

# Traditional and Culture Values

## PROVISIONAL AND PROTECTION AREAS

OCTOBER 1, 2015

Edward Sutherland  
Land Planning and Resources Coordinator



- ❑ First Nations people have used and occupied the lands for thousands of years.
- ❑ Areas of cultural and spiritual significance must to be identified, protected and/or withdrawn from areas of staking and exploration for the preservation of culture and for future generations.



Occupancy

Grave Sites

Pictographs  
Gathering Areas

Nesting and  
Calving Sites

## Provisional :Area of provisional protection



**13. (1) If there is no community based land use plan** for an area in the Far North, a First Nation may request that the Minister make an order designating the area as an area of provisional protection.

### **Order**

(2) At the request of a First Nation under subsection (1) or on his or her own initiative, the Minister may make the order described in that subsection if the Minister is of the opinion that the prescribed criteria have been met.

### **Effect of order**

(3) An order designating an area as an area of provisional protection shall specify the developments, land uses and activities that are not permitted in the area, subject to the restriction that no person shall carry on any of the developments, land uses and activities described in any of paragraphs 2 to 6 of subsection 14 (2) in the area.

### **Request to withdraw land from mining staking**

(4) If the Minister makes an order under subsection (2) with respect to an area, the Minister shall request the Minister of Northern Development, Mines and Forestry to make an order under the *Mining Act* withdrawing the area from staking under that Act.

### **Non-application of *Environmental Assessment Act***

(5) For greater certainty, the designation of an area as an area of provisional protection is not an undertaking as defined in the *Environmental Assessment Act*.

### **Termination of order**

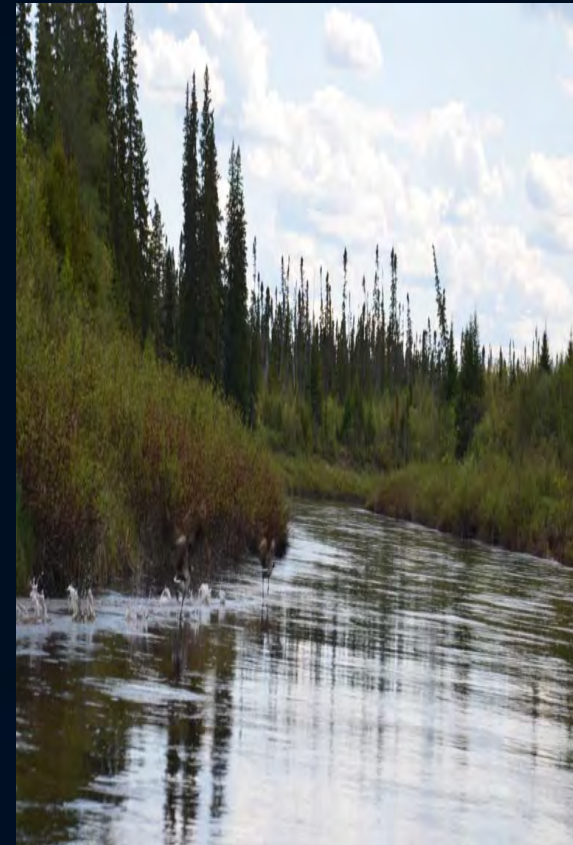
(6) An order that designates an area as an area of provisional protection ceases to have any effect if a community based land use plan takes effect for the area.



## Protected areas

(2) No person shall carry on any of the following developments, land uses and activities in a protected area:

1. Prospecting, mining claim staking or mineral exploration.
2. Opening a mine in the prescribed circumstances.
3. Commercial timber harvest.
4. Oil and gas exploration or production.
5. Constructing an electrical generation facility that uses wind or water as a source unless a person issues an authorization for the construction under an Act administered by the Minister because the person is of the opinion that the construction is incidental or complementary to land use or land use activities that are not prohibited under paragraph 1, 2, 3, 4 or 6.





# FIRST NATION COUNCIL RESOLUTION

File Reference No.  
2013-15  
Page 1 of 2

The Council of the <b>KASHECHEWAN FIRST NATION</b> (Albany Reserve #67) P.O. Box 240 Kashechewan, Ontario P0L 1S0 Phone (705) 275-4440/4413 Fax (705) 275-1023	
Date of duly convened meeting, May 28, 2013	Quorum Seven (7)

Do hereby resolve:

**WHEREAS:** the Kashechewan First Nation wants to preserve the dignity of the burial site of Nick Lazarus (Child), members of Kashechewan.

**WHEREAS:** the Kashechewan First Nation wants to set aside an area of land with the expressed intention of protecting the interment rights of Nick Lazarus (Child) and associated grave goods in accordance with Omushkego practices, spirituality and cultural affinities of Kashechewan First Nation within traditional and ancestral territory.

**WHEREAS:** the Kashechewan First Nation wants to ensure that the burial site Nick Lazarus (Child) are treated with respect and wants to protect and preserve the burial site from commercial, industrial, agricultural, residential or other development.

**WHEREAS:** No person shall interfere with the burial site of Nick Lazarus (Child) and associated grave goods or otherwise wilfully and unlawfully disturb the interment rights.

**WHEREAS:** for the security, protection and preservation of the burial site Nick Lazarus (Child). Kashechewan First Nation has designated a buffer zone surrounding the burial site that is consistent with existing physical and historical evidence and that protects all the physical and cultural expressions of the burial site.

**THEREFORE BE IT RESOLVED:** that no disturbance will be allowed and that no operation of a drill, vehicle, equipment, machine, device or anything capable of disturbing the surface of the ground and under the ground of the removal of any material for exploration or staking will be allowed within the five hundred (500) meter buffer zone.

**THEREFORE BE IT RESOLVED:** that the Kashechewan First Nation engaging working with the Ministry of Northern Development and Mines to establish and designate a buffer zone of five hundred (500) meters surrounding the burial site of Nick Lazarus (Child) located on the GIS coordinates UTM 393250 mE 5830120 mN within the Kah\_wha\_chi\_chek\_koo\_sit\_too\_wuk area on Stopping River within our traditional and ancestral homelands and is consistent with existing physical and historical evidence with the expressed intention of protecting and preserving the physical and cultural integrity of the burial site.

5730120 N ✓



# FIRST NATION COUNCIL RESOLUTION

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Page 2 of 2

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Date of duly convened meeting, May 28, 2013	Quorum Seven (7)

Do hereby resolve:

Chief Derek Stephen

Deputy Chief Amos Wesley

Head Councillor Sophia Lazarus

Councillor Kim Stephen

Councillor Wayne Lazarus

Councillor Hosea Wesley

Councillor Peter Spence

Councillor George Reuben

Councillor Mathias Wesley Sr.

Councillor Edward Sutherland

Councillor Jenesse Martin

Councillor Sammy Lazarus

Councillor David Lazarus

Application for an Order Withdrawing a Site of Aboriginal Cultural Significance for the purposes of Mining Act, Section 35

General Purpose

Lands that meet the criteria prescribed in regulations to the Mining Act as a site of Aboriginal cultural significance are eligible to be considered for withdrawal to protect them from prospecting, staking, sale or lease. Communities who wish to have lands considered for withdrawal should consult the applicable regulations and Policy and complete this Form, including all required information and documentation.

For Office Use Only	
Date Received (yyyy/mm/dd)	
Order Date (yyyy/mm/dd)	
Order No.	

Part 1 – Aboriginal Community Information

Aboriginal Community Name: Kashechewan First Nation Band/Reserve Number (if Applicable): IR #67

Contact Information (Please provide name and address of the person that MNDM will directly communicate with for the purpose of this application)

Last Name: Sutherland First Name: Edward Middle Initial: \_\_\_\_\_

Position: Lands and Resources Coordinator

Address: Unit No. \_\_\_\_\_ Street No. \_\_\_\_\_ Street Name: 13 Riverside Rd. Rural Route \_\_\_\_\_

PO Box: 240 City/Town/Reserve: Kashechewan Province: ON Postal Code: P0L 1S0

Telephone Number: 705 275-1054 Fax Number (if available): 705 275-1023 Email (if available): \_\_\_\_\_

Part 2 – Size and Geographic Description of the Site

Size: 25.00 hectares (Only sites which are not larger than 25 Hectares are considered for the purposes of this application.)

Fixed Location (Please ensure that a map or GPS coordinates of the site containing sufficient information to plot a polygon on CLAIMaps for withdrawals is attached to this application.)

Have you attached map of the site as described above?  Yes  No

GPS Coordinates: UTM 393250 E 5630190 N

Part 3 – Nature of the Site

Please provide a detailed description of the lands for which the community is seeking a withdrawal order, particularly as it relates to how the site is associated with the community for social, cultural, sacred or ceremonial reasons or because of its traditional use by that community, according to Aboriginal traditions, observances, customs or beliefs. The ministry is seeking information both with regard to the uses and significance of the lands to the community but also the process by which the community has identified these particular lands. (Attach any written submissions.)

The SOACS application for a specific burial site of sacred concern. Each site is within the traditional territory of Kashechewan First Nation. Each site was identified through the community land use planning exercise, which included elders interviews, excursions and site visits.

Supporting Documentation (Please indicate any documentation you are submitting in support of this application.)

Testimonials (written or audio/video recorded) as to uses and significance to the community collected from elders, land users or other community knowledge holders.  Historic references in secondary materials to the site and its uses and significance.

Transcripts of oral history and stories pertaining to the area identified.  Photographs of the site and particular features.

Existing reports or land use studies that document the site.  Surveys, current or historic, of the site and its features; and

Documentation created for other processes (land claims, mapping projects, archaeological studies, etc.);  Other ministry or agency designations or protections afforded to the same site.

Other \_\_\_\_\_

Please ensure that a copy of the supporting document(s) indicated above is included with this application.

Part 4 – Community Support (Applications must be supported by the community as a whole, as evidenced by appropriate documentation. Please indicate supporting documentation attached to this application.)

Band Council Resolution  Community Council Resolution  Other: BCR ref # 2013-15

Note: Please ensure that the Band Council Resolution or the Community Council Resolution indicated above contains the following acknowledgement.

"The community understands that:

a) an application is being made requesting the withdrawal of certain lands as a "site of Aboriginal cultural significance" under the Mining Act, and the community has reviewed and approves of the application and information being submitted in support of the application;

b) the application may be subject to disclosure request under the Freedom of Information and Protection of Privacy Act (FIPPA), RSO 1990;

c) An order issued withdrawing the site shall be made available for public inspection under subsection 35(4.2) of the Mining Act."

Part 5 – Confirmation

Personal information collected on this form is obtained under the authority of sections 35 and 178.2 (1) of the Mining Act. This information will be used for the purposes of processing the application and to communicate with the aboriginal communities and/or the named Contact Person in that regard. Any information on this form is subject to the Freedom of Information and Protection of Privacy Act (FIPPA), RSO 1990. Questions about this collection should be directed to the Aboriginal Relations Branch, Ministry of Northern Development, and Mines, 6<sup>th</sup> Floor, 933 Ramsey Lake Road, Sudbury, Ontario P3E 6B5. Telephone 1 888 415-9845.

I confirm that the above information and attached documents are complete and accurate to the best of my knowledge.

Community Contact: Last Name: Sutherland First Name: Edward Middle Initial: \_\_\_\_\_

Signature: [Signature] Date (yyyy/mm/dd): 2013/07/08

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ORDER

SECTION 35, THE MINING ACT, R.S.O. 1990

ORDER NO. W-P-75/14

The SURFACE RIGHTS and MINING RIGHTS of the areas outlined in red on the attached sketches, situated in BMA 518 814 (G-5274) and BMA 525 814 (G-5272), in the Porcupine Mining Division, containing 48 hectares more or less, are hereby WITHDRAWN from prospecting, staking out, sale or lease.

These areas are WITHDRAWN for reasons of cultural, ecological or other sensitive nature.

Saving, excepting and reserving hereto and herefrom, all other lands patented, sold, leased or otherwise alienated by the Crown at the date of this Order.

Any alienated lands lying within the limits of this withdrawn area that revert to the Crown subsequent to the date of this Order will automatically be considered to be withdrawn as part of this Order.

This order comes into effect upon signing.

Date: SEPT 24 / 2014

Time: 4:00pm

[Signature]

Cindy Blancher-Smith, Assistant Deputy Minister  
Mines and Minerals Division

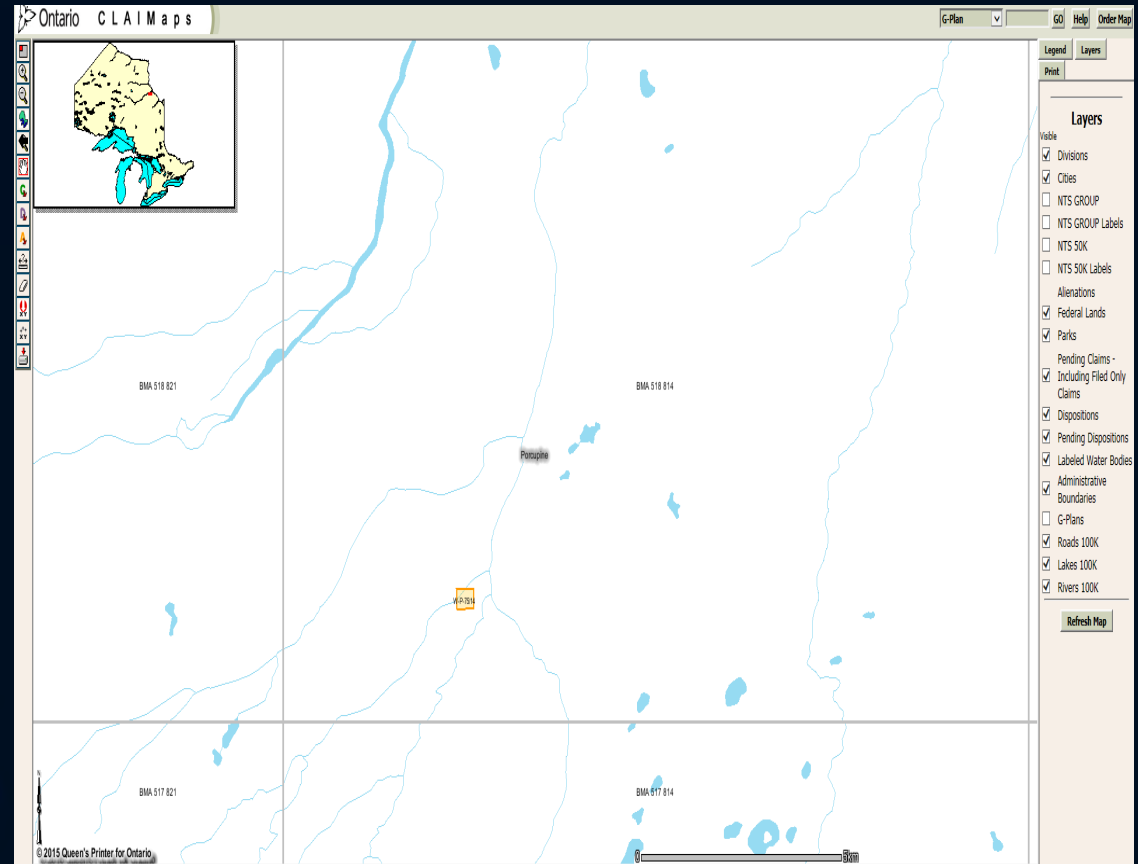
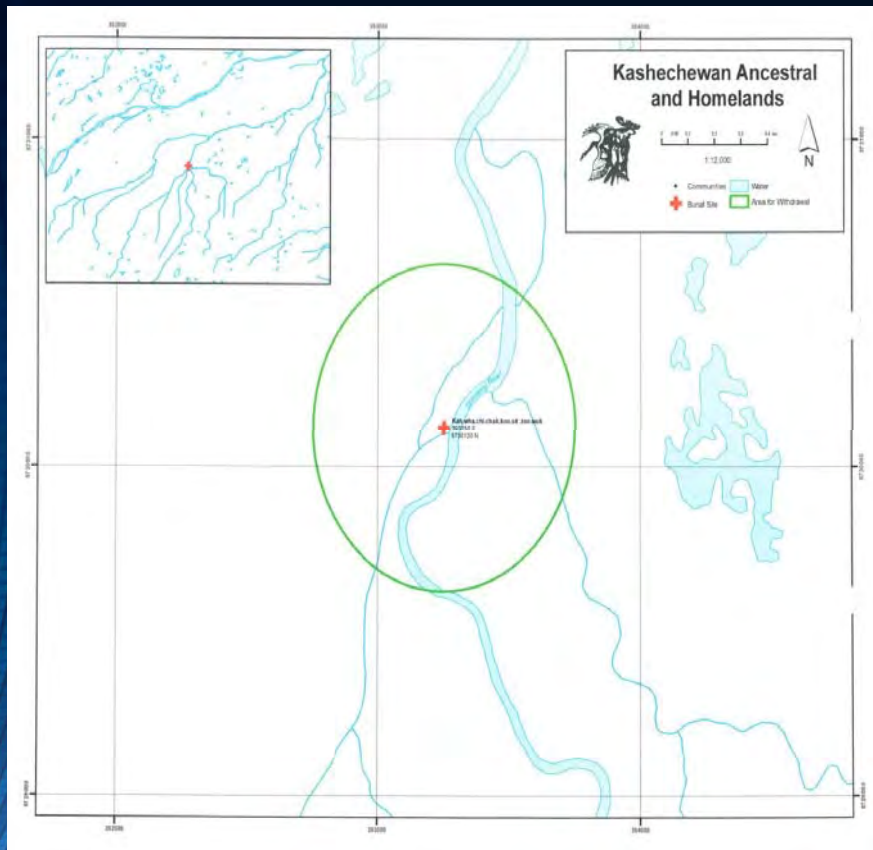
Copies:

Senior Manager, Mining Lands Section, MNDM, Sudbury

Provincial Mining Recorder, MNDM, Sudbury

Provincial Lands Specialist – CLR

Director, Aboriginal Relations Branch

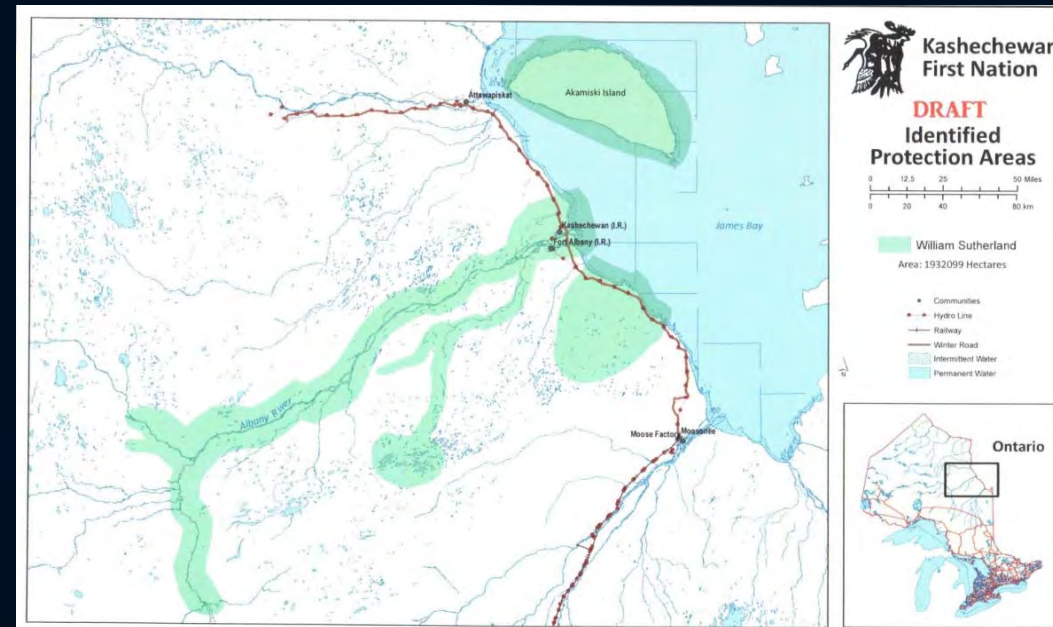
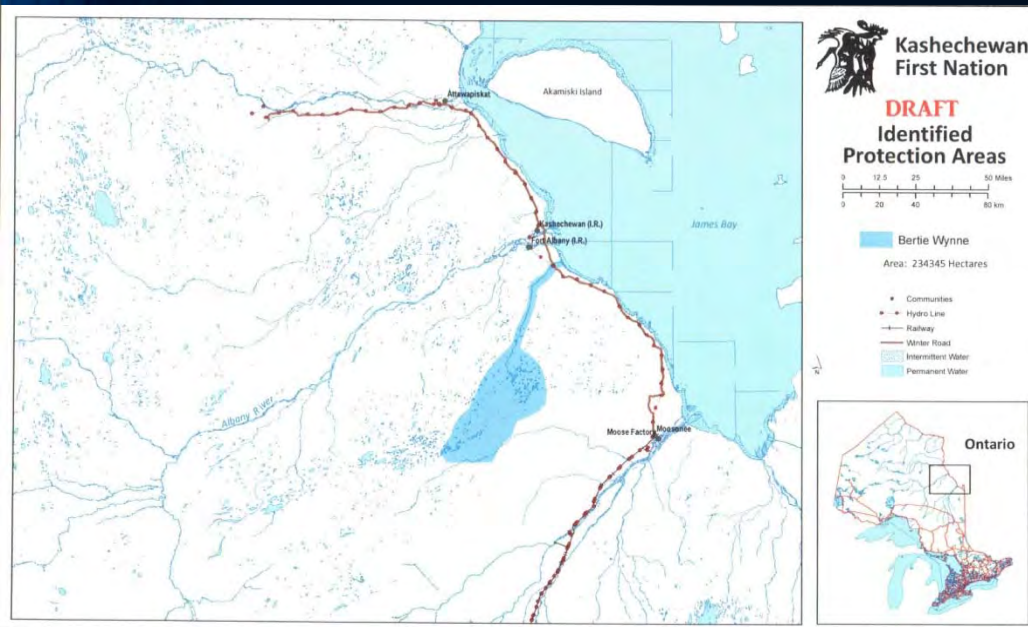


Burial Site 16 hectares withdrawal by KFN and MNDM Claims Map identified withdrawal order

# Large Scale Protection Areas

Mushkegowuk territory is mostly wetland, peat, and muskeg, all of which provide prime lands for vegetation (e.g., berries, important herbs) and wildlife habitat along rivers, lakes, and coastal lines.

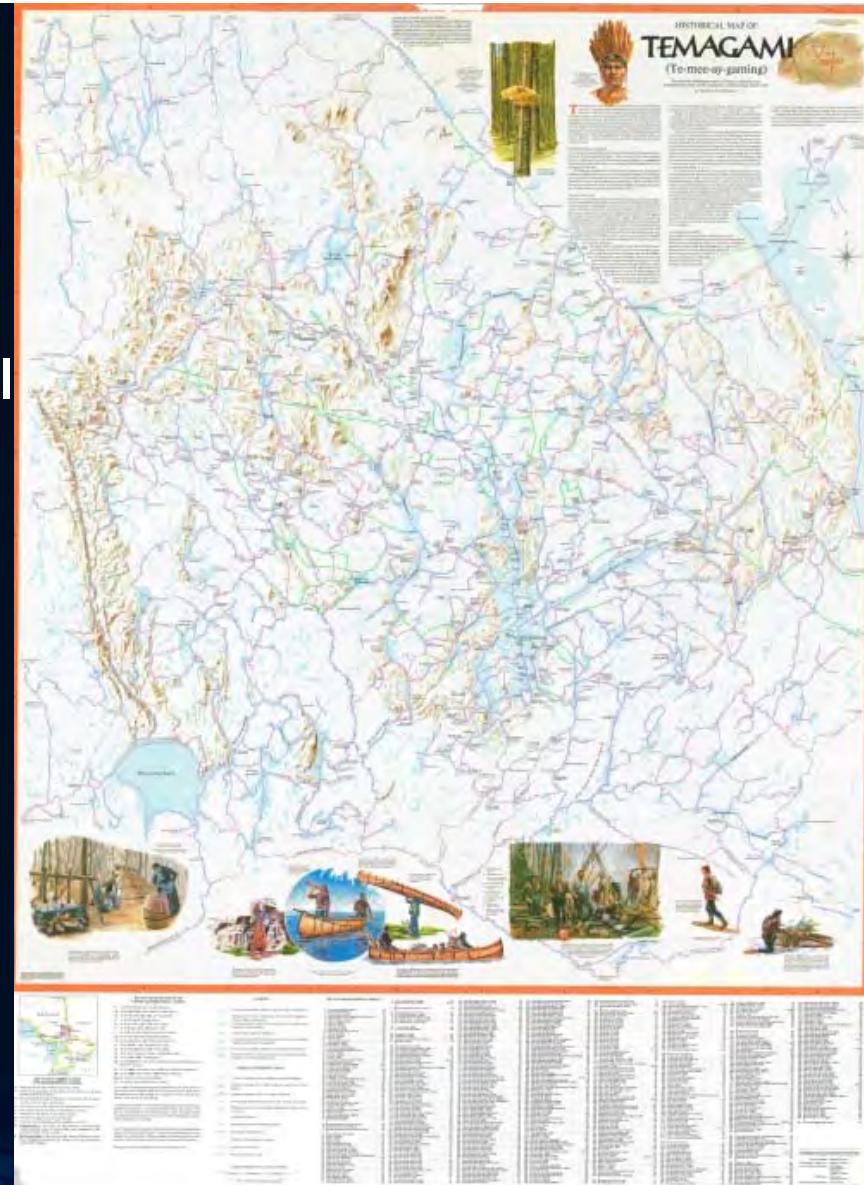
Protection of these areas is important.





# Lands & Resources

- ❑ L&R provides strategic to the Chiefs and Councils with regards to the conservation, protection, management and development of the natural resources within the KFN traditional territory
- ❑ The major areas of focus are:
  - ❑ Provisional and Protection
  - ❑ Forestry Development
  - ❑ Land Use Planning
  - ❑ Elders Advisory Services
  - ❑ Focus on Mining and Mineral Resources Development
  - ❑ Potential Resources Economic Development
  - ❑ Historical Maps with Historical and current data ( example: Historical map of Temagami )



# What was the Values Collection Project?

- ❑ The collection of Traditional Values project came about as a response to the Modernization of Ontario's Mining Act (2009)
- ❑ KFN Council and Land Use Planning Coordinator worked together develop a project that would identify culturally and spiritually significant/sacred values in the territory and identify use and occupancy
- ❑ Capture our history and occupancy of lands and waters, and for our youth, so we won't lose the history of our Elder's stories, experiences, language and indigenous place names of our rivers, lakes etc.
- ❑ Education tool for students and educators for knowledge of our ancestral and traditional lands. Document and preserve information of our elders and harvesters.

# Harvesting Still Strong



Moose Hunting

Sturgeon and other fish species

## Data Collection

- ❑ Interviews were scheduled and conducted at either the LUP office or in homes... where ever the interviewee was most comfortable.



- ❑ Traditional Knowledge Values were captured on 1:50,000 or 1:250,000 Topographic maps

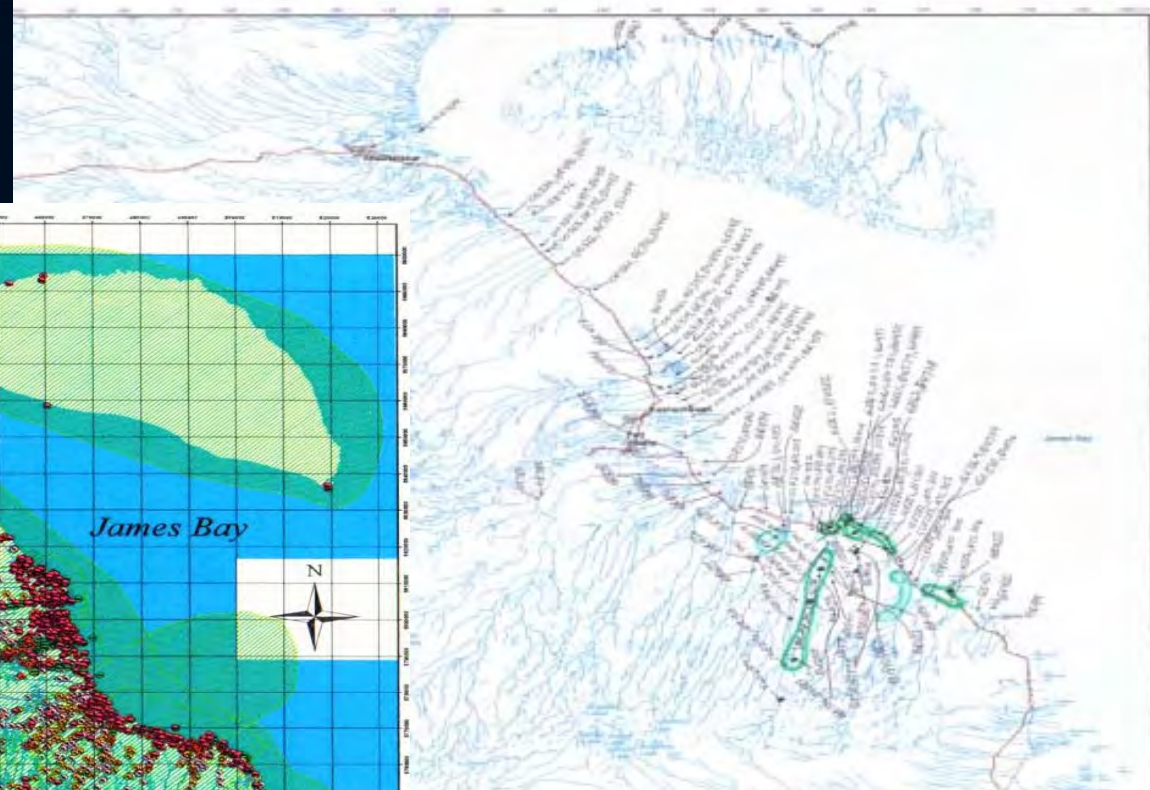
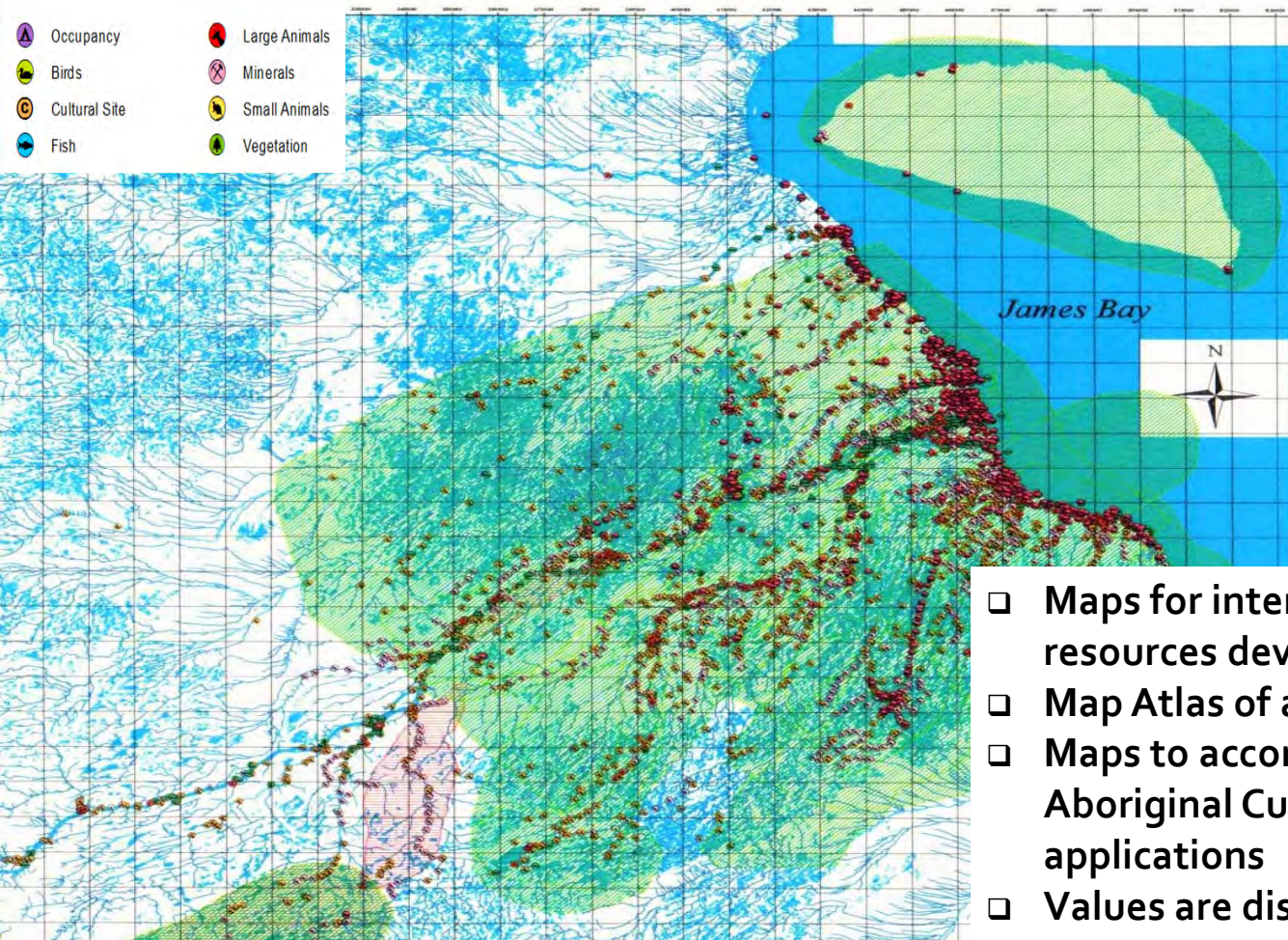
## Communication

- ❑ It was important to keep the First Nation Chief and Council up-to-date on the project and the community members
- ❑ Regular updates were given at meetings and information to members through community newsletters
- ❑ Discussing with Elders and Youth on withdrawal of burial sites and identifying protected areas and importance of documenting our homelands



# Map Products

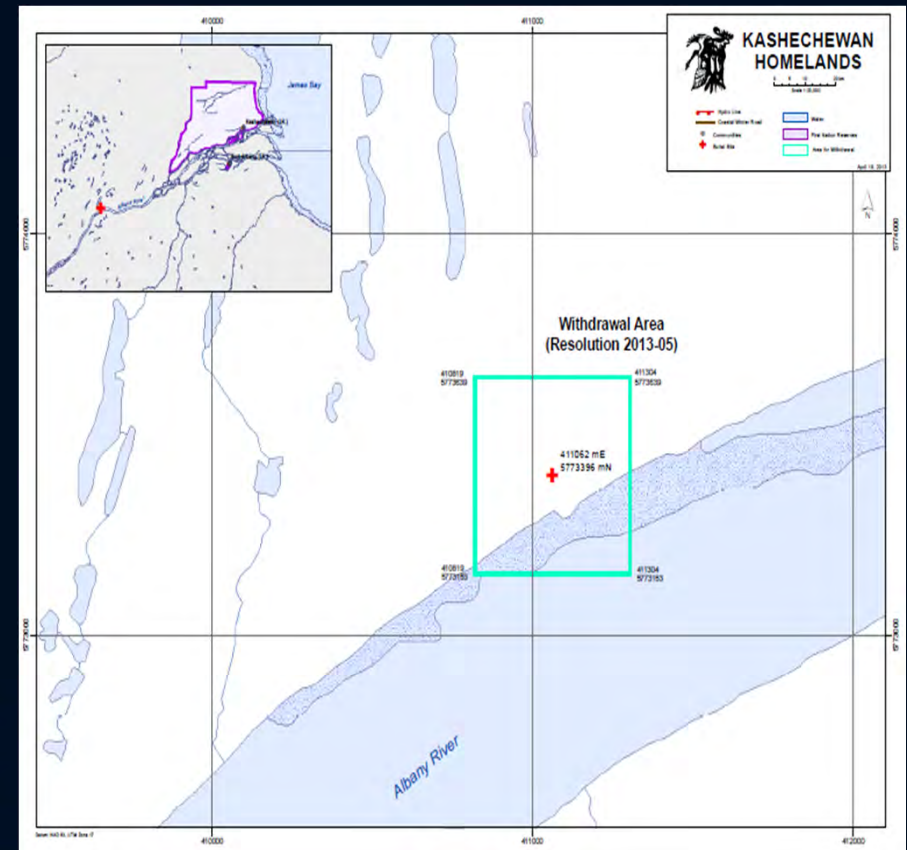
- Occupancy
- Birds
- Cultural Site
- Fish
- Large Animals
- Minerals
- Small Animals
- Vegetation



- Maps for interviewees and the First Nation potential resources developments
- Map Atlas of all collected data for the project
- Maps to accompany our First Nation Site of Aboriginal Culture Significance (SOACS) withdrawal applications
- Values are displayed as generic points and polygons

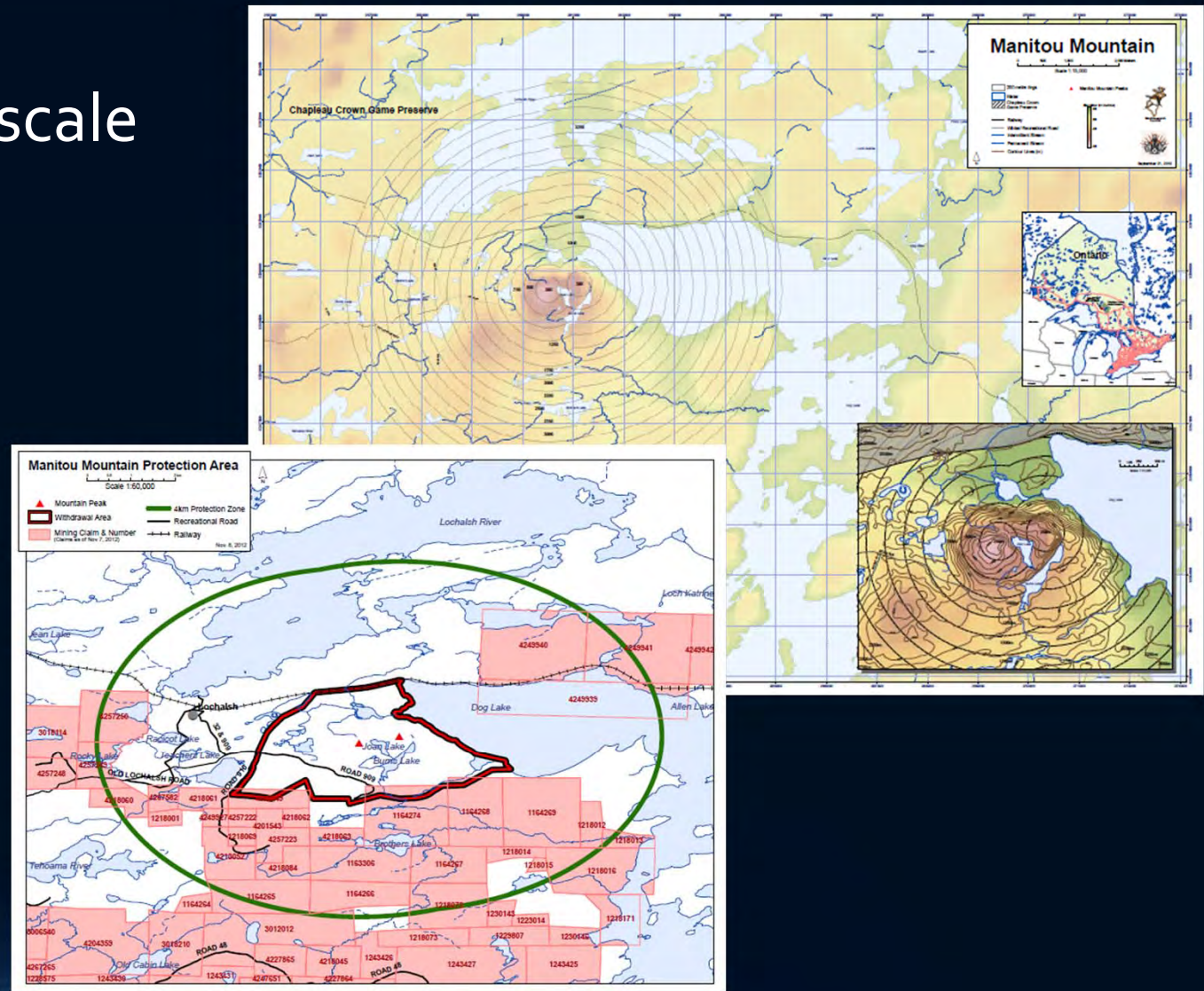
## Outcomes

- ❑ The project has gathered valuable First Nation Use and Occupancy data that must be protected
- ❑ Values are being shared with MNDM and mining industry for an open dialogue about areas of protection during the Application for Exploration phase of Mining Cycle
- ❑ Withdrawals of cultural areas of significance and sacred sites from future staking are being done through Section 35 of the Mining Act



# Examples of large scale Protection areas

- Larger areas of sacred significance have also been identified and withdrawn from further staking.
- Kashechewan will continue to work with MNDM on potential withdrawals.





# Treaty Rights

## Provincial Parks and Conservation Reserves Act, 2006:

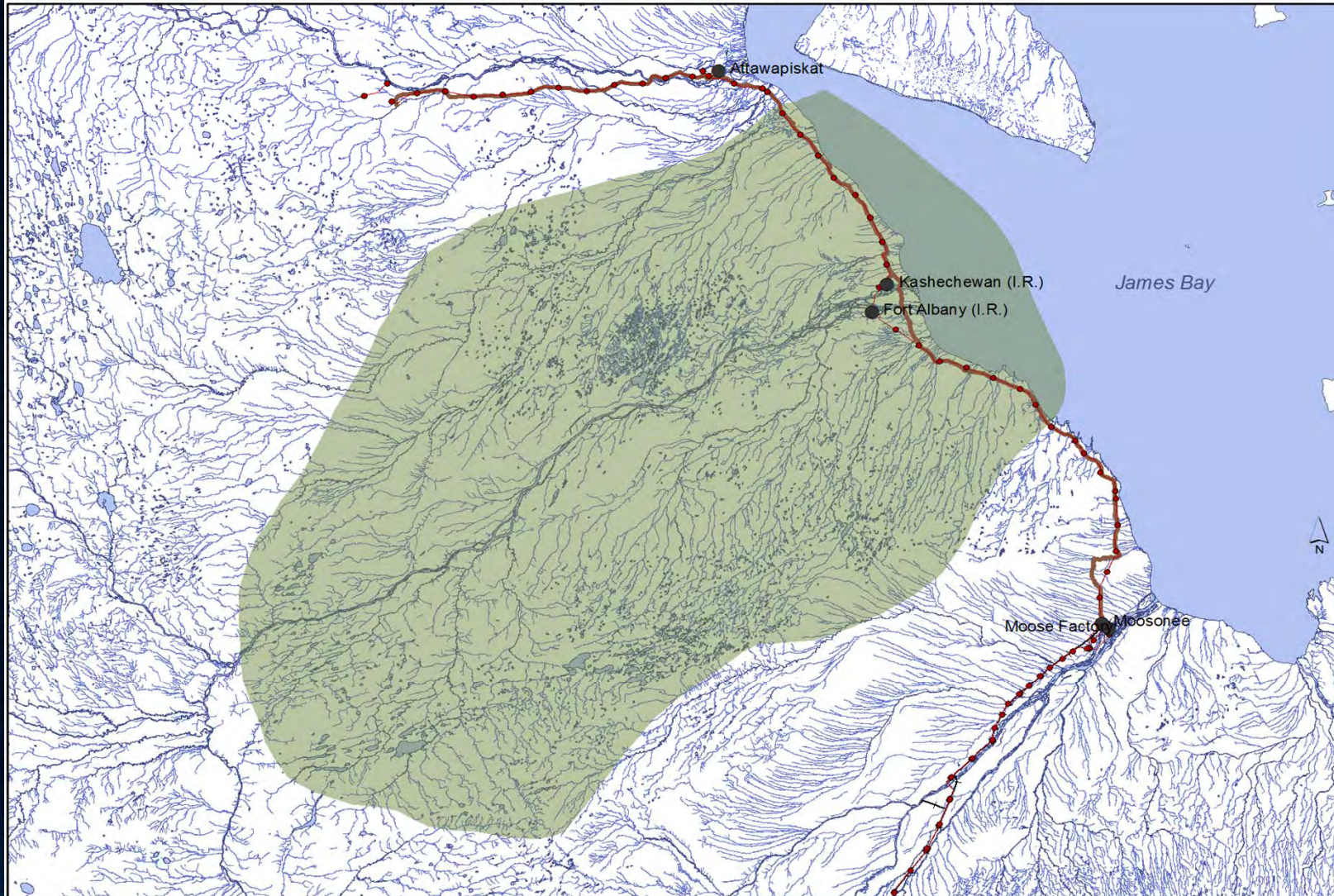
### Existing aboriginal or treaty rights

4. Nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for the existing aboriginal and treaty rights of the aboriginal peoples of Canada as recognized and affirmed in section 35 of the *Constitution Act, 1982*. 2006, c. 12, s. 4.

**Treaty rights:** The specific rights of the Aboriginal peoples embodied in the treaties they entered into with a Crown government, initially Britain and after confederation, Canada. They may address matters such as the creation of reserves and the rights of Aboriginal communities to hunt and fish. Existing treaty rights are recognized and affirmed by Section 35 (1) of the Constitution Act, 1982. Value: A specific attribute or feature (Aboriginal, cultural, ecological or recreational), or ecological function within a protected area that may require additional/ special consideration during the management planning process and subsequent management. Value of conservation interest (VCI): Those values considered to be most significant to a protected area and are often associated with why the protected area was established and/or how the protected area contributes to the protected areas system and the maintenance of ecological integrity.

“If it is discovered that Aboriginal or treaty rights may be affected, MNR has a legal duty to consult and, if appropriate, make accommodations so communities can continue to exercise their rights that have been affirmed in the Constitution Act.” <http://www.ontario.ca/document/ontarios-protected-areas-planning-manual>

## Kashechewan First Nation Homelands (DRAFT)



Kashechewan First Nation planning areas of interested to date.

This is indentified and worked on through intensive interviews and audio recordings with Elders, harvesters and active youth out in the lands.

Approximate size of planning area is 39,570 hectares

## Challenges

- ❑ The length of time to negotiate and secure a funding agreement
- ❑ Under-estimated the amount of training that was required
- ❑ Project ended before all communities had completed their data collection and land use plan
- ❑ Interviewing out-of-town Elders and members
- ❑ Low water levels and access to inland burial and sacred sites
- ❑ Cash flow and funds available within KFN

## Moving Forward

- ❑ We are currently working together with Mushkegowuk Land Use Planners, MNRF, and MNDM for technical advice and resources to move forward
- ❑ Representatives from community, e.g. Elders Advisory Committee, Joint Planning Team, and Youth member
- ❑ The Terms of Reference and Scope are currently being discussed. Some of the scope items include:
  - The Data Sharing Protocol ended with the completion of the Values Collection project
  - Establishing standard prescriptions for the protection of Values across the Territory
  - The collection and sharing of information, building understandings concerning mining exploration and development including policies, regulations, protocols, and best practices.
- ❑ Community information sessions and input and ratification of “Terms of reference and Land Use plan

## Moving Forward (con't)

- ❑ Map and document historical and present data of “Use of Land”
- ❑ Youth and people to learn and know First Nation Peoples occupancy of Turtle Island
- ❑ Education tool and history for education institutions
- ❑ Indigenous places names e.g. Rivers, lakes, sacred places , Medicinal Herbals and harvesting.
- ❑ Capture and preserves Elders knowledge and Legends
- ❑ Indigenous names of waterfowls, Birds, aquatic species etc.

Meegwetch ...Thank You

