQ5Xgg4>
- Ontario Parks (2022). **Winisk River. Welcome to Winisk River Provincial Park** (ontarioparks.com)
- Ontario Parks. (2021). **The Polar Bear: Ontario's arctic giant**. Retrieved from <https://www.ontarioparks.com/parksblog/the-polar-bear-ontario%E2%80%99s-arctic-giant/>
- Pereira, R., & Gough, O. (2014). **Permanent sovereignty over natural resources in the 21st century: Natural resource governance and the right to self-determination of indigenous peoples under international law**. *Melbourne Journal of International Law*, 14, 135+. Retrieved from https://link-gale-com.proxy1.lib.trentu.ca/apps/doc/A403448310/AONE?u=ocul_thomas&sid=AONE&xid=100ce598
- Reid-Kuecks, B., Hughes, N., Manhas, S., & Enns, E. (2012). **Building a Conservation Economy in the Northeast Superior Region of Ontario, 1 28**. Retrieved from <http://wahkohtowin.com/wp-content/uploads/2017/11/Building-a-Conservation-Economy-in-the-Northeast-Superior-Region-of-Ontario-final-report-9.9.12.pdf>
- Scott, J & Hillel, O. (2019) **General Overview: Objectives, Principles and Achievements to date of the current Programme of Work on Traditional Knowledge [Webinar]**. Retrieved from <https://www.cbd.int/traditional/presentations/online-forum-future-work/SCBD.pdf>



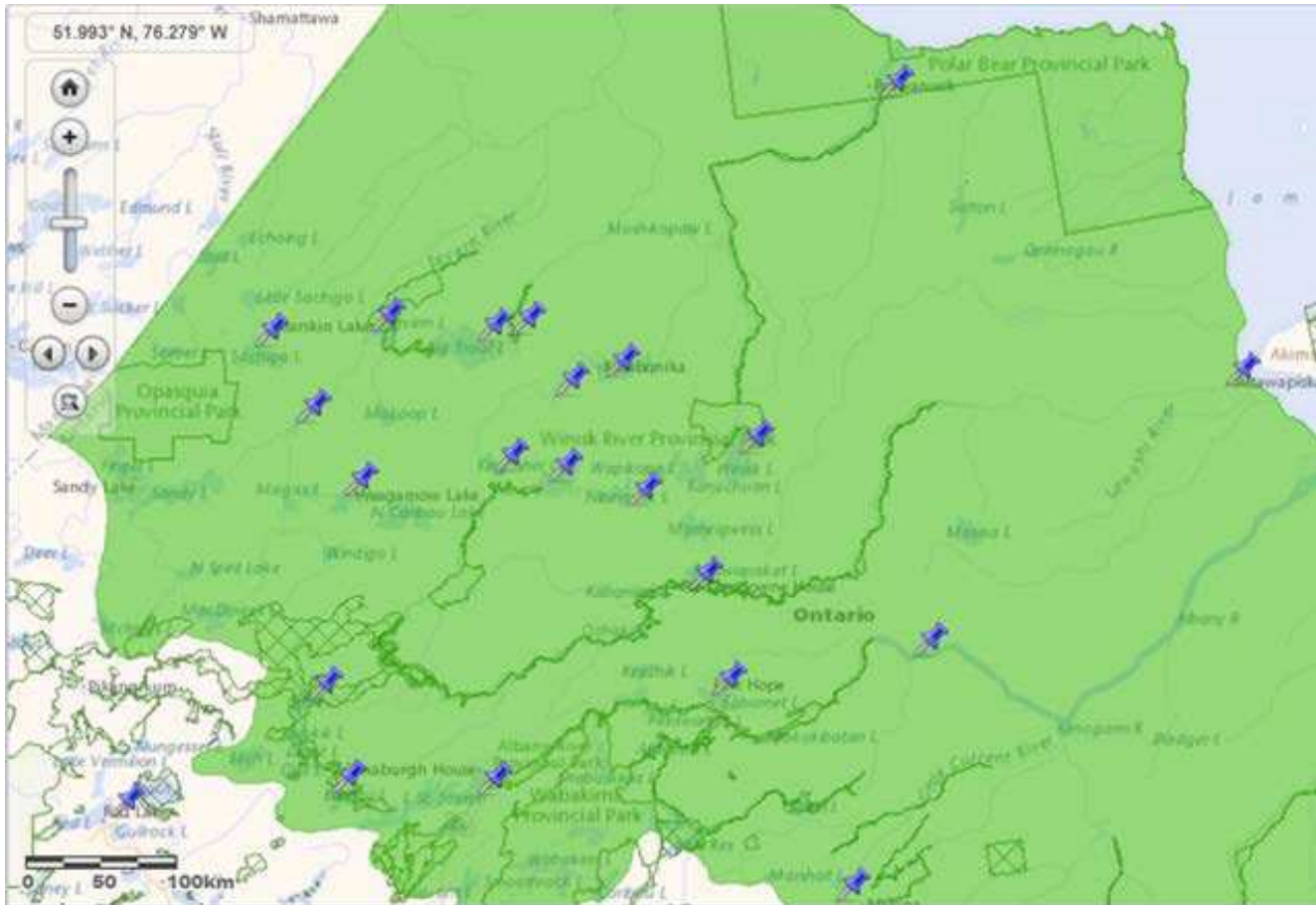
REFERENCES

- Shea, et al. (2018). **Canada's Conservation Vision: A Report of the National Advisory Panel**. Retrieved from https://static1.squarespace.com/static/57e007452e69cf9a7af0a033/t/5b23dce1562fa7bac7ea095a/1529076973600/NAP_REPORT_EN_June+5_ACC.pdf
- Simpson, L. (2008). **Looking after Gdoo-Naaganinaa: Precolonial Nishnaabeg diplomatic and treaty relationships Project Muse**.
- Smyth, D. (2015). **Indigenous Protected Areas and ICCAs Commonalities, Contrasts and Confusions**.
- Parks, 21(2), 1-12. doi: [10.2305/iucn.ch.2014.parks-21-2ds.en](https://doi.org/10.2305/iucn.ch.2014.parks-21-2ds.en)
- Stanley, A. (2021, Nov 1). **Will debt, liability and indigenous action see the sun set on the ring of fire? The Conversation** Retrieved from <https://theconversation.com/will-debt-liability-and-indigenous-action-see-the-sun-set-on-the-ring-of-fire-169311>
- Tran, T.; Ban, N.; Bhattacharyya, J. (2020). **A review of successes, challenges, and lessons from indigenous protected and conserved areas**. Biological Conservation, doi: <https://doi.org/10.1016/j.biocon.2019.108271>
- TRC. (2015). **Truth and reconciliation commission of Canada: Calls to action**. (). Winnipeg, Manitoba: Retrieved from www.trc.ca
- UBC. (n.d.). **Constitution Act, 1982 Section 35**. Retrieved from https://indigenousfoundations.arts.ubc.ca/constitution_act_1982_section_35/
- UNDRIP. (2008) **United Nations Declaration on the Rights of Indigenous Peoples, 07-58681, 107th Plenary Meeting Cong. (2008)**. Retrieved from https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf
- United Nations. (1992). **Convention on Biological Diversity**. Retrieved from <https://www.cbd.int/doc/legal/cbd-en.pdf>.
- Wilkinson, C.; Schulz, T. (2012). **Planning the Far North in Ontario, Canada: an Examination of the "Far North Act, 2019"**. *Natural Areas Journal*. 32 (3). P 310-315. DOI <https://doi-org.proxy1.lib.trentu.ca/10.3375/043.032.0309>



FIGURES

Figure 1. Map of Treaty 9 James Bay Lowlands with Parks and Drainage Basin Markers



Aboriginal and Treaty Rights Information System (2022). Map of Treaty 9 James Bay Lowlands with Parks and Drainage Basin Markers. Indigenous and Northern Affairs Canada.

Retrieved from: https://sidait-atris.aadnc-aandc.gc.ca/atris_online/Content/Search.aspx





FIGURES

Figure 2. Map of Ring of Fire Mining Claims on Treaty 9 Territory



Canadian Geographic. Retrieved from: <https://www.canadiangeographic.ca/article/whats-stake-ontarios-ring-fire>



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