



OBVT
Organisme
de bassin versant
du Témiscamingue

Lake Kipawa Concerted Management Plan

Second Progress Report

Vocation and Objectives for Lake Kipawa

by

Thibaut Petry

Organisme de bassin versant du Témiscamingue

Ville-Marie (QC), October 2013.

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1. Presentation of the Second Progress Report

This document is part of a series of three progress reports punctuating the Lake Kipawa Concerted Management Plan project.

The first project report, which presented the profile of the territory and the concerns, is available at the following address:

http://www.obvt.ca/fichiers/documents/1st_progress_report_concerted-management-plan_LakeKipawa.pdf.

The second progress report presents the process that was followed to define the concerted management objectives and the list of objectives broken down into different themes as well as Lake Kipawa's vocation.

The third progress report will include the action plan and the proposed management procedures for the future of Lake Kipawa.

These three reports will be amalgamated at the end of the project to develop the final draft of the Concerted Management Plan.

As a reminder, all the collected data (concerns, objectives and actions) will be submitted to the decision-making bodies (MRC and MRN) in the form of recommendations.

2. Vocation of Lake Kipawa

Following the different consultation phases (consultation meeting, survey, petition, specific meetings, consultative committee), and with the approval of the Consultative Committee, the vocation unanimously agreed upon for Lake Kipawa is as follows:

“Lake Kipawa is a body of water with exceptional characteristics that should be preserved. No development on the Lake should affect the integrity, quality and long term preservation of this body of water. Actions should be put forward to adequately know and manage present and future problems.”

This wording allows highlighting three major points:

- ❖ Lake Kipawa is a jewel of nature
- ❖ It must be preserved
- ❖ A number of problems need to be resolved

Approved and adopted by the Consultative Committee, this vocation statement is the starting point to determine the objectives and the message to keep in mind in defining the lake's future.

3. Method Used to Determine the Objectives

3.1. Methodology

In a management plan such as this one, the definition of the objectives is of prime importance. They allow taking into account all the aspects of the lake's future management.

In the Lake Kipawa Concerted Management Plan development process, a very large number of issues and concerns were raised.

The purpose being to respond to as many issues and concerns as possible, broader themes were prepared and all the data were categorised according to these themes so as to be able to take them into account (see the first progress report, Section 5. *Summary of Issues and Concerns*). Based on these thematic categories, the objectives were drafted by the Consultative Committee. Only one meeting of the Consultative Committee had been planned to determine the objectives (July 22, 2013). Workshops were organised on the different themes: each Committee member was thus able to participate in each workshop in a small group format.

Finally, the time planned to cover all the aspects in one evening was too short. A second meeting to finalise the objectives was therefore organised (September 17, 2013). Between these two meetings, the Consultative Committee representatives has the opportunity to review the objectives and come back in the plenary session of the second meeting for the final validation of the objectives.

This procedure has allowed determining consensual objectives and those that were not. A consensual objective is one that all members agree upon; the lack of consensus was not a problem as it was recorded as such.

In parallel to the proceedings with the Consultative Committee, the Aboriginal communities of Eagle Village First Nation and Wolf Lake First Nation were met. A meeting in the early stage of the project had allowed presenting the project and opening the door to their suggestions, as best suited them. In a second meeting, a progress report on the project and messages from the Consultative Committee were presented.

The parallel consultation work with the Consultative Committee on one hand and the First Nations on the other hand, is clearly known by all stakeholders. The information resulting from each meeting is disseminated by the OBVT to all stakeholders. A document was produced by the First Nations (EVFN & WLFN, Sept. 2013, see *Appendix 1*) and the results are included in the present document (*Section 4.6.*).

3.2. Consultative Committee Membership

The Consultative Committee is made up of 18 representatives. It was set up at the beginning of the process (at the public consultation meeting) to represent all the actors, organisations and users around the lake.

Groups	Representatives	Attendance - July 22, 2013 meeting	Attendance - September 17, 2013 meeting
Municipalities			
Témiscaming	Philippe Barette	X	X
Kipawa	Norman Young	X	X
Laniel	Yvon Gagnon	X	
Béarn	Luc Lalonde		
Environmental & Community Sector			

Environmental organisation	APART: Johanne Descoteaux	X	X
Lake association	Henri Laforest	X	X
Users association	Pleasure boating: Daniel Goulet (also Témiscaming-Kipawa Chamber of Commerce)		X
Hunters, anglers	Gino Lafrenière	X	X
Citizens	André Lapierre, Claude Bérubé, Clyde & Thomas Mongrain, Karen Kowalchuk & Stephen Kilburn	All except Clyde Mongrain	All except Claude Bérubé
Economic Sector			
Outfitters (Economic & Tourism sector)	Yves Bouthillette	X	X
Tourism	Dany Gareau		X
Industrial sector	Claude Brisson (Matamec)	X	X
Témis-accord Chamber of Commerce	Robin Larochelle		X
First Nations			
Eagle Village			
Wolf Lake			

Table 1 : Consultative Committee – Lake Kipawa Concerted Management Plan

4. Objectives for Lake Kipawa

Each objective was classified under the theme it referred to; sometimes, the same objectives are found under several themes (for example: develop awareness, educate and build up accountability; this objective is found in both pleasure boating and fishing). There is no priority order in the following tables; numbering is used for easier reading.

4.1. Management Structure

It appeared that a management structure would be essential to ensure the implementation and monitoring of Lake Kipawa's concerted management and preservation.

Objective	Outcome
1. Implement a management structure for Lake Kipawa	Consensus

Table 2: Concerted objective for a management structure for Lake Kipawa

4.2. Permanent and Seasonal Residency

Objectives	Sub-objectives	Outcome
2. Improve water quality to reduce blue-green algae	Ensure close monitoring of blue-green algae occurrences and document pollutant	Consensus

Objectives	Sub-objectives	Outcome
occurrences	sources that promote them	
	Enforce current housing regulations (septic tanks, riparian buffers, docks, etc.)	Consensus
	Develop awareness, educate and build up accountability of lake residents	Consensus
3. Ensure consistency with First Nations regarding housing management	-	Consensus
4. Apply regulations for occupants without permit or title just as for other users of the territory	-	Consensus
5. Maintain current moratorium for a 3 to 5 year period to allow collecting more information on the current state of the lake and implementing solutions to remedy problem situations	-	Consensus, except for the moratorium period (3 or 5 years, 3 years minimum); this period may need to be reconsidered.
6. Ensure consistency between private and public land	-	Consensus

Table 3: Concerted objectives for Permanent and Seasonal Residency

4.3. Fishing and Fish Populations

Objectives	Sub-objectives	Outcome
7. Avoid and control invasive exotic species	-	Consensus
8. Document sustenance fishing and take it into account in fishing management	-	Consensus
9. Ensure fair cost-sharing regarding fishing monitoring and management (by visiting and resident fishermen)	-	Consensus
10. Develop awareness, educate and build up accountability of fishermen	-	Consensus
11. Increase fish stocks to a	-	Consensus

Objectives	Sub-objectives	Outcome
level that can support sports fishing (rehabilitation of lake trout populations, fishing quality improvement and protection of yellow walleye spawners)		
12. Adjust water level management to reduce impact on fish populations	-	Consensus
13. Maintain water quality to sustain fish	Take into account the activities on Lake Kipawa watershed	Consensus
14. Increase fishing activity monitoring (wildlife officers)	-	Consensus

Table 4: Concerted objectives for Fishing and Fish Populations

4.4. Pleasure Boating and Use of Lake Kipawa

Objectives	Sub-objectives	Outcome
15. Increase knowledge on lake users and uses	-	Consensus
16. Avoid and control invasive exotic species	-	Consensus
17. Develop awareness, educate and build up accountability of users	-	Consensus
18. Maintain current quietness in high residential and use areas	-	Consensus
19. Improve water quality to reduce blue-green algae occurrences	-	Consensus
20. Monitor lake use increase to limit impact on water quality and quietness	Encourage low-impact pleasure boating activities (ex. : canoeing, kayaking, sailing)	Consensus
	Promote the use of camping grounds, outfitting establishments or existing managed infrastructures	Consensus

Table 5: Concerted objectives for Pleasure Boating and Use of Lake

4.5. Commercial and Industrial Activities

Objectives	Outcome
21. Prohibit commercial or industrial activities that could deteriorate the lake's water quality, aquatic environment, landscape or quietness	Consensus
22. Limit the impact of current commercial and industrial activities within the 300-metre strip and prohibit new activities	No consensus because some believe that it is possible to allow certain projects, but others do not want any mining, forestry and other activities.
23. Avoid promoting hydro development projects	No consensus
24. Maintain moratorium on outfitting and cottage infrastructures development (i.e. permanent structures, excluding camping grounds): no new infrastructures and current accommodation capacity	Consensus conditional to outfitters being able to meet the demand for diversified recreotourism and not limiting their services to hunting and fishing
25. Ensure the operation and compliance of existing outfitting establishments	Consensus

Table 6: Concerted objectives for Commercial and Industrial Activities

4.6. Aboriginal Demands

- Preserving spawning sites
- Lowering the fishing quotas for sports users since the 1990 Supreme Court of Canada Sparrow decision confirmed a priority use for Aboriginal food fishery.
- Local management of water level during critical spawning periods and egg development periods.
- Installation of a boat washing station. The money collected to be used specifically for management of Lake Kipawa.
- Stricter and enforced rules and regulation on maintenance of shoreline and septic system.
- Regulate to minimum distance to build from the water's edge.
- Maintain moratorium for new cottage development by non-Algonquins until such time as existing cottages and septic systems are up to legal standards.
- A joint Canada-Algonquin Environmental Assessment should be undertaken of the proposed Matamec Project (EVFN & WLFN, Sept. 2013).

5. List of Acronyms

APART: Association pour l'avenir des ressources témiscamiennes (Association for the future of Témiscamingue's resources)

EVFN: Eagle Village First Nation

WLFN: Wolf Lake First Nation

6. Bibliography

- Eagle Village First Nation & Wolf Lake First Nation Joint Presentation on the Proposed Lake Kipawa Management Plan, Sept 2013

Appendices

Appendix 1: Eagle Village First Nation & Wolf Lake First Nation, September 2013. Joint Presentation on the Proposed Lake Kipawa Management Plan.



WOLF LAKE FIRST NATION
Hunter's Point, P. O. Box
Temiscaming, Quebec
J0Z 3R0
Tel: 819-627-3628
Fax: 819-627-1109



Eagle Village First Nation-Kipawa
Migizy Odenaw
P.O. Box 756
Temiscaming, QC
J0Z 3R0
Tel: 819-627-3455 Fax: 819-627-9428

September 26, 2013

Mr. Ambroise Lycke
Director-General
Organisme de bassin versant
du Témiscamingue
1C, Notre Dame Street North, Suite 1.3
Ville-Marie (QC), J9V 1W6

By Fax: (819) 629-6256

Hon. Élisabeth Larouche
Minister of Aboriginal Affairs
Secrétariat aux affaires autochtones
900, place D'Youville
5e étage
Québec (Quebec) G1R 3P7

By Fax: (418) 646-4918

Hon. Martine Ouellet
Minister of Natural Resources
5700, 4e Avenue Ouest
Bureau A-301
Québec (Québec) G1H 6R1

By Fax: (418) 643-4318

Hon. Yves-François Blanchet
Minister of Sustainable Development,
Environment, Wildlife & Parks
675, boulevard René-Lévesque Est
30e étage
Québec (Québec) G1R 5V7

By Fax: 418 643-4143

Re: JOINT PRESENTATION ON PROPOSED LAKE KIPAWA MANAGEMENT PLAN

Dear Mr. Lycke, Mr. Warolin & Ministers:

Mr. Arnaud Warolin
Prefect,
MRC-Témiscamingue
21, rue Notre-Dame-de-Lourdes
Suite 209
Ville-Marie (Quebec) J9V 1X8

By Fax: (819) 629-3472

Hon. Francois Gendron
Deputy Premier
Minister of Agriculture, Fisheries
& Food
200, chemin Sainte-Foy
12e étage
Québec (Québec) G1R 4X6

By Fax: (418) 380-2184

Hon. Sylvain Gaudreault
Minister of Municipal Affairs
Édifice Jean-Baptiste-De La Salle
10, rue Pierre-Olivier-Chauveau
Aile Chauveau, 4e étage
Québec (Québec) G1R 4J3

By Fax: (418) 643-1795

We are pleased to present to your organizations and the Government of Quebec the Joint Position of our two Algonquin First Nations on the Proposed Lake Kipawa Management Plan.

We appreciate the opportunity given to us to provide our comments to the OBVT and the MRC Temiscamingue regarding the proposed Lake Kipawa Management Plan. We hope our comments help to clarify the position of our two Algonquin First Nations on this matter.

We are prepared to work with the government of Quebec (and the regional/municipal governments) on a future Lake Kipawa Joint Management and Co-operation Agreement through a mutually agreed upon consultation-accommodation process.

We congratulate the OBVT for agreeing to undertake this important task on behalf of the MRC-Temiscamingue about the future of Lake Kipawa, the fishery, the water quality and the shoreline habitat.

We look forward to reviewing the final OBVT Report & Draft Lake Kipawa Management Plan once it is completed and discussing the next steps with the government of Quebec.

Sincerely,



Chief Harry St. Denis
Wolf Lake First Nation



Chief Madeleine Paul
Eagle Village First Nation

cc. Chief Terrance McBride, Timiskaming First Nation
Mr. Gilles Chapadeau, PQ, Member for Rouyn-Noranda-Témiscamingue



WOLF LAKE FIRST NATION
Hunter's Point, P. O. Box
Temiscaming, Quebec
J0Z 3R0
Tel: 819-627-3628
Fax: 819-627-1109



Eagle Village First Nation-Kipawa
Migizy Odenaw
P.O. Box 756
Temiscaming, QC
J0Z 3R0
Tel: 819-627-3455 Fax: 819-627-9428

**JOINT PRESENTATION
ON
PROPOSED LAKE KIPAWA MANAGEMENT PLAN
TO
OBVT, MRC-TEMISCAMINGUE,
QUEBEC ABORIGINAL AFFAIRS SECRETARIAT
QUEBEC MINISTRY OF AGRICULTURE, FISHERIES & FOOD
QUEBEC MINISTRY OF NATURAL RESOURCES
QUEBEC MINISTRY OF MUNICIPAL AFFAIRS
QUEBEC MINISTRY OF SUSTAINABLE DEVELOPMENT, LANDS, WILDLIFE &
PARKS**

September 26, 2013

Introduction

On July 26, 2013, Chiefs Harry St. Denis and Madeleine Paul and other representatives from our two Algonquin First Nations met with L'Organisme de bassin versant du Témiscamingue (OBVT) Director-General, Ambroise Lycke and Project Manager, Thibaut Petry, to discuss the mandate of the OBVT, the OBVT consultation process and OBVT preliminary findings of the proposed Lake Kipawa Management Plan.

The following comments reflect our two Algonquin First Nations joint position on Quebec's proposed Lake Kipawa Management Plan.

We are presenting our views on this public consultation process not only to OBVT and the MRC-Témiscamingue, but also to the relevant Quebec departments, since it is the Quebec government that owes to our two First Nations the legal duty to consult and accommodate as directed by the Supreme Court of Canada in the 2004 Haida decision.

We fully expect the government of Quebec to consult and accommodate our two Algonquin First Nations on the findings and recommendations when the OBVT and MRC Témiscamingue public consultation process phase on the proposed Lake Kipawa Management Plan is complete.

Background

Our Algonquin First Nations of Wolf Lake (WLFN) and Eagle Village (EVFN) (and Timiskaming) assert unextinguished Aboriginal rights, including title, over our traditional territories, which straddle the Ottawa River basin on both sides of the Quebec-Ontario boundary. A map showing the territory over which our communities assert their Aboriginal rights is appended to this document as Annex 'B'.

In January 2013, our two Algonquin First Nations (and TFN) jointly released a **Statement of Asserted Rights (SAR)** which summarizes the Aboriginal and Treaty rights which our three First Nations assert, and provides detailed evidence to substantiate it. Copies of the **SAR**, maps and background documentation were transmitted to the Quebec Ministers responsible for Aboriginal Affairs, Natural Resources, and Justice, on 23 January 2013. (see Annex 'A')

As we noted above, the Crown in right of Quebec has a legal duty to consult First Nations when developments may impact on their asserted rights, and to accommodate them if circumstances warrant. The government of Quebec has developed a policy to address its consultation obligations. The nature and scope of the duty to consult will vary, depending on impacts of the proposed development, and also depending on the evidence put forward by the First Nations.

With the **SAR**, our two Algonquin First Nations (and TFN) have provided detailed and substantive evidence to document the rights which we are asserting. As a result, the government of Quebec is obliged to respond in a meaningful way that reflects the nature and scope of the evidence provided.

Algonquin Proposal to Quebec for Consultation Mechanism

On August 12, 2013, our three Algonquin First Nations (WLFN, EVFN, TFN) submitted a proposal to the Quebec Minister of Aboriginal Affairs, Élisabeth Larouche, also present during the meeting was the Rouyn-Noranda–Témiscamingue Member of the National Assembly, Gilles Chapadeau and MRC Témiscamingue Prefect, Arnaud Warolin.

Our proposal to Quebec Minister of Aboriginal Affairs, Minister Larouche, is to establish a formal Consultation mechanism for managing natural resource developments occurring on lands within the Abitibi-Témiscamingue and Outaouais regions of Quebec that are subject to our three Algonquin First Nation's Aboriginal Rights and Title.

We as the Chiefs of our each of our three respective Algonquin First Nations told Minister Larouche that a formal Consultation Protocol is required for Algonquin consultations and/or accommodation in projects or activities involving natural resources, such as the Regional Board of Elected Officials of Abitibi-Témiscamingue Plan for Integrated Land and Natural Resource Development of Abitibi-Témiscamingue (PRDIRT), forestry, mining, the current review of a management plan for Lake Kipawa and other regional developments, such as Opemican Park and protected areas. (emphasis added)

The Quebec Minister of Aboriginal Affairs, Élisabeth Larouche, committed to discussing with a Quebec government inter-departmental committee reviewing the Algonquin summary of evidence and sending a letter back to our three Algonquin Chiefs in a short time with Quebec's response to our proposal.

We, as the Chiefs of our Algonquin First Nations confirmed to the three Quebec political representatives that our Algonquin First Nations are not opposed to the sustainable development of the regions (Abitibi-Témiscamingue & Outaouais), but that Algonquin involvement in natural resource plans and activities must occur through a formal Consultation Protocol consistent with the provincial government's legal duty to consult and accommodate First Nations, which, as we have already noted above, was set out in the Supreme Court of Canada's 2004 Haida decision.

Objectives of Algonquin Consultation Mechanism Proposal

There are two main objectives of our Algonquin Consultation Mechanism proposal:

1. **Internal Algonquin Protocol:** Develop a formal protocol between our three Algonquin First Nations (WLFN-EVFN-TFN) to address issues arising from overlaps and shared use territories, in order to establish predictable and transparent procedures, on a geographic basis, for identifying and managing consultation requests from the provincial government. This would include shared standards and procedures for consultation response and management, and the identification of roles and responsibilities.
2. **Algonquin-Quebec Protocol:** Between WLFN, EVFN (and TFN) and SAA: Develop a formal protocol to manage consultation issues within the territory, including

agreed upon standards and procedures for consultation response and management. This would make use, where appropriate, of economies of scale and pooled efficiencies.

Geographic Scope of Algonquin-Quebec Protocol

The subject area would include the lands and waters identified on the map (see Annex 'A') that lie within the province of Quebec, and any other areas (ie., portions of the Ottawa River that are transboundary) as may be agreed upon.

The Algonquin First Nations of Eagle Village & Wolf Lake Watershed Management Planning

Our First Nations have been working on a **Draft Water Declaration** within the traditional territory of our Algonquin Nation which includes the entire Ottawa River watershed. The core and shared territories of our Algonquin First Nations of Eagle Village and Wolf Lake includes specific portions of the Ottawa River watershed. The main river catchments of our territories, beside the Ottawa itself but not limited to, includes those of the Kipawa, Dumoine, Beauchene & Maganasipi.

Without the consent of our Algonquin Peoples much of our territories have been affected by dams and reservoirs, water represents about 15 % of our territories.

There have been significant impacts to aquatic ecosystems and consequently our lands and livelihood as a result of the construction of dams and the operation of the reservoirs.

Under the **Draft Water Declaration** we declare all waters that flow into and out of Kipawa, Beauchesne (both reservoirs), Wolf, Brennan, Grassy, Brulé, Ostaboningué, Dumoine, Saseginaga and Saint-Patrice Lakes and all lands whose waters flow into those lakes, rivers, groundwaters and wetlands, to be completely protected through our continued care under the authority of the Algonquin governments of Eagle Village, Wolf Lake (and Timiskaming).

We look at protection and restoring our land and waters, as much as possible, to their original condition and preserving them in that condition for future generations by the following:

- Water is the source of life – a sacred gift given by the Creator to heal and sustain all living beings.
- Water is alive, and is life itself. All life on this earth depends on healthy water for survival. Water is a relation, we depend on it and it connects us to all other living things.
- Our Algonquin Peoples have lived on our territories for thousands of years.
- We proclaim our role as the First peoples of this territory – the original caretakers – with rights and responsibilities to defend and ensure the protection, availability

and purity of the water for the survival of the present and future generations, and for all life.

For our Algonquin Anishinabe Peoples water is sacred and considered the blood of our Mother Earth. Through our **Draft Water Declaration** we continue to self organize around themes that protect our culture and heritage. These interests form the basis for community efforts in bio-cultural restoration of traditional and contemporary cultural ecological interests (e.g., traditional gathering, hunting, fishing and trapping as well as contemporary interests in eco-tourism, ecosystem services and biodiversity). These activities stem from our right as Indigenous Peoples to self-determination (i.e., self-governance) derived from a history of traditional ecological knowledge (TEK) and governance on the land that provided the original instructions of what kind of humans Anishnabe are to be.

While Lake Kipawa and other connected water management units were solely under Algonquin tenure for thousands of years the modern problems associated with the degradation of the water quality, quantity, shoreline habitat, fish spawning sites and fish stocks, toxic contaminants, invasive species and water security, did not exist. Our comments here are guided by King's suggestion (1995) about how the theory and practice of sustainable resource management can benefit from the study and knowledge of communities that have successfully avoided ecological collapse over the long term.

Therefore, we are seeking a greater role in the management of Lake Kipawa. While modern management tools and perspectives may be different from our traditional perspectives as Indigenous Peoples, both have a great deal to offer one another. We believe the traditional knowledge of our ancestors and elders should be honoured and applied to new challenges facing Lake Kipawa. Our local ecological knowledge was built over generations as our people learned from the land we depended on for food, materials and culture. Our traditional knowledge increases the timeline of available knowledge on Lake Kipawa in deriving a future management plan.

We agree working together is the best way of helping us achieve a better common understanding of the issues surrounding Lake Kipawa.

As such, we look forward to the acknowledgement of our history and knowledge in the spirit of co-operation through the terms of the Quebec-Algonquin Consultation Protocol. In the interim, we would like to express our concerns from which we can later develop a Lake Kipawa Joint Management and Co-Operation Agreement with the Quebec government.

To this end an Algonquin Fisheries Inland Habitat Project was undertaken from 2008 until 2011.

Algonquin Aboriginal Inland Habitat Project (AIHP)

The goal of our AIHP project was to renew Algonquin Nation Secretariat (ANS) member communities' (Timiskaming First Nation [TFN] and Wolf Lake First Nation [WLFN])

direct involvement in matters related to fisheries and fish habitat management; to be able to enhance the capacity of the ANS and its member communities to participate in the conservation and the management of fish habitat on their traditional territories as well as to be capable of participating actively during environmental assessments or consultation requests from the Quebec government. This is a priority for each Algonquin First Nation. Another need identified by the First Nations was to assess impacts of dams and reservoirs on fish habitat and fish population in order to mitigate such impacts. Forestry and mining operations effects on fish habitat were also identified as a concern, as well as agriculture and cottage development.

The AIHP Project Objectives were:

- 1) Train AIHP teams and communities' leadership in DFO regulatory activities.
- 2) Enhance technical capacity of AIHP teams to perform fish habitat related field work.
- 3) Continue development and maintenance of our information tools and databases.
- 4) Research fish habitat protection regulations and guidelines and add an Algonquin complement.

The results of the AIHP were:

- Field training was conducted with Algonquin participants on spawning sites assessment methods for ANS member communities' most important species, i.e. Walleye, Lake Sturgeon, Lake Trout, Northern Pike, Whitefish, Brook Trout and Smallmouth Bass. Topics covered were:
 - Characteristics of spawning habitat
 - Spawning period and temperature
 - Biologic sampling methods
 - Habitat characterization methods
 - Identification of eggs and larvae
 - Data collection, capture and processing
 - Management tips
- There was also riparian and aquatic plant identification training of Algonquin participants.
- Building on the spawning site assessment techniques training, verification of Algonquin Traditional Knowledge (ATK) and governmental agencies spawning sites data in the field was conducted.
- Update of our fish habitat database and addition of complementary data on lakes and rivers traditional Algonquin names and uses were undertaken.
- An Algonquin Fish Atlas/Map was created and continually updated.

- An instruction manual was prepared for the **Watershed Information Summary System (WISS)** has been presented to the users. Furthermore, length of roads by watershed management unit (WMU), area of wetland by WMU and number of spawning sites by watershed were functionalities added to our WISS. We were able to produce watershed summary maps for these and other themes. These maps were created through our WISS, with data exported to Google Earth format.
- A web-based research of existing regulations and guidelines for forestry road, mining exploration, cottage development, and agriculture was conducted. Governmental and non governmental information was gathered, in both French and English. Review of the documents found was done. As for unpublished documents, recently developed draft fish habitat protection guidelines for forestry road building and maintenance in the Abitibi-Temiscamingue region were obtained and reviewed.

Algonquin Concerns with Canada & Quebec's Poor Management of Lake Kipawa

Our Algonquin First Nations are concerned about the past decisions made by the governments of Canada and Quebec, MRC Temiscamingue and the Municipalities of Kipawa, Lanier and Temiscaming, which have led to the following problems for Lake Kipawa:

- Bio-Diversity loss eg. shoreline habitat due to logging & removal of trees.
- Decrease in fish stocks by non-Algonquin sports users and damage to fish spawning sites by non-Algonquin developments.
- Fluctuation of Lake Kipawa water levels by reservoir pattern of operation determined by Ottawa River Regulation Planning Board not local people.
- Potential invasion of Zebra Mussels & other invasive species from out of province boats-recreational/sports users.
- Poorly planned and poorly regulated (of largely non-Algonquin) residences & cottages along shoreline effects the water quality of Lake Kipawa.
- MNR approval of cottage development at Red Pine Chute at a main spawning site for walleye.
- Cottage development at Turtle Dam in a known Walleye sanctuary.
- Water security from industrial waste contaminants and/or other anthropogenic pollutants eg. Pollution of Lake Kipawa by septic systems too close to the shoreline, and non-existent septic systems.
- Toxins in traditional foods, moose, deer, bear.

We note most of the above concerns are shared by the **OBVT User Consultative Committee Members** albeit from a different perspective.

Our two First Nations have also identified the following eminent threats to Lake Kipawa.

Major Threats for Lake Kipawa

- Proposed Matamec Project (Rare Earths Open Pit Mine), which is located near a number of major spawning sites.
- Proposed Expansion of Municipality of Kipawa boundaries and opening of new municipal lots generating additional development pressures.
- Proposed Hydro-Quebec Tabaret Project.
- Proposed lifting of the moratorium for new cottage development.

We must point out that our two Algonquin First Nations were not consulted by the governments of Canada and Quebec in the decisions regarding the construction and operation of the Laniel and Lake Kipawa dams. Nor were our two Algonquin First Nations consulted about the non-Algonquin settlement and development of the shoreline of Lake Kipawa, fisheries (and fish habitat) management.

In fact, the Quebec government has only recently begun to consult our two Algonquin First Nations in an ad hoc manner on forestry and other local developments affecting our traditional lands, waters and resources. This is because the Supreme Court of Canada in its landmark Haida decision of 2004, has directed that Crown governments, including Quebec, have a duty to consult and accommodate First Nations when proposed projects or activities are planned for the traditional territories of First Nations.

Algonquin Concerns with OBVT Mandate and Process

One of the challenges for our two Algonquin First Nations has been that the Laniel and Lake Kipawa dams and Kipawa reservoir have been in operation for many decades, as well as, non-Algonquin settlement and development around and on Lake Kipawa.

Normally, impact assessments look ahead to future impacts that may arise as a result of proposed developments, but in our case, the impact assessment must be retrospective, taking into account things that may have happened decades or even a century ago.

As we pointed out in the above sections of this paper we have proposed a broad consultation protocol between our First Nations and the government of Quebec for proposed plans or projects involving natural resources on our traditional lands over which we assert Aboriginal Rights and Title.

It is our expectation that the government of Quebec through its relevant departments will consult and accommodate our Algonquin First Nations on the outcomes and recommendations resulting from the OBVT and MRC Temiscamingue public consultation process once the public consultation phase is complete.

We also expect the consultation process will be in accordance with the proposed **Algonquin-Quebec Consultation Protocol** and Process we presented to Minister Élisabeth Larouche on August 12, 2013.

We are not opposed to regional development, including the management of Lake Kipawa, as long as, it is environmentally sustainable and recognizes our Algonquin Aboriginal Rights and Title by including us in the decision-making process.

Kipawa Power Project

One example of our two Algonquin First Nations willingness to work with regional and municipal governments is the **Kipawa Power Project**. An agreement was signed between our two Algonquin First Nations, Innergex & MRC in May 2012, to continue to work together in partnership on the development of the hydroelectricity project in the Temiscaming region.

We have already made our opposition to the proposed **Tabaret Project** known publicly and have offered an alternative proposal for hydro development using the existing dams and installations. The proposed **Tabaret Project** would necessarily involve the creation of a third outlet on Lake Kipawa.

This project involves the construction of two hydroelectric plants along Gordon Creek with the expertise of Innergex, an independent developer and operator of renewable power generating facilities. Our two Algonquin First Nations will be majority owners while substantial royalties will be distributed to the Témiscamingue MRC, and the municipalities of Temiscaming, Kipawa and Laniel. Moreover, this hydroelectric project would lead to greater water flow and circulation in the Bay of Kipawa, Jawbone's Bay and Gordon Creek.

This project, which consists of two (2) power plants along the Creek Gordon, adopts the principle of the former Gatineau Power plant, which was decommissioned in 1969.

With a total installed capacity of 42 MW, the Kipawa project will produce 220 Gigawatt-hours of electricity annually, which in addition to secure regional electricity supply, will generate direct revenues for our two Algonquin First Nations and will generate substantial economic benefits for the region.

We are still waiting for the government of Quebec's agreement with this project to address the unstable hydro power production for the Temiscaming region, which is itself an impediment to the development of the region.

Conclusion

In conclusion, the following table lists a summary of our Lake Kipawa management concerns and their cause:

<u>Concern</u>	<u>Cause</u>
Spawning Site	Cottage development near spawning sites
Spawning Site	Water level fluctuation
Water Quality	Invasive species
Water Quality	Loss of shoreline habitat
Water Quality	Outdated septic systems
Fish Stocks	Over fishing by sports users
Water Security	Toxic spills from proposed Matamec site

In light of these concerns/causes, our two Algonquin First Nations are in favor of the following measures:

- Preserving the spawning sites.
- Lowering the fishing quotas for sports users since the 1990 Supreme Court of Canada Sparrow decision confirmed a priority use for the Aboriginal food fishery.
- Local management of water level during critical spawning periods and egg development periods.
- Installation of a boat washing station. The money collected to be used specifically for management of Lake Kipawa.
- Stricter and **enforced rules and regulation** on maintenance of shoreline and septic system.
- Regulate to minimum distance to build from the water's edge.
- Maintain moratorium for new cottage development by non-Algonquins until such time as existing cottages and septic systems are up to legal standards.
- A Joint Canada-Algonquin Environmental Assessment should be undertaken of the proposed Matamec Project.

We appreciate the opportunity given to us to provide our comments to the OBVT and the MRC Temiscamingue regarding the proposed Lake Kipawa Management Plan. We hope our comments help to clarify the position of our two Algonquin First Nations on this matter.

We are prepared to work with the government of Quebec (and the regional/municipal governments) on a future Lake Kipawa Joint Management and Co-operation Agreement through a mutually agreed upon consultation-accommodation process.

We congratulate the OBVT for agreeing to undertake this important task on behalf of the MRC-Temiscamingue about the future of Lake Kipawa, the fishery the water quality and the shoreline habitat.

We look forward to reviewing the final OBVT Report & Draft Lake Kipawa Management Plan once it is completed and discussing the next steps with the government of Quebec.



Wolf Lake



Timiskaming, Wolf Lake and Eagle Village

Members of the Algonquin Nation

Statement of Assertion of Aboriginal Rights & Title

OVERVIEW

11 January 2013

For further information contact:

Chief Harry St. Denis, Wolf Lake 819-627-6211

Chief Terence McBride, Timiskaming 819-629-7091 (English/Français)

Chief Madeleine Paul, Eagle Village 819-627-6884 (English/Français)

Peter Di Gangi, Algonquin Nation Secretariat 819-723-2019

TIMISKAMING, WOLF LAKE & EAGLE VILLAGE, MEMBERS OF THE ALGONQUIN NATION:

STATEMENT OF ASSERTION OF ABORIGINAL RIGHTS AND TITLE

11 January 2013

OVERVIEW

Strong *Prima Facie* Claim

This Statement of Asserted Aboriginal Rights and Title (Statement) establishes that the Claimants possess a strong *prima facie* claim to their traditional territories, which straddle the Ontario-Quebec border along the Upper Ottawa River, as depicted in the map attached to this Overview. The claimants have never surrendered their Aboriginal rights and title by treaty or otherwise, and have never authorized any Aboriginal group in Quebec or Ontario, including the Algonquins of Pikwakanagan (Golden Lake), to negotiate for them in relation to such rights.

Timiskaming, Wolf Lake and Eagle Village First Nations are Rights Holders

The Statement has been prepared on behalf of the First Nations of Timiskaming (TFN), Wolf Lake (WLFN), and Eagle Village (EVFN), who are all members of the Algonquin Nation. It provides a summary of the evidence collected to date, supporting their assertions of Aboriginal title and rights within their traditional territories.

TFN, WLFN and EVFN are all descended from the Algonquin Bands who traditionally used and occupied the territory in question, namely the Timiskaming, Dumoine and Mattawa Bands of the 19th century. Their members can trace their ancestry and continued use and occupation of this territory back to time immemorial.

TFN, WLFN and EVFN are all recognized as "Bands" within the meaning of the *Indian Act*, and come within the meaning of "Indian peoples" in section 35 of the *Constitution Act, 1982*. They have never entered into a land cession treaty surrendering their Aboriginal rights and title; nor have they authorized any other nation or entity to negotiate on their behalf for such title and rights. Therefore, their Aboriginal rights and title have never been extinguished and exist to this present day.

The Crown Owes a Duty to Consult and to Obtain Rights Holders' Free Prior and Informed Consent

The purpose of the Statement is to set-out the evidence to support WLFN, TFN and EVFN in their efforts to engage the honour of the Crown and its duty to consult them and accommodate their interests in matters affecting their traditional territories. It is intended to engage Canada's obligations under domestic law (*Constitution Act, 1982*, s. 35 and the *Haida* case) and international law, the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), which requires free prior and informed consent before any development activities within the traditional territories of Indigenous Peoples.

The Statement is provided as an interim step prior to the completion of formal Statements of Claim from TFN, WLFN and EVFN, and is provided at this time to give the Crown formal notice of their asserted Aboriginal rights and title. The research documenting WLFN and TFN's Aboriginal title and rights is largely complete, and will be followed in due course with a Statement of Claim. EVFN's research is still underway, and will take further time before it is completed. The form and content of this Statement reflects this: it is directed primarily to the assertions of TFN and WLFN. EVFN's asserted rights are covered in a separate chapter, which identifies what sections of the main document contain evidence common to all three communities, as well as additional assertions that can be made with specific reference to EVFN based on research to date.

Although the Statement is only a summary of the evidence, it is intended to provide enough evidence to trigger the Crown's duty and to establish that the scope of that duty is at the high end because of the strength of the claim.

The Claim – Asserted Aboriginal Rights and Title

WLFN and TFN assert Aboriginal rights and title over the territory identified in the body of the Statement, outlined in a series of maps which are included to identify the general boundaries of the "Asserted Aboriginal Rights and Title Area", including areas over which Aboriginal title is asserted, as well as areas over which Aboriginal rights (but not title) are asserted.

This Statement asserts both Aboriginal title and site-specific Aboriginal rights. The following jurisprudence is relied on in support of asserted Aboriginal rights: *R. v. Adams*, *R. v. Van der Peet*, and *R. v. Côté*. The area over which Aboriginal title is asserted is identified in the maps contained in the Statement and is supported by the Supreme Court of Canada decision, *Delgamuukw v. British Columbia*.

Date of Contact is *circa* 1680 and the Date of Sovereignty is *circa* 1850

The date of contact for purposes of the legal tests for Aboriginal rights is sometime after 1680, when the French built trading posts in the Temiscamingue region. The evidence shows that the ancestors of TFN, WLFN and EVFN were present in the territory at this time.

For purposes of proving Aboriginal title the date of Crown sovereignty is *circa* 1850, the time the Crown began to exercise effective sovereignty in the region. The evidence indicates that the Timiskaming, Dumoine and Mattawa Bands, ancestral to today's Timiskaming, Wolf Lake, and Eagle Village First Nations, occupied their territories at this time to the exclusion of other groups.

Establishing Aboriginal Rights and Title: Culture and Social Organization

WLFN, TFN and EVFN belong to what is now known as the Algonquin Nation, and self-identify as *Anishnabe*. The social organization of the Algonquin Nation was such that the Band, made up of extended families, was the land holding unit. Some responsibilities lay at the nation level. The nation and its member bands were governed by commonly recognized traditional laws and customs that regulated land ownership, tenure, access, and resource use.

The activities asserted as Aboriginal rights by WLFN, TFN and EVFN are those which are integral to the culture and traditions of the Algonquin people at first contact, and which continue to be exercised in the modern context. There are territorial (site-specific) and non-territorial aspects to these activities, that include such things as hunting, fishing, trapping and gathering, all of which had economic and trade aspects, and which find contemporary expression today.

These activities are not unique to WLFN, TFN and EVFN, but are practiced in common across the Algonquin nation, and their importance and continued significance are amply demonstrated by current use and occupancy studies commissioned by the Algonquin Nation Secretariat.

Establishing Aboriginal Rights and Title: Occupancy

WLFN, TFN and EVFN assert that they meet the evidentiary requirements for use and occupancy under the tests for both Aboriginal title and Aboriginal rights. Their members continue to use and occupy lands and waters within their respective traditional territories, as well as lands within the boundaries of the Algonquin Nation territory. Historically, they relied on well-established customs and laws to regulate tenure, land use, and allocation, therefore meeting the tests for legal occupancy. There is sufficient evidence to satisfy a connection to the areas identified, and to satisfy the legal tests needed to establish occupancy. Current use and occupancy is put forward as presumptive proof of Aboriginal rights and title.

Analysis of Continuity: Pre-History and History of the Region

Archeological, historical and genealogical evidence confirms the presence of the ancestors of WLFN, TFN and EVFN in the area for centuries. Archeological evidence at the ObawJeewong / Fort Temiscamingue site confirms continuous occupation for a period of between 6,000 and 7,000 years. General knowledge of the Algonquin-speaking groups by the French dates back to the first half of the seventeenth century with the earliest contact occurring around the year 1603. As previously mentioned, sustained contact with the ancestors of WLFN, TFN and EVFN began after 1680 when the French began building trading posts in the Temiscamingue region.

Analysis of Continuity Particularly for Aboriginal Title: Bands and Band Territories

The territories of WLFN, TFN and EVFN changed considerably in the period 1850-1951 as the dominant economic activities transitioned from the fur trade, to lumbering, to colonization and agriculture, and finally hydro, mining, and tourism. Dispossession of their traditional territories, coupled with devastating waves of epidemic diseases, had a dramatic impact on the people, and required significant adaptations, including the reconfiguration of traditional bands, and a realignment of use and occupancy patterns. However, despite these changes, the current rights holders and their ancestors maintained significant continuity in terms of their membership, and in the use and occupancy of their traditional territories. This is demonstrated by the evidence.

The Crown has Consistently Recognized the Aboriginal Rights and Title of the Algonquin Nation and TFN, WLFN and EVFN: The *Royal Proclamation of 1763* and Treaties of 1760-64

The historical evidence shows a long history of political recognition of the existence of TFN, WLFN, and EVFN and their predecessors. The French, the British Crown, and the Crown in Right of Canada recognized the traditional territories, rights and interests of the Algonquin Nation, including the ancestors of TFN, WLFN and EVFN. Their traditional territories were included in the area covered by the *Royal Proclamation of 1763*, a fact which has been acknowledged by recent Canadian governments.

A series of treaties made with the British between 1760 and 1764 recognized the territorial rights of the ancestors of WLFN, TFN and EVFN. However, despite these things, over time the Crown allowed the lands of WLFN, TFN and EVFN to be overrun by third parties, without their consent and without any form of compensation. The Crown did not fulfill its duty to protect the land as obligated by the honour of the Crown and its fiduciary duties; nor did it enter in a land treaty in accordance with the requirements of the *Royal Proclamation of 1763*. As a result, TFN, WLFN and EVFN suffered significant harm.

Non-Extinguishment

The Aboriginal title and rights of TFN, WLFN and EVFN have not been extinguished by treaty or any other lawful means, and there is no evidence of there being a clear and plain intention to extinguish such rights. There are no land cession treaties covering the portions of WLFN, TFN or EVFN territory now lying in Quebec. Although there are several treaties in Ontario which purport to cover the parts of the traditional territories of the Algonquins generally, and TFN, WLFN and EVFN in particular, a review of these treaties will make it clear that neither TFN, nor WLFN, nor EVFN, nor their predecessors, participated in any of these treaties. Section 35 of the *Constitution Act, 1982* stipulates that these rights can only be extinguished by consent, in accordance with the test proving extinguishment laid down in *R. v. Sparrow*. Furthermore, TFN, WLFN and EVFN have never authorized any Aboriginal group in Quebec or Ontario, including the Algonquins of Pikwakanagan (Golden Lake), to negotiate in relation to their Aboriginal rights and title.



Wolf Lake



Timiskaming, Wolf Lake et Eagle Village

Membres de la nation algonquine

Déclaration d'affirmation des droits ancestraux et de titre autochtone

Vue d'ensemble

le 11 janvier 2013

Pour de plus amples informations, veuillez vous adresser à:

Chief Harry St. Denis, Wolf Lake 819-627-6211 (English)

Chief Terence McBride, Timiskaming 819-629-7091 (English/Français)

Chief Madeleine Paul, Eagle Village 819-627-6884 (English/Français)

Peter Di Gangi, Algonquin Nation Secretariat 819-723-2019 (English)

TIMISKAMING, WOLF LAKE ET EAGLE VILLAGE, MEMBRES DE LA NATION ALGONQUINE :

ÉNONCÉ D’AFFIRMATION DU TITRE ET DES DROITS AUTOCHTONES

11 janvier 2013

APERÇU

Revendication *Prima Facie* solidement fondée

Le présent Énoncé d’affirmation du titre et des droits autochtones (Énoncé) établit que les revendicateurs ont une solide revendication *prima facie* touchant leurs territoires traditionnels, lesquels chevauchent la frontière Québec-Ontario le long de l’Outaouais supérieure, tel que décrit sur la carte accompagnant cet aperçu. Les revendicateurs n’ont jamais cédé leurs droits et leur titre autochtones par traité ou autrement, et n’ont jamais autorisé quelque groupe autochtone que ce soit, au Québec ou en Ontario, y compris les Algonquins de Pikwakanagan (Golden Lake), à négocier en leur nom relativement à ces droits.

Les communautés de Première nation de Timiskaming, Wolf Lake et Eagle Village sont les détenteurs de ces droits

Le présent Énoncé a été préparé au nom des communautés de Première nation de Timiskaming (TFN), Wolf Lake (WLFN) et Eagle Village (EVFN), qui sont tous membres de la nation algonquine. L’Énoncé présente un résumé des éléments probants accumulés à ce jour, lesquels appuient leur affirmation du titre et des droits autochtones sur leurs territoires traditionnels.

Les communautés de TFN, WLFN et EVFN sont les descendantes des bandes algonquines qui ont traditionnellement utilisé et occupé le territoire en question, à savoir les bandes de Timiskaming, Dumoine et Mattawa au 19^e siècle. Leurs membres peuvent retracer jusqu’à des temps immémoriaux leurs ancêtres et leur utilisation et occupation continues de ce territoire.

Les communautés de TFN, WLFN et EVFN sont toutes trois reconnues comme des « bandes » au sens de la *Loi sur les Indiens*, et s’entendent comme « des Indiens » visés au paragraphe 35(2) de la *Loi constitutionnelle de 1982*. Elles n’ont jamais signé un traité de cession de terres par lequel elles auraient abandonné leurs droits et leur titre autochtones; pas plus qu’elles n’ont autorisé toute autre nation ou entité à négocier en leur nom relativement à ces droits et à ce titre. Par conséquent, leurs droits et leur titre autochtones n’ont jamais été éteints et existent toujours.

La Couronne a l'obligation de consulter les détenteurs de ces droits et d'obtenir leur consentement préalable, libre et éclairé

Le but du présent Énoncé est d'exposer les éléments probants en soutien aux efforts de WLFN, TFN et EVFN pour engager l'honneur de la Couronne et son obligation de les consulter et d'accommoder leurs intérêts relativement aux questions affectant leurs territoires traditionnels. Cet Énoncé vise à engager les obligations du Canada en vertu du droit national (*Article 35 de la Loi constitutionnelle de 1982* et l'arrêt *Haida*) et du droit international, à savoir la *Déclaration des Nations Unies sur les droits des peuples autochtones*, laquelle exige le consentement libre et éclairé préalablement à toute activité de développement sur les terres traditionnelles des peuples indigènes.

Le présent Énoncé constitue une étape intérimaire préalable à la rédaction finale d'un énoncé officiel de revendication par les communautés de TFN, WLFN et EVFN, et est soumis à ce moment-ci afin de donner officiellement avis à la Couronne de l'affirmation de leurs droits et titre autochtones. La recherche documentant le titre et les droits autochtones des communautés de WLFN et TFN est complétée dans une large mesure et sera suivie au moment opportun d'un énoncé de revendication. Les recherches de la communauté de EVFN est toujours en cours et demandera encore un certain temps avant d'être complétée. La forme et le contenu du présent énoncé visent d'abord et avant tout à affirmer les droits et le titre autochtone des communautés de TFN et WLFN. L'affirmation des droits de EVFN est abordée dans un autre chapitre, lequel identifie les sections du document principal qui contient les éléments probants communs aux trois communautés, ainsi que des affirmations additionnelles pouvant se rapporter spécifiquement à EVFN à partir des recherches effectuées à ce jour.

Bien que cet Énoncé ne constitue qu'un résumé des éléments probants, il vise à offrir suffisamment de preuves pour donner naissance à l'obligation de la Couronne et établir que la portée de cette obligation est prédominante en raison de la solidité de la revendication.

La revendication – Affirmation des droits et titre autochtones

Les communautés de WLFN et TFN affirment leurs droits et leur titre autochtones sur le territoire identifié dans le contenu du présent Énoncé, territoire qui est décrit dans une série de cartes en annexe qui délimitent de façon générale le « territoire d'application des droits et titre autochtones », y compris les secteurs sur lesquels le titre autochtone est affirmé ainsi que les secteurs sur lesquels les droits autochtones (mais pas le titre) sont affirmés.

Le présent Énoncé affirme à la fois le titre autochtone et les droits autochtones spécifiques à certains sites. La jurisprudence suivante soutient les droits autochtones affirmés : *R. c. Adams*, *R. c. Van der Peet*, et *R. c. Côté*. Le territoire sur lequel est affirmé le titre autochtone est délimité sur les cartes annexées aux présentes et s'appuie sur l'arrêt de la Cour suprême du Canada dans l'affaire *Delgamuukw c. la Colombie-Britannique*.

Le contact s'est produit autour de 1680 et l'affirmation de la souveraineté de la Couronne, autour de 1850

La date du contact utilisée pour mettre les droits autochtones à l'épreuve du droit est postérieure à 1680, au moment où les Français ont établi des postes de traite dans la région du Témiscamingue. Des éléments probants démontrent que les ancêtres des membres de TFN, WLFN et EVFN étaient présents sur le territoire à ce moment-là.

Aux fins d'établir le titre autochtone, la date d'affirmation de la souveraineté de la Couronne se situe autour de 1850, au moment où la Couronne a commencé à exercer une souveraineté effective dans la région. Les preuves indiquent que les bandes de Timiskaming, Dumoine et Mattawa, ancêtres des communautés actuelles de Première Nation de Timiskaming, Wolf Lake, et Eagle Village, occupaient leurs territoires à cette époque, à l'exclusion d'autres groupes.

Établissement des droits et du titre autochtones : Culture et organisation sociale

Les communautés de WLFN, TFN et EVFN appartiennent à ce qui est connu sous le nom de nation algonquine, et elles s'identifient elles-mêmes comme *Anishnabe*. Dans l'organisation sociale de la nation algonquine, la bande, composée de familles élargies, était l'entité qui détenait les terres. Certaines responsabilités relevaient de la nation. La nation et ses bandes membres étaient gouvernées par des lois et coutumes traditionnelles communes qui régissaient la propriété des terres, leur mode de tenure, l'accès et l'utilisation des ressources.

Les activités découlant des droits autochtones des communautés de WLFN, TFN et EVFN sont celles qui faisaient partie intégrante de la culture et des traditions du peuple algonquin lors du premier contact, et qui continuent d'être pratiquées dans le contexte moderne. Ces activités comportent des aspects territoriaux (spécifiques à un site) et non territoriaux et incluent notamment la chasse, la pêche, le piégeage et la cueillette; elles comportaient toutes des aspects économiques et commerciaux, lesquels trouvent à s'exprimer dans le monde contemporain.

Ces activités ne sont pas uniques aux communautés de WLFN, TFN et EVFN, mais sont des pratiques communes à toute la nation algonquine et leur importance est amplement démontrée par les études sur l'utilisation et l'occupation actuelles commandées par le Secrétariat de la nation algonquine.

Établissement des droits et du titre autochtones : Occupation du territoire

Les communautés de WLFN, TFN et EVFN affirment qu'elles répondent aux exigences ayant trait à la preuve de l'utilisation et de l'occupation du territoire en vertu des critères juridiques ayant trait au titre et aux droits autochtones. Leurs membres continuent d'utiliser et d'occuper les terres et les eaux à l'intérieur de leurs territoires traditionnels respectifs, ainsi que les terres à l'intérieur des frontières du territoire de la nation algonquine. Historiquement, ils s'appuyaient sur des coutumes et des lois

bien établies pour régir la tenure, l'utilisation et l'allocation des terres; ils répondent donc aux critères juridiques ayant trait à l'occupation légale du territoire. Il existe suffisamment d'éléments probants pour démontrer un lien aux terres identifiées et pour répondre aux critères juridiques nécessaires pour établir l'occupation. L'utilisation et l'occupation actuelles sont mises de l'avant à titre de preuve par inférence des droits et du titre autochtones.

Analyse de la continuité de l'occupation : Préhistoire et histoire de la région

Des documents archéologiques, historiques et généalogiques confirment la présence dans la région des ancêtres des membres de WLFN, TFN et EVFN depuis des siècles. Des éléments archéologiques découverts sur le site Obawjee Wong / Fort Témiscamingue confirment l'occupation continue sur une période allant de 6000 à 7000 ans. La connaissance générale des groupes de langue algonquienne par les Français remonte à la première moitié du 17^e siècle, alors que les tout premiers contacts remontent autour de l'an 1603. Tel que mentionné plus haut, le contact continu avec les ancêtres ou les communautés de WLFN, TFN et EVFN débuta après 1680 lorsque les Français commencèrent à construire des postes de traite dans la région du Témiscamingue.

Analyse de la continuité, particulièrement en ce qui a trait au titre autochtone : Bandes et territoires des bandes

Les territoires de WLFN, TFN et EVFN ont subi des changements considérables au cours de la période 1850-1951 alors que les activités économiques dominantes sont passées de la traite des fourrures à la foresterie, puis de la colonisation à l'agriculture et enfin au développement hydroélectrique, minier et touristique. La dépossession de leurs territoires traditionnels, combinée à des vagues dévastatrices de maladies épidémiques, a eu des effets dramatiques sur la population et a exigé des adaptations importantes, dont la reconfiguration des bandes traditionnelles et des modèles d'utilisation et d'occupation du territoire. Toutefois, en dépit de ces changements, les détenteurs actuels des droits et leurs ancêtres ont maintenu une continuité importante en ce qui a trait à leurs effectifs et à l'utilisation et l'occupation de leurs territoires traditionnels. Ce que démontrent les éléments probants.

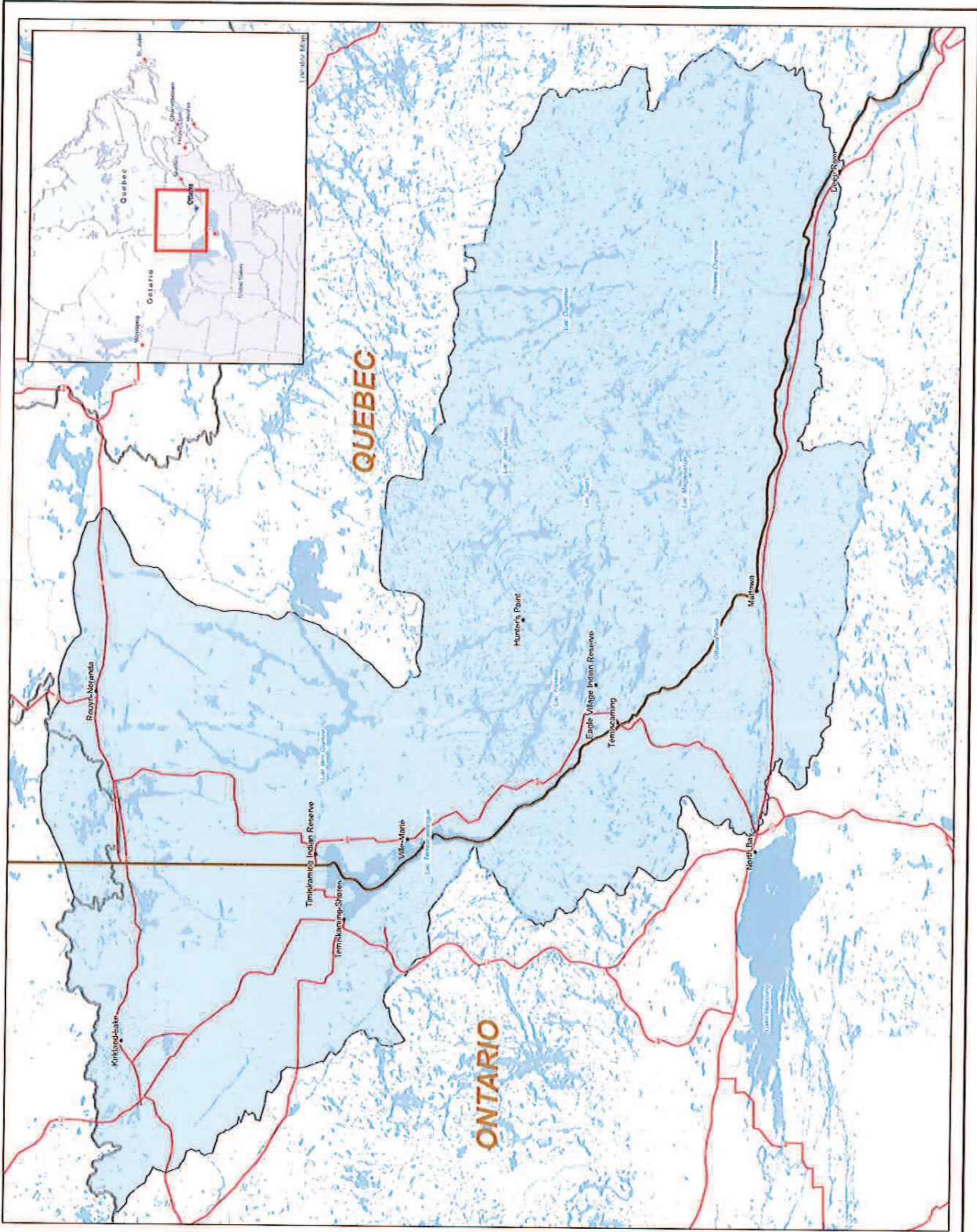
La Couronne a constamment reconnu les droits et le titre autochtones de la nation algonquienne et de TFN, WLFN et EVFN : la *Proclamation royale de 1763* et les traités de 1760-1764

Les preuves historiques témoignent d'une longue histoire de reconnaissance de l'existence de TFN, WLFN et EVFN et de leurs prédécesseurs. Les Français, les Britanniques et la Couronne aux droits du Canada ont reconnu les territoires traditionnels, les droits et les intérêts de la nation algonquienne, y compris les ancêtres de TFN, WLFN et EVFN. Leurs territoires traditionnels étaient compris dans la zone couverte par la *Proclamation royale de 1763*, un fait qui a été reconnu par les récents gouvernements du Canada.

Une série de traités signés avec les Britanniques entre 1760 et 1764 ont reconnu les droits territoriaux des ancêtres des membres de WLFN, TFN et EVFN. Toutefois, malgré cela, la Couronne a permis au cours des ans que les terres de WLFN, TFN et EVFN soient envahies par des tierces parties, sans leur consentement ni aucune forme d'indemnisation. La Couronne n'a pas honoré son obligation de protéger le territoire tel que requis par l'honneur de la Couronne et ses obligations de fiduciaire; pas plus qu'elle n'a conclu de traité de cession des terres conformément aux exigences de la *Proclamation royale de 1763*. Ce qui a eu pour conséquence d'infliger d'importants préjudices aux communautés de TFN, WLFN et EVFN.

Non-Extinction

Le titre et les droits autochtones des communautés de TFN, WLFN et EVFN n'ont pas été éteints par traité ni par tout autre instrument légal, et rien ne démontre l'existence d'une intention claire et expresse d'éteindre ces droits. Il n'existe aucun traité de cession des terres couvrant les parties du territoire de WLFN, de TFN ou de EVFN maintenant situées au Québec. Bien qu'il existe quelques traités censés couvrir les parties, maintenant situées en Ontario, du territoire traditionnel des Algonquins en général et de TFN, WLFN et EVFN en particulier, un examen de ces traités démontrera clairement que ni TFN, WLFN ou EVFN, ni leurs prédécesseurs, n'ont été parties prenantes d'aucun de ces traités. L'article 35 de la *Loi constitutionnelle de 1982* stipule que ces droits ne peuvent être éteints que par consentement, conformément aux critères juridiques prouvant l'extinction exposés dans l'arrêt *R. v. Sparrow*. De plus, TFN, WLFN et EVFN n'ont jamais autorisé un autre groupe algonquin du Québec ou de l'Ontario, y compris les Algonquins de Pikwakanagan (Golden Lake), à négocier en leur nom relativement à leurs droits et à leur titre autochtones.

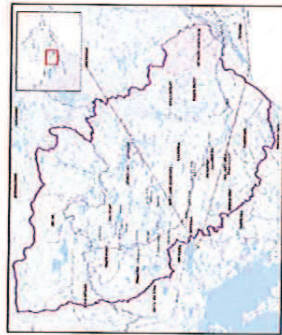


**Timiskaming, Wolf Lake and Eagle Village:
Asserted Aboriginal Rights Area**

This map shows the area over which the Algonquin First Nations of Timiskaming, Wolf Lake, and Eagle Village assert continuing Aboriginal rights. This territory, which measures approximately 34,209 square kilometres (13,208 square miles), straddles the Ontario - Quebec border, and includes the areas over which each of these communities asserts its own Aboriginal title, as well as Aboriginal rights in the Timiskaming, Wolf Lake and Eagle Village First Nations aboriginal territories. The international territory of the Algonquin nation (see inset below) that there as a result of being part of the Algonquin nation.

The inset map below shows Algonquin Nation territory in the period 1850-1867. The total area of the nation's territory at this time measured about 195,772 square kilometres (75,587 sq mi), of which 38% lies in what is now the province of Ontario. For reference purposes, the map also shows the boundary between the British colony of Canada and the former French colony of Canada or New France (Canada and Indian Territory).

Legend
 - Ontario's Quebec boundary Commission line of 1875
 - Height of land
 - Timiskaming, Wolf Lake, and Eagle Village Rights Area



"... an aboriginal society asserting the right to live on its ancestral lands must specify the area which has been historically used and occupied. That is, the general boundaries of the territory should be identified. I recognize, however, that what does not constitute territory it may be impossible to identify geographically with scientific precision. Nonetheless, this should not preclude the recognition of a general right of occupation of the affected land. Rather, the drawing of exact territorial limits can be settled by subsequent negotiations between the aboriginal claimants and the government."
 La Forest, *et al.*, para. 195

Without prejudice and for discussion only. This map is provisional. Boundaries are based on the results of research to date and may change as additional material are discovered. This map is not to be displayed, used or reproduced without prior approval of the Algonquin Nation Secretariat.

Prepared by Pierre Guro for the Algonquin Nation Secretariat, January 2013, FN 51836.

