

**Application for Review**  
**Section 61, Environmental Bill of Rights**  
**The Need for Northern Boreal Comprehensive Land Use Strategy**

**Submitted by CPAWS - Wildlands League**

**Prepared by Sierra Legal Defence Fund**

**August 2005**

**Request for Review of Need for New Policy:**

We request that the Ministers of the Environment, Natural Resources and Northern Development and Mines undertake a review of the need for a *new policy* – *Comprehensive Land Use Planning in the Northern Boreal* (the area north of the Area of Undertaking as designated by the Declaration Order regarding MNR's Class Environmental Assessment Approval for Forest Management on Crown Lands in Ontario).

The Ministries of the Environment (MoE), Natural Resources (MNR) and Northern Development and Mines (MNDM) are all subject to Applications for Review under the *Environmental Bill of Rights*. None of the ministries have a policy requiring comprehensive land use planning in advance of resource development decisions for the Northern Boreal. The MNR's Northern Boreal Initiative (NBI) does not address all of the planning issues at hand because it only covers a small portion of the Northern Boreal forest region and it is solely focused on forestry activities. The NBI does not address landscape level planning and MNR does not have jurisdiction over all of the possible development projects, which include, but are not limited to, roads, coalbed methane exploration, mine staking and prospecting, hydro generation projects and transmission corridors. Moreover, it is clear that even within their mandate, both MNR and MNDM are engaged in a business-as-usual approach to development in this ecologically intact area. The NBI does not ensure that Aboriginal peoples will have a leadership role in the management of activities in their traditional territories. The current lack of planning is inconsistent with the province's proposed biodiversity strategy by not adequately protecting habitat for species at risk such as woodland caribou, lake sturgeon, and wolverine. Furthermore, there is currently little or no coordination with other provincial ministries and the federal government.

There is an urgent need for a new policy, which would require comprehensive land use planning *before* decisions are made to allocate resources in the area north of the Area of Undertaking as designated by the Declaration Order regarding MNR's Class Environmental Assessment Approval for Forest Management on Crown Lands in Ontario (hereafter referred to as the Northern Boreal). The new policy must apply to MoE, MNR, MNDM and any other government ministries or agencies dealing with developing, permitting, approving or allocating resource development or roads in the Northern Boreal.

## **Current Policies Inadequate to Protect the Natural Environment:**

The Northern Boreal is a globally significant intact forest ecosystem. At almost 400,000 km<sup>2</sup> – an area equivalent to New Brunswick, Nova Scotia and Prince Edward Island combined – public lands in the Northern Boreal are central to Canada's intact Boreal forest, which is the second largest intact expanse of unroaded forest left on Earth. The Northern Boreal:

- is one of the last strongholds of species-at-risk, such as woodland caribou and wolverine. These species are wide-ranging, require large habitat areas and have demonstrated sensitivity to human disturbances (industrial activity);
- is habitat for populations of commercially important furbearer and game species, such as beaver, American marten and, moose, and crucial breeding habitat for countless songbirds and waterfowl;
- contains wild river and lake systems supporting more than 60 species of fish, including many that sustain subsistence and fly-in fisheries in the region;
- contains large intact watersheds that are critical to maintaining healthy, clean sources of water for communities and all citizens of Ontario;
- includes traditional land use areas (beyond reserve land) of at least twenty eight First Nations;
- contains the full complement of biodiversity existing in the region for 8-10,000 years;
- provides valuable ecosystem services, including filtration, soil, nutrients, store carbon, produce oxygen, control flooding and erosion, support species, mitigate climate change; and
- includes natural capital that supports an internationally significant wilderness tourism industry.

The current lack of policy with respect to comprehensive land use planning puts the Northern Boreal at risk. The potential harm to the Northern Boreal is great and irreversible. Below is a summary of some of the known development threats to the Northern Boreal.

**Coalbed Methane Exploration:** More than 1000 km<sup>2</sup> of land in the Moose River basin have been staked for coalbed methane (CBM), methane gas that is bonded to coal. CBM projects tend to include hundreds of wells, each taking up 3-4 acres of land, spaced about 80 acres apart and connected by roads, hydro lines, pipelines and compressors. Water needs to be pumped out of the coal deposits before the methane begins to flow. The average CBM well in the U.S. pumps 75,000 litres of water per day, and in consideration of the fact that a project will have several hundred wells, the impact on the water level in the region is tremendous. The water is often saline, thus contaminating the rivers that it is deposited in. Also, the methane can migrate underground and contaminate groundwater sources.

**Mine Staking and Prospecting:** To date 4,400 mining claims have been staked in the northern boreal region. Mining is known to disturb the local environment, change water flow, impact wildlife and fish movement and contaminate water systems. It has much

wider landscape level impacts that are often ignored, such as the construction of roads to the proposed mine that in turn increases access to and use of that region by hunters, fishers, poachers and other prospectors. Moreover, the legacy of mining in Ontario has resulted in more than 6000 abandoned mines or exploration sites that have been largely left to the public to rehabilitate. Currently, mineral staking occurs without the informed consent of First Nation communities and this has generated conflict in some areas.

**Hydro Transmission Corridors:** A proposed new large hydro corridor would connect northern Manitoba to Thunder Bay and/or Sudbury, Ontario and would cut through intact boreal forest and fragment habitat for species such as woodland caribou.

**Hydro Generation Projects:** It is estimated that there are approximately 45 sites with significant hydro potential (greater than 1MW) in the northern boreal region. With the Ontario government looking for ways to increase our electricity supply, there will be pressure to build dams in the north. Damming rivers can lead to irreparable damage to terrestrial and aquatic ecosystems, including flooding of forests and wildlife habitat in the reservoir area, impeding fish movement and altering water level and quality upstream and downstream of the dam. As well, multiple dams on the same river have cumulative environmental impacts. Furthermore, the infrastructure needed for construction and operation (roads, maintenance facilities, transmission lines) impact an area larger than the actual dam site.

**Diamond Mine:** The Victor Diamond Project near Attawapiskat is currently in the latter stages of the environmental assessment process. The environmental assessment is occurring in a piece-meal fashion, including a federal environmental assessment process as well as three separate provincial environmental assessment processes. The proposed mine will involve road construction through intact boreal forest and a new hydro transmission corridor. Environmental impacts from the mine include the following.

*Water impacts:*

- 100,000 m<sup>3</sup> of salty water will be pumped out of the pit each day into the Attawapiskat River. This is equivalent to 40 Olympic-sized swimming pools per day or 14,600 pools per year.
- The flow of the Nayshkatooyaow River will be decreased by at least 15%.
- A 2.6 kilometre stretch of South Granny Creek will be "moved."
- 1.2 million m<sup>3</sup> of muskeg, including trees and other plants, will be removed.
- River crossings may lead to siltation of rivers and creeks and impact water quality.
- Fish populations such as lake sturgeon, brook trout, walleye and whitefish may be harmed by the changes in water flow and water quality.

*Land impacts:*

- 2.5 million tonnes of rock would be processed (piled, crushed and dumped) each year.
- 28.7 million tonnes of rock would have been dug from the ground over the life of the mine and dumped in the surrounding area.
- The waste rock may leach chemicals, such as acids, into the surrounding water.
- The mine would sit on top of a nationally significant geological feature called a karst, which has been described as the "best developed and most extensive karst topography in Ontario."

*Wildlife impacts:*

- The area of the proposed mine and its associated infrastructure provides critical habitat for woodland caribou, a threatened species. Caribou are extremely sensitive to industrial activity and usually disappear from areas where it occurs. After the mine closes and the site is re-vegetated, studies say that "excellent habitat for moose" (shrubs and young forest) will be created, which also means that the habitat that previously supported caribou (older forest and bogs) will be diminished. This will result in the local extinction of caribou.
- The water table could be affected for up to 260,000 hectares surrounding the mine. This would change the vegetation of the area and reduce the abundance of lichens, a key food for caribou.
- The noise of the explosives used to construct the mine and from pit operations combined with trucks bringing supplies and materials to and from the mine site (60 trucks per day) would negatively impact wildlife behaviour.
- Easier motorized access (better and more roads) to and in the region will increase hunting pressure on game species.
- Habitat for migratory birds would also be impacted.

**Logging:** The southern parts of Ontario's boreal forest have already been heavily developed and logged. Ninety percent of harvesting in Ontario is clearcutting, and this, coupled with the unsustainable rate of logging, is leading to changes to the boreal forest. The amount of old-growth forest and large, intact wilderness areas are declining, tree composition is shifting and habitat for wildlife such as caribou and marten is being lost. Now, logging is about to move further north into the intact northern boreal forest. Status quo forestry will mean large clearcuts (200 km<sup>2</sup>), pesticide spraying, loss of older forests and changes to water quality and quantity. It will also mean that wildlife such as caribou and wolverine will be pushed even closer to extirpation in the province. In addition, there is little scientific knowledge about how fast the forests are growing and what the impacts of logging in this northern region will be. Even with the uncertainty regarding the

impacts of logging and the global ecological importance of the Northern Boreal, it appears that MNR will request that the Declaration Order regarding MNR's Class Environmental Assessment Approval for Forest Management on Crown Lands in Ontario be extended further north.

**Roads:** Today, there are approximately 62,000 kilometres of logging roads in Ontario's southern boreal forest – a distance close to one-and-a-half times the circumference of the Earth. Roads impact wildlife and water quality as well as provide access to previously remote, inaccessible areas. Without carefully planning where roads will go and where they will not, the northern boreal forest will follow the same pattern as the south and Ontario will lose its chance to maintain the intact nature of the ecosystem. Ontario's competitive edge as a world-class wilderness tourism destination is at risk.

### **Planned and Proposed Developments Contravene the Ministries' Statements of Environmental Values:**

Ministries subject to the *Environmental Bill of Rights* (EBR) are required to produce Statements of Environmental Values (SEVs) to guide the staff when making decisions that will impact the natural environment and ensure that the environment is given adequate consideration along with economic and social concerns. The Minister must take every reasonable step to ensure that it is considered when the Ministry makes decisions affecting the environment.

The cumulative effects of the development planned and proposed for the Northern Boreal will clearly adversely impact the environment. If the Ministries had seriously considered the SEVs when making their decisions then many of these projects would never have been approved, or at the very least they would have been scaled down and implemented in a more sustainable manner.

MoE's SEV states that the Ministry will make decisions based on an ecosystem approach by ensuring that cumulative impacts and "interrelations among the environment, the economy and society" are considered. MNR's SEV states the Ministry endorses the purposes of the EBR and is committed to applying the EBR's purposes to decision-making. MNR states that this will be done through the application of the principles of sustainable development.<sup>1</sup> MNDM's SEV states with respect to mineral development the Ministry's mission is to generate new wealth and benefits for residents by stimulating environmentally and economically sustainable use of the province's geology and mineral resources. MNDM also aims to achieve this mission by adopting environmental principles for sustainable development.<sup>2</sup>

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<sup>1</sup> Principles include: all life is connected; recognize the value of a diversified economy based on the preservation of the diversity of the natural world; integrated management approaches which considers the full range of environmental, social and economic factors when decisions are made about the use of natural resources; recognize the finite capacity of our lands and waters; anticipate and prevent negative environmental impacts before new activities is less costly; apply the precautionary principle; apply research, innovation and technologies; people affected must have a voice in decisions affecting their lives.

<sup>2</sup> Principles include: integration of social, economic, scientific considerations to environmentally significant decision making; mining is a temporary land use to be replaced in the long term with alternative natural,

However, the development scheduled to take place in the Northern Boreal has not been undertaken in accordance to the sustainable development principles outlined in both Ministries' SEVs. This is largely a result of the fact that there is no comprehensive land use strategy for the northern boreal and therefore no way to implement any of the environmental sustainable development principles they have committed themselves to in the SEVs.

For example, the proposal to move logging into the Northern Boreal is a major component of northern development. Forestry practices employed in the Area of Undertaking (governed in part by the Declaration Order regarding MNR's Class Environmental Assessment Approval for Forest Management on Crown Lands in Ontario) cause disturbances to wildlife and habitat that are unacceptable in the context of the Northern Boreal. Woodland caribou, a threatened species, has experienced a range collapse in Ontario (50% has been lost) and its range has experienced a northward recession of 34 km per decade (from 1880-1990).

Although, the Ministries' SEVs make commitments to apply the environmental principles of sustainable development, in reality, these principles have not been and are not being seriously considered in the decision making the development of the Northern Boreal. The Ministries have not undertaken proper land use planning of the area or comprehensive environmental assessments for the projects. The Ministries have not ensured that the scale of planned and proposed projects is appropriate to maintaining the ecological integrity of the Northern Boreal.

### **Comprehensive Land Use Strategy for the Northern Boreal:**

A comprehensive land use strategy must include proper engagement of First Nations communities in the Northern Boreal and the public, environmental assessments of each project, proper land use planning with consideration of the ecosystem and designation of protected areas before resource allocations are made. The Ministries, working collaboratively with the federal government and First Nations, as well as public interest stakeholders, must create a comprehensive land use planning strategy that:

- complies with MoE's, MNR's and MNDM's Statements of Environmental Values
- ensures the long-term health of ecosystems
- continues availability of natural resources (planned and managed in an orderly, sustainable and fair way)
- protects natural heritage and natural features
- employs the precautionary principle
- respects partnership arrangements

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recreational, or commercial land uses; understanding of cumulative ecological, physical, social and economic impacts of development on a project by project basis; environmentally sustainable development should be preceded by sound environmental planning and public input, gives high priority to environmental protection during all phases of mining, minimizes environmental disturbances during all phases of mining with emphasis on prevention; promote environmental research, new rehabilitation technology, full accounting of costs and benefits of actions.

- properly values resources (including commercial and nonmarket values)
- improves the knowledge base
- protects significant features and landscapes
- rehabilitates degraded ecosystems
- promotes environmentally sustainable development activity which is preceded by sound conservation planning and adequate public input, and gives high priority to environmental protection and minimizes environmental disturbances
- requires collaboration with other ministries leading to a joint sign-off mechanisms

The policy should also recommend a commitment to provide financial resources to support First Nations in carrying land use planning tasks such as data collection and mapping. This would enable the First Nations to bring the necessary resources to the table such as legal, technical, archaeological and scientific expertise.

The policy should address the cumulative impacts of all proposed developments in the northern boreal region including the impacts of developments already proceeding further south.

Through the comprehensive land use planning strategy, landscape-levels plans should be complete before any areas are licensed to industry or allocated for development. The resulting land use plans should be required to have large core protected areas, wildlife movement corridors, buffer zones, traditional use areas, protected sacred areas, and areas designated for other uses (i.e. traditional gathering areas, calving/nesting grounds, pristine areas for nature tourists).

**Summary of evidence that supports our Application for Review:**

The following evidence supports the need for comprehensive land use planning in the Northern Boreal *prior to* allowing any development or resource extraction (*Please note: the tabs listed below are not included in this pdf version of the document*).

Proof of Residency ..... Tab 1

*Mining:*

CLAIMaps Website – provides the number of the claims staked in the northern boreal region  
[www.mndm.gov.on.ca/mndm/mines/lands/claimap3/Default\\_e.asp](http://www.mndm.gov.on.ca/mndm/mines/lands/claimap3/Default_e.asp) ..... not incl

Recommendations for Exploration in the Red Lake District. MNDM Website  
[www.mndm.gov.on.ca/mndm/mines/resgeol/northwest/red\\_lake/rfe\\_e.asp](http://www.mndm.gov.on.ca/mndm/mines/resgeol/northwest/red_lake/rfe_e.asp) ..... Tab 2

Recommendations for Exploration in the Thunder Bay North District. MNDM Website  
[http://www.mndm.gov.on.ca/mndm/mines/resgeol/northwest/tbn/rfe\\_e.asp](http://www.mndm.gov.on.ca/mndm/mines/resgeol/northwest/tbn/rfe_e.asp) ..... Tab 3

Victor Diamond Project: Fact Sheet. De Beers Canada. ....	Tab 4
Victor Diamond Project: Comprehensive Study Environmental Assessment, Executive Summary. De Beers Canada. 2004. ....	Tab 5
CBC Sudbury radio transcript from News item on Wunnumin First Nation and diamond exploration .....	Tab 6
Wildlife Conservation Society Canada submission regarding the federal Comprehensive Study Report on the Victor Diamond Project (July, 2005) .....	Tab 7
Derek Ford and Stephen R.H. Worthington submission regarding the federal Comprehensive Study Report on the Victor Diamond Project (July, 2005) .....	Tab 8
<i>Hydro:</i>	
DRAFT Inventory of Potential Waterpower Opportunities in Crown Land. September 29, 2004. ....	Tab 9
Manitoba Power Purchase Feasibility Study (powerpoint presentation by the Ministry of Energy), August 26, 2004 .....	Tab 10
Feasibility of a Power Purchase from Manitoba A Focus on Transmission (powerpoint presentation by Neil Harris, HydroOne), August 26, 2004 .....	Tab 11
Dams and Development: A New Framework for Decision-Making. Report of the World Commission on Dams. 2000. ....	Tab 12
Preliminary Assessment of the Potential for a Clean Energy Transfer Between Manitoba and Ontario. September 2004 .....	Tab 13
<i>Coal Bed Methane:</i>	
Coalbed Methane: A Citizen's Guide. West Coast Environmental Law. 2003. ....	Tab 14
ADMIRAL BAY BEGINS WINTER DRILLING PROGRAM AT ITS MOOSE RIVER COAL BED METHANE PROJECT IN NORTHERN ONTARIO Targeting 12 holes over breadth of 250,000 acre Moose River project. December 6, 2004 .....	Tab 15
<i>Wildlife and Ecology:</i>	
COSEWIC 2002. COSEWIC assessment and update status report on the woodland caribou <i>Rangifer tarandus caribou</i> in Canada. Committee on the Status of Endangered Wildlife in Canada. Ottawa. ....	Tab 16
A. Harris. Report on the Status of Woodland Caribou in Ontario. Committee on the Status of Species at Risk in Ontario. MNR. June 1999. ....	Tab 17

Schaefer, J. 2003. Long-term range recession and the persistence of caribou in the Taiga. <i>Conservation Biology</i> 17 (5) 1435- 1439. ....	Tab 18
CPAWS, “Grey ghosts: Can we save woodland caribou in Canada’s boreal forest?” 2004. ....	Tab 19
Progress Report to Ontario Ministry of Natural Resources Species-at-Risk Section: Ontario Wolverine Project – Fieldwork 1 Jan – 31 March 2005. Justina C. Ray, Audrey J. Magoun, Neil Dawson and Jeff Bowman. March 31, 2005 .....	Tab 20
Forest Management Considerations for Wolverine Populations in Areas of Timber Harvest in Ontario: Preliminary Recommendations. Justina C. Ray, Audrey J. Magoun, Neil Dawson and Jeff Bowman. January 13, 2005. ....	Tab 21
COSEWIC. Assessment and Update Status Report on the Wolverine, <i>Gulo gulo</i> Eastern Population. Committee on the Status of Endangered Wildlife in Canada. 2003. ....	Tab 22
N. Dawson. Report on the Status of the Wolverine ( <i>gulo gulo</i> ) in Ontario. Committee on the Status of Species at Risk in Ontario. MNR. February 2000. ...	Tab 23
Species at Risk List in Ontario ( <a href="http://www.ontarioparks.com/saro-list.pdf">www.ontarioparks.com/saro-list.pdf</a> ) .....	Tab 24
A. S. Laliberte and W. J. Ripple. 2004. Range Contractions of North American Carnivores and Ungulates. v.54 no. 2. <i>Bioscience</i> p.123. ....	Tab 25
Canada’s Large Intact Forest Landscapes. Global Forest Watch Canada. 2003. ..	Tab 26
Final Consensus Draft for IUCN WCC Plenary Decision. Advancing Boreal Forest Conservation .....	Tab 27
Bryant, D., D. Nielsen and L. Tangley. “The Last Frontier Forests: Ecosystems and Economies on the Edge” World Resources Institute, 1997. ....	Tab 28
E. W. Sanderson et al. 2002. The Human Footprint and the Last of the Wild. v.52 no. 10 <i>Bioscience</i> p.891. ....	Tab 29
<i>Other:</i>	
Northern Boreal Initiative. A Land Use Planning Approach. Concept Document July, 2001 .....	Tab 30
EBR Proposal Posting. “Northern Boreal Initiative: Whitefeather Forest and Adjacent Areas Community-based Land Use Strategy”. Date Proposal Loaded: 2004/06/15. Registry Number: PB03E1003 .....	Tab 31