

1. Is there evidence that the Neskantaga First Nation used and occupied the Project Area prior to the submission of the Proposal?

Summary Response

The available historical, ethnographic literature and oral testimony indicate that there is evidence that Neskantaga, and other First Nation members, used and occupied the lands and waters in and around the Project Area in the period prior to the proposal of the Project. This is reflected in the fur trade accounts of the HBC, geological surveys and the oral testimony of Neskantaga elders.

The first major HBC inland trade posts in the region were Henley House, Gloucester House, Marten Falls and Fort Hope (all on the Albany River), and were likely the most important early trade centres for residents of the upper Attawapiskat and Winisk River drainage basins. This required that people travel long distances to trade their furs, and they likely only visited such posts a few times a year.

While not well documented, it appears that both the North West Company (NWC) and Hudson's Bay Company (HBC) established posts on Attawapiskat Lake during the period of intense competition (ca. 1770s through to 1821). This is evident with one set of surviving HBC records dating to the 1814-15 trade season (HBCA, PAM, B.10/a/1-2; B.10/b/1; B.10/d/1; B.10/e/1-2; B.10/f/1). They were likely short-term wintering outposts administered from larger posts along the Albany River, and very little written documentation has been encountered that describes them. It is not known where these early trade posts were located, but they may have been on the same peninsula

where the later HBC Lansdowne House post was formally established in 1928. In a 1912 map of the region there is a notation indicating the location of 'HBC post, a Free Trader Outpost' at or near the peninsula containing Old Lansdowne House (and also the grave of a missionary) and a reference to a trail originating at the east end of Beteau Lake, a Neskantaga settlement, and terminating at the post at Marten Falls.

In his listing of fur trade posts in Canada, Voorhis (1930) makes unattributed observations about the sequence of fur trade occupation on Attawapiskat Lake. The original occupation (both HBC and NWC) date to 1814-15 (named Lake Attawapiskat), with the HBC briefly re-establishing there in the 1820-21 season. It may have been re-established as early as 1850, but was certainly re-built in 1890 and persisted intermittently until 1927, whereupon it became a formal HBC trade post (named Lansdowne House). It was finally closed in 1987. In sum, it appears to have been an intermittently used wintering outpost administered from Fort Hope or Gloucester House [Washi Lake] until the early 20th Century.

Taylor (1972:21) reports that the most recent HBC post at Lansdowne House was established in 1928, and that prior to this, the residents of Attawapiskat Lake had to travel 50 miles south to trade at the trade post at Fort Hope (on the Albany River).

2. Is there evidence that, prior to the proposed Project that Marten Falls took steps to exclude Neskantaga, and other First Nations, from their territory and the Project Area?

Summary Response

Based on a review of the available literature, there is no evidence that the Marten Falls First Nation protected the Project Area or ever threatened or harmed Neskantaga and other First Nations using the area prior to the proposal of the Project. Members of the Neskantaga and Marten Falls First Nations intermarried and, at various times, the families of current Neskantaga members were registered at Marten Falls. See two examples provided.

3. Did the Neskantaga First Nation hunt, trap and fish in and around the Project Area, and trade products obtained from in or around the Project Area?

Summary Response

Based on a review of the available literature and oral testimony of Neskantaga elders, members of the Neskantaga community historically hunted, trapped and fished in and around the Project Area, and traded products obtained from and in an area that includes the Project Area. This pattern dates back to the establishment of the fur trade. See below.

4. Summarize trade relations between the Attawapiskat Lake people and the Marten Falls Post from the early historical record to the creation of the registered trapline system ca. 1947.

Summary Response

Based on a review of the available literature, there were trade relations between the Attawapiskat Lake and the Marten Falls Post from the 1700s onwards and these relations were based on the strategic location of the Attawapiskat Lake people between the James Bay Coast coast and interior that gave them access to resources from the Attawapiskat, Winisk and Albany drainages, as well as resources from their own lands.

The main trade routes that affect the Project Area were :

- 1) Inland from the Albany Fort at the mouth of the Albany River on James Bay.
- 2) Inland from Lake Nipigon to Lake St. Joseph
- 3) Two historic trails that connect the Attawapiskat River to the Marten Falls Post.
- 4) Attawapiskat Lake to the Attawapiskat Fort at the mouth of the Attawapiskat River on James Bay.
5. Attawapiskat Lake to Fort Hope.

Residents of the Attawapiskat River basin were likely involved in the fur trade since the late 1600s given their access to the Hudson's Bay Company (HBC) bayside posts. From 1670 through to the 1770s, the HBC did not establish inland trade operations. Instead, they relied upon Aboriginal customers travelling to Hudson and James Bays to trade at major depots at the mouths of rivers such as the Churchill, Hayes, Severn, Albany, Moose, Eastmain and Rupert Rivers. By the mid 1700s alternative sources of European goods became available from colonial French (and later British) traders from Montreal who

entered the area following water routes north from Lake Nipigon.

As competition from British Montreal merchants intensified after the 1770s, the HBC gradually abandoned the Bayside trade strategy, and developed an inland trade post system. This triggered an era of intense inland competition for furs produced by Native trappers.

The first major HBC inland trade posts in the region were Henley House, Gloucester House, Marten Falls and Fort Hope (all on the Albany River), and were likely the most important early trade centres for residents of the upper Attawapiskat and Winisk River drainage basins. This required that people travel long distances to trade their furs, and they likely only visited such posts a few times a year.

While not well documented, it appears that both the North West Company (NWC) and Hudson's Bay Company (HBC) established posts on Attawapiskat Lake during the period of intense competition (ca. 1770s through to 1821). This is evident with one set of surviving HBC records dating to the 1814-15 trade season (HBCA, PAM, B.10/a/1-2; B.10/b/1; B.10/d/1; B.10/e/1-2; B.10/f/1). They were likely short-term wintering outposts administered from larger posts along the Albany River, and very little written documentation has been encountered that describes them. It is not known where these early trade posts were located, but they may have been on the same peninsula where the later HBC Lansdowne House post was formally established in 1928. In a 1912 map of the region there is a notation indicating the location of 'HBC post and also Free Trader Outpost' at or near the peninsula containing Old Lansdowne House (and also the grave of a missionary).

In his listing of fur trade posts in Canada, Voorhis (1930) makes unattributed observations about the sequence of fur trade occupation on Attawapiskat Lake. The original occupation (both HBC and NWC) date to 1814-15 (named Lake Attawapiskat), with the HBC briefly re-establishing there in the 1820-21 season. It may have been re-established as early as 1850, but was certainly re-built in 1890 and persisted intermittently until 1927, whereupon it became a formal HBC trade post (named Lansdowne House). It was finally closed in 1987. In sum, it appears to have been an intermittently used wintering outpost administered from Fort Hope or Gloucester House until the early 20th Century. While the most recent operations were on the eastern tip of the peninsula where the mission and Aboriginal settlement developed, it is not clear where the original building sites were located.

The Treaty Period

Far northern Ontario was not subjected to treaty until 1905, with Treaty #9 that affected lands and communities located south of the Albany River as far west as Lake St. Joseph. The final adhesion occurred in 1929, and encompassed the remaining land within Ontario north of the Albany River. While the Attawapiskat Lake region lies north of the Albany River boundary of the original Treaty #9, local residents were treated as members of the Fort Hope Band, and were signatories of Treaty #9.

The rest of Canada knew very little about northern Ontario in the early 1900s. This is evident in the appropriate sections of the first Atlas of Canada that was published in 1906. The Atlas details an expansive region north from Lake Nipigon, throughout the headwaters of the Albany and Attawapiskat

River basins, and north into the Winisk and Severn River headwaters. Hudson's Bay Company posts are reported in operation at Big Trout Lake, on Bamaji Lake and Lake St. Joseph, and at Fort Hope and Marten Falls on the Albany River, and at Long Lac in the headwaters of the Kenogami River. There is no other indication of settlements on the map, suggesting that the HBC post at Lake Attawapiskat was not in operation at that time. This suggests persistence of mobile Cree and Ojibwe land use, and that the slowly emerging semi-permanent all-Aboriginal hamlets were not cartographically recognized as settlements.

Difficult access ensured that Aboriginal families widely dispersed across the northern landscape remained relatively autonomous from southern influence. But by the early 20th Century, transformations were beginning. One such transformation was the post-1905 development of Band Registries, and the annual Treaty payment visits by the Indian Agent.

The highly mobile forager lifestyle was also slowly fading, with the development of small all-Aboriginal hamlets dispersed across the north. These informal villages were places of aggregation for small groups of related families. Some families might remain widely dispersed during the winter to hunt and trap, but gathered together in small villages during the warm season on lakes with sufficient fish to sustain them. Other hamlets might be occupied nearly year-round by the women and children, while the men and older boys traveled to hunt and trap within the surrounding hinterland.

Such hamlets might contain tents, moss-covered semi-subterranean tipis (winter lodges), or small cabins. Sometimes a church/ meeting hall and a small trade store (operated by an

Aboriginal trader) might also be found there. They were named communities that were part of the northern cultural geography, but few were formally recognized as communities by provincial and federal officials. However, they remain important places in the memories of Elders, and figure in the contemporary discussion of Aboriginal land use and occupancy. Many are only known in the Oral Tradition, and others intermittently appear in written records.

Six such small hamlets dating to the early 1900s are mentioned by J.G. Taylor (1972) that are relevant for this discussion. Taylor reports that the two villages located on Lake Attawapiskat (Otonabee and Kochichi) began in the first two decades of the 1900s when people began living in small log cabins (at least seasonally). These cabins replaced the traditional temporary lodges that were used during more migratory times.

Taylor (1972) indicates that these small hamlets remained in operation until about 1950, when people abandoned them in favour of settlement near the HBC outpost at Lansdowne House. Apparently the catalyst for this move was the establishment of a Roman Catholic mission at Lansdowne House, thereby attracting the Catholic residents to the mission. Also important was the establishment of a nursing station at about the same time (Taylor 1972). Other hamlets appear to have been Anglican (such as Mameigwess, Birch Lake, Nibinamik and Webiquie), and they persisted until the 1960s when Webiquie received an HBC store and a day school. The last of the original hamlets to be abandoned was old Nibinamik (1969), when those families moved either to Webiquie or Lansdowne House (Taylor 1972:21).

Taylor (1972) indicates that these settlements ranged in size from 42 to 110 people (average 62), and were occupied for 10 or more months of the year. They were briefly vacated in the summer when residents travelled to Lansdowne House to meet the Treaty Party. These hamlets were the primary family residences, with periodic winter trips by the men and boys to check the trap lines. They were logistical and residential bases, surrounded by temporary travel camps used while the men harvested the hinterland.

In late September of 2012, Neskantaga First Nation undertook to document a historically occupied hamlet site named Shay-kaah-chii-wii-nange located along the Attawapiskat River about half way between Pym Island and the historic Beteau Lake settlement. This place was reported by community Elders to be in close proximity to the proposed access route to the Ring of Fire mineral development area. The locality is about 100 km by air downstream from Attawapiskat Lake, but by water it is considerably longer because of the meandering river course, with its many shoals and rapids.

The visible evidence suggests a series of early to mid 20th Century encampments scattered at intervals on a raised levee forming the north river bank of the Attawapiskat River. Elder information serves to identify some of the key families who regularly met at this locality, and specifies at least one individual who died and was buried there.

Despite their isolation, initial documentation of the mineral resources of the north began shortly after the signing of Treaty #9. Geologists with the Ontario Bureau of Mines undertook a reconnaissance of the Attawapiskat Lake region shortly before 1912 (Miller 1912). The resulting report addressed the physical

character and economic potential of the land. One of the maps records place names, camps, graves, trails and settlement locations as well as the ecological character of the land.

Driben and Trudeau (1983) describe the early modern period in the upper Albany and Attawapiskat River regions by noting that most people were treated as members of the 'Fort Hope Band', consisting of about 2,000 people living in four villages (Fort Hope, Webiquie, Summer Beaver or Nibinamik and Lansdowne House).

What was the nature of the Marten Falls and Neskantaga occupation of the traplines in the Project Area? Was the occupation exclusive?

The 1947-48 implementation of the Trap Line Registration system by the Ontario government was intended to address problems associated with the influx of non-Aboriginal trappers into the railway-accessible regions to the south, and it was uniformly applied throughout northern Ontario. The land was sub-divided, usually along water drainage basins, into discrete trapping territories. Upon paying a registration fee, specific people (or families) were assigned exclusive trapping rights to each parcel.

The trap line registry failed to address the flexibility of traditional Aboriginal land and resource management that was regularly adjusted to accommodate changing resource abundance, forest fires, and other ecological fluctuations. Nor did it account for traditional arrangements for resource sharing within and between the families resident across large regions.

Important for understanding the contemporary situation, trap line territories currently held by members of specific First

Nation communities are often deemed to define the ‘traditional territory’ of that First Nation. This often (but not always) is tempered by recognition of the shared interest and historic rights of kin and associates (and their descendants) who might have moved in the 1950s to become members of neighbouring First Nations.

In the case of the greater Attawapiskat and Winisk River drainage basins, during the 1960s the pressure to consolidate within specific reserve communities led to widely dispersed families moving (at least briefly) to Lansdowne House. This involved families from the west and northwest (who now are members of the Nibinamik First Nation), and from the north (who are now members of the Webequie First Nation). It likely also led to the division of extended families resident in the south and southeast, with some moving to Lansdowne House, and others moving to Fort Hope or Marten Falls respectively.

We are providing evidence from two Neskantaga families to show the interconnections of the Neskantaga and Marten Falls communities.

Oral testimony confirms that some Neskantaga families with ties to members of the Marten Falls First Nation continued to regularly utilize their traditional harvest lands and waters in and around the Project Area well into the 1960s, but this was challenging given the enormous distances involved, and with growing pressure to enrol children in the day schools in the central reserve communities. The declining market value of furs, coupled with escalating travel costs, has made it increasingly difficult for individual families to regularly visit and harvest their traditional territories in the Project Area.

We have anecdotal reports of Neskantaga burial sites and toponyms in and around the Project area.

Conclusion

In conclusion, Neskantaga have a strong claim to aboriginal rights in the Project area.

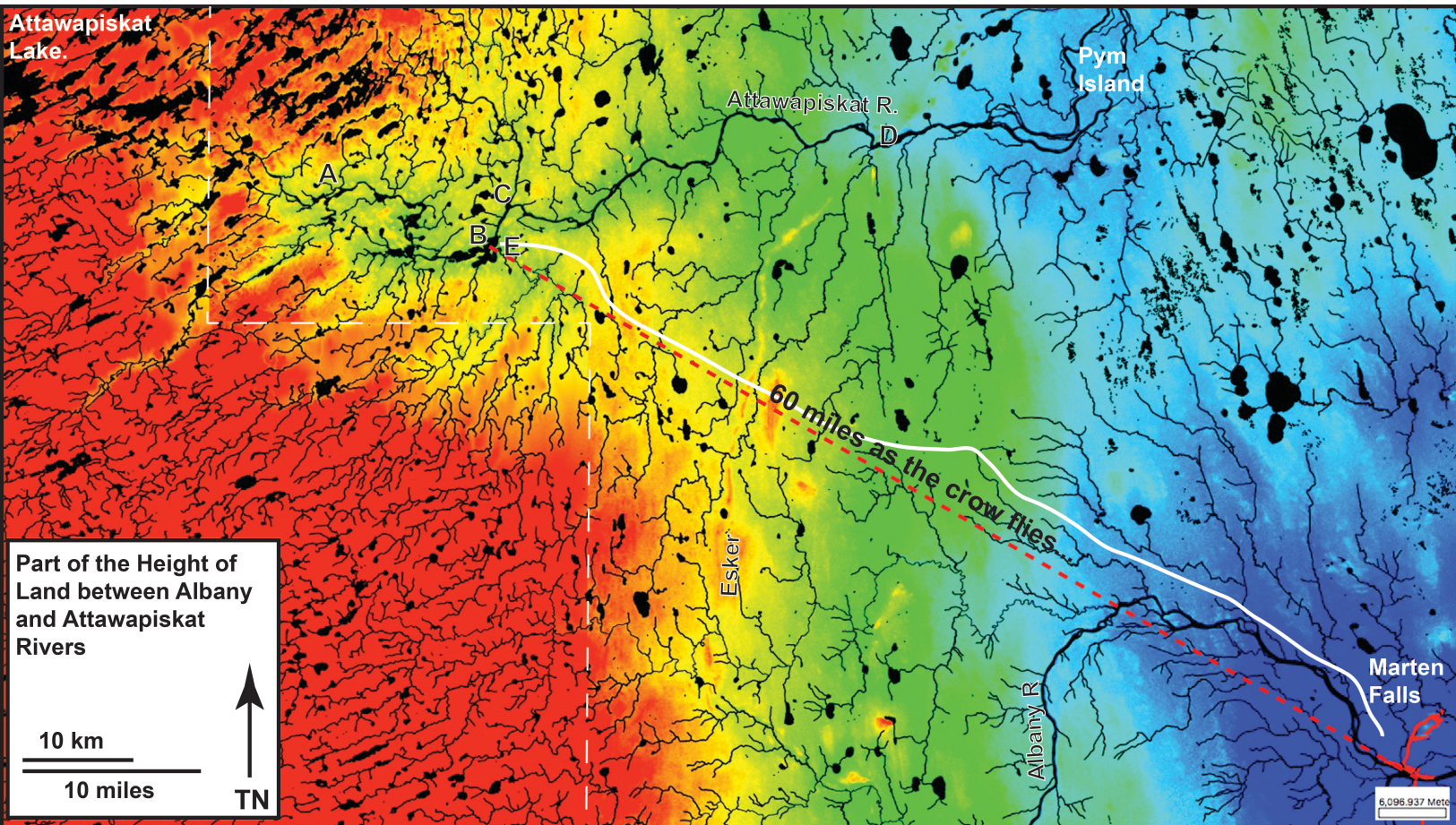
We submit that that the resources utilized by the Neskantaga people to sustain their community for the periods before 1800, through the 1800s and into the 20th century to the present day, through harvesting, hunting, fishing and trading, existed at locations throughout their traditional territory, including in the Project Area, and were used on a regular basis, as seasonally available, and were shared with other First Nations in all those relevant periods, subject only to protocols made on the ground by trappers.

Neskantaga historically shared occupation in the Project Area with Marten Falls and other Matawa First Nations.

The Ontario Environmental Assessment Act does not contain a requirement that a First Nation be required to show current use as a prerequisite to showing impacts on their section 35 rights.

In July of 2018 we wrote to the Marten Falls First Nation in the spirit of collaboration and cooperation to request previous archaeological studies on the proposed Phase 1 Marten Falls road corridor. Neskantaga is advised by Dr. Scott Hamilton, the leading regional specialist in fur trade archeology and ethnohistory. Dr. Hamilton and Neskantaga are uniquely positioned to contribute to the archeological assessment of the

proposed Phase 1 Marten Falls Community Access Road options.



- A Nolin's Island
- B Beteau Lake (Kii-poh-kaah-naang)
- C Junction, N and S branch of Attawapiskat R.
- D Shay-kaah-chii-wii-nang

NTS Digital Elevation model. (lowlands shaded blue, uplands shaded red. Data resolution varies across the map with white dashed line marking change in data quality. Red dashed line indicates 60 miles, the estimated distance of a trail from Beteau Lake to Marten Falls reported in a 1912 Geological Survey report based upon local Indigenous knowledge. It was reported that the trail requires crossing 5 rivers that drain into the Attawapiskat R., and only one into the Albany R. This might be suggested by the sold white line.

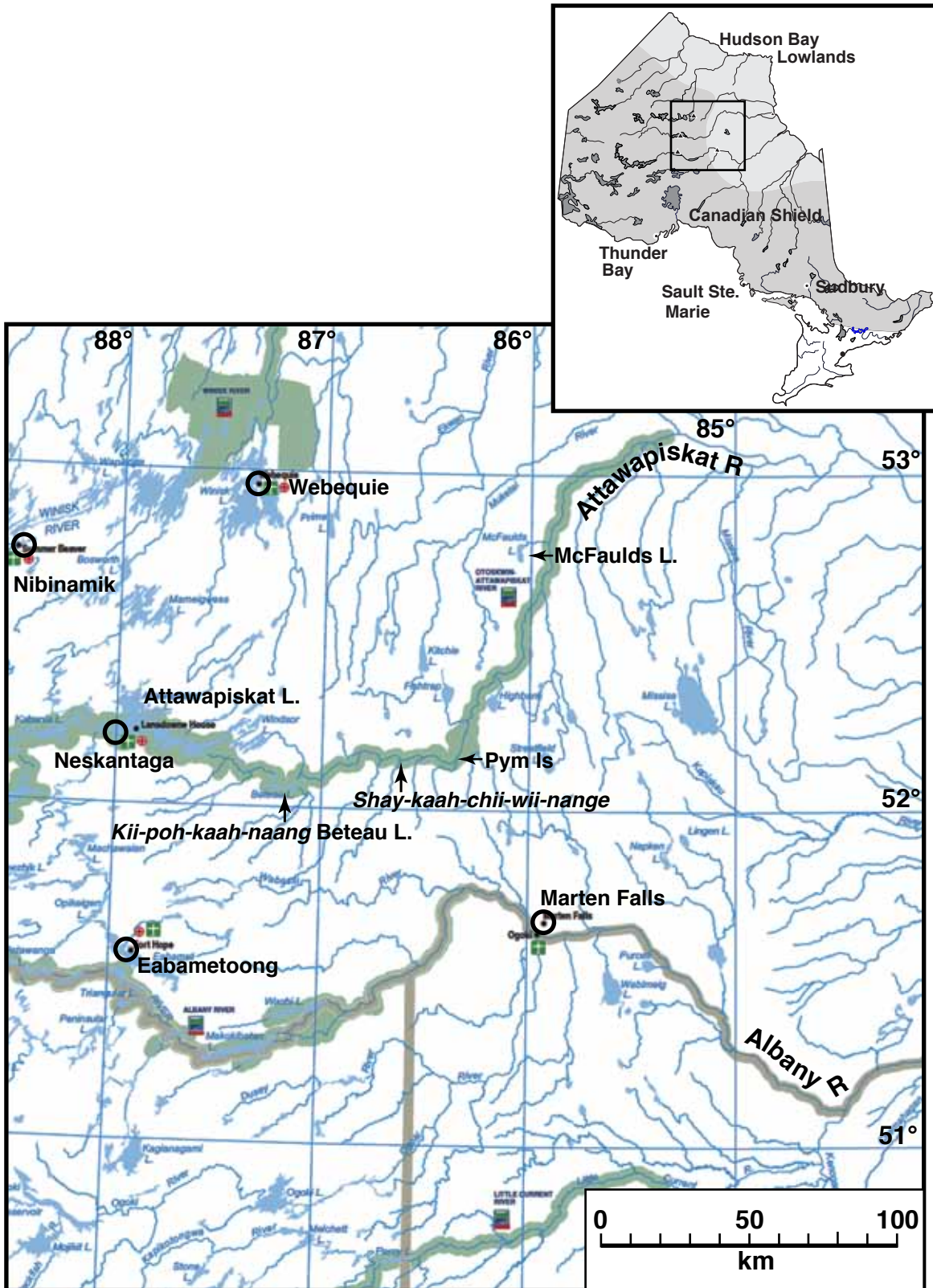


Figure 1 Shay-kaah-chii-wii-nange along the Attawapiskat River. This river has long been a primary transportation corridor and resource harvest zone for Aboriginal people resident in this part of northern Ontario.

At the next rapid, which is only a short distance above the lagoons, the ascent is fifteen feet. Here the river rushes over and among large angular masses of pinkish-grey granite, consisting of an even mixture of quartz, felspar and mica, with a medium or fine texture. The appearances indicate that this rock exists in place just beneath.

The finer materials of the drift along this section of the river contain a large proportion of soft, yellowish limestone, but there is besides, a hard, bluish limestone, containing chert, which frequently occurs also as good sized boulders. In addition to these, among the more noticeable constituents of the drift of this region, may be mentioned the dark grey, finely quartziferous felsite or greywacké, resembling dark sandstone or friable quartzite in appearance, and holding rounded spots of a lighter colour, weathering into pits of the same form, which is so generally and abundantly diffused in the drift all over the country, to the west and south-west of James' bay. Hard reddish and brownish sandstones, impure jaspery iron ores and red jaspers, having the peculiar oolitic structure of those of the Manitounuck and the Animikie series, may also be mentioned among the constituents of the drift along this part of the river.

Ascending the Attawapiskat from the last-mentioned rapid, we passed a dozen other rapids, alternating with small lake-like expanses, and at eleven miles, in a straight line from Nolin's island, entered a direct south-westward continuation of the south-west arm of Attawapishkat lake, but three or four feet below its level and separated from it by a short rapid, flowing out of the middle of the south side of the latter. The northern channel of the Attawapishkat river, above referred to, is said to discharge from the eastern extremity of this lake, but this portion was not completely explored. Attawapishkat lake is, however, apparently about nine miles long. Its inlet is near the west end.

Lake Lansdowne^{22a}

Still following up the river, for three miles from the inlet of the last mentioned lake, in which the rise amounts to only a few feet, we entered the largest sheet of water on the Attawapishkat, but strangely enough the Indians had no definite name for it. I, therefore, proposed to call it Lake Lansdowne, in honour of the Governor-General of the Dominion. As explained in my summary report, it was found to have a length of about thirteen miles, from south-east to north-west, and an extreme breadth of about ten miles. Lake Lansdowne is diversified by many beautiful islands, two of which measure about four miles each in length. The bays and points have all a north-east and south-west direction. A large, rounded, but not high hill, covered with second growth deciduous timber was seen in the western part of the lake, near the inlet or mouth of the upward continuation of the Attawapishkat river. The points and islands in the northern part of the lake are higher than elsewhere and have steep, wooded slopes, but they appear to be all composed of drift, and no rock *in situ* was seen anywhere around the lake. Long narrow moraines or rows of boulders extend south-westward off the extremities of some of the points and islands along the north-east side. Except where forest fires have run, large spruce and tamarac trees, and some cedars were observed on the islands and on the mainland near the lake, and also along the river between it and Nolin's island. The mouth of the upper division of the Attawapishkat river, which the Indians described as a wide tranquil stream, is in the south-western bay of the lake. The Martin-drinking river, by which we should have travelled from the second highest of the Eabamet chain of lakes, enters a bay on the south side between the inlet and outlet. On the opposite side of the lake, a brook is reported by the local Indians to enter the first bay northward of the outlet; and by way of this stream, there is said to be a canoe-route to a lake on the Weenisk river,²³ described as being as large as Lake Lansdowne, and called Wa-pi-quai-o lake. Another canoe-route to the same lake was stated to begin in one of the northern bays of Lake Lansdowne, and a third route, which, however, strikes the Weenisk river above the lake referred to, was described as beginning in a bay a short distance south-west of the one last mentioned. Wa-pi-quai-o lake would appear to correspond with "Weenisk" lake of Arrowsmith's map, as the Indians stated that it receives a large stream from the west and discharges the Weenisk river to the north.

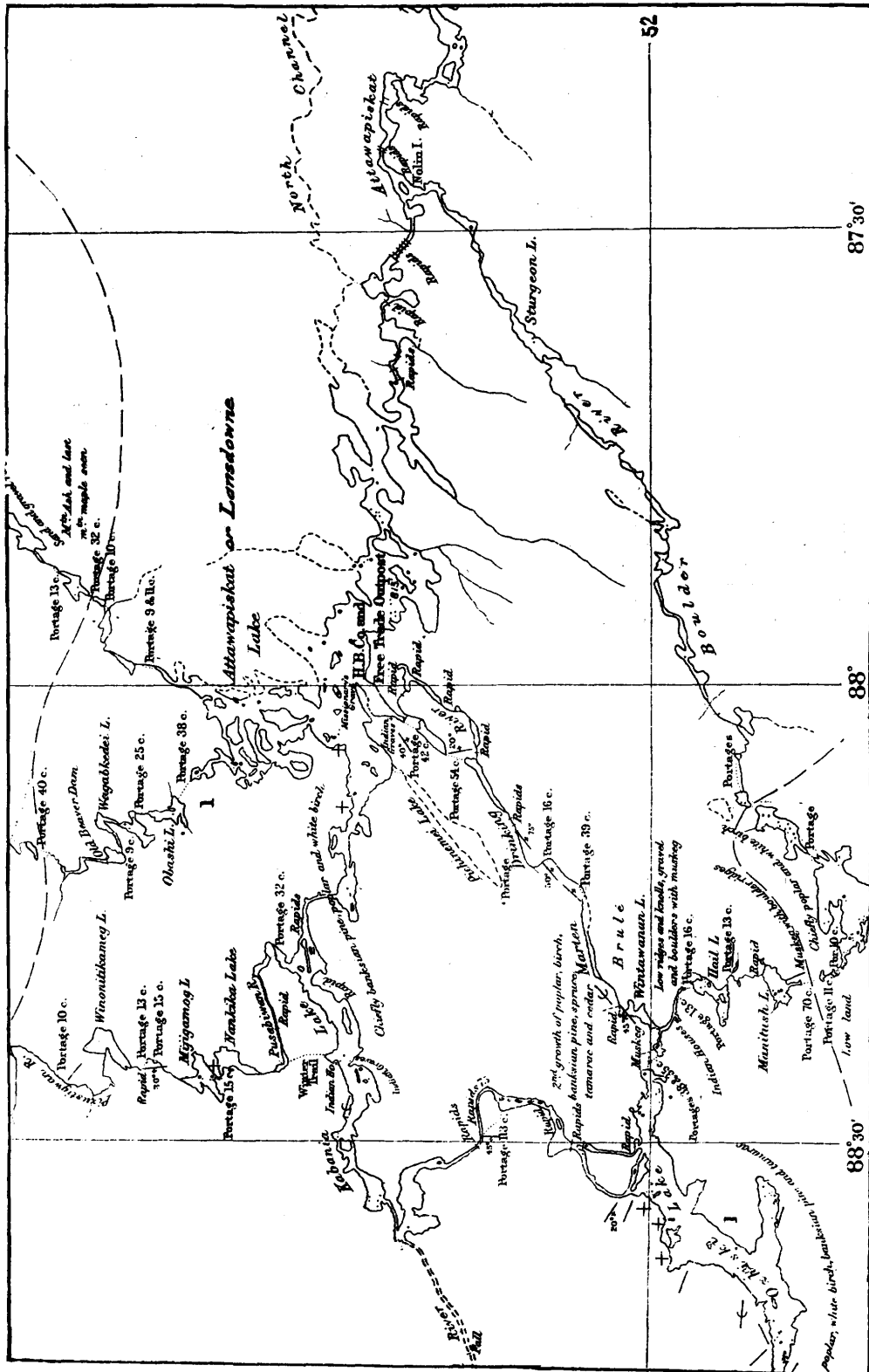
A triangular island, measuring about a mile and a half on each side, is formed at the outlet of Lake Lansdowne by a small channel north of the main discharge, by which we entered. In the bed of the southern channel, at a mile below the outlet, there is an exposure, at low water, of a grey, friable, "pepper and salt" gneiss, with a few redish grains. The strike is S. 75° W., but the stratification is not conspicuous.

Attawapiskat River below Lake Lansdowne

Below Nolin's island, at the junction of the Boulder river, the Attawapishkat flows eastward and is interrupted by three rapids in the first four miles. Its course then forms a semi-circle to the southward, four miles in diameter, and has marshy lagoons on

^{22a}Lake Lansdowne is now called Lake Attawapiskat.—W.G.M.

²³The river referred to as the Weenisk, following the spelling on the published maps, is called the Wainusk by the Indians, which means the Woodchuck or Ground-hog (*Arctomys empetra*, L.)



Attawapiskat or Lansdowne Lake

either side. From the most south-easterly of these, a trail leads directly to Martin's falls on the Albany. An intelligent Indian, who had just come from that trading post, informed me that the trail keeps the same bearing all the way, and on plotting it upon the map of my surveys of the two rivers, the position of the post is found to be directly in the line of this trail. The distance is about sixty miles, and the Indians report the country as level and covered with sphagnum. The trail is said to be crossed by five streams flowing into the Attawapishkat and only one into the Albany.

At the termination of the above semi-circle, the channel we have been following joins the north branch from Attawapishkat lake, the two branches here flowing towards each other from exactly opposite directions and meeting in the same line which bears about N.N.E. and S.S.W. The distance from the southern outlet of the lake to this junction is about twenty miles in a straight line.

For thirty miles below this junction, the general course of the river is about east, and in this distance, it maintains a pretty uniform character, being alternately swift and rapid with long bends. The banks are of boulder-clay, ice-swept and sloping gently down from the brink to the summer level of the water, the whole height being about thirty feet. The surface of the country on both sides is low and level, as indeed it has been all the way from Lake Lansdowne. Except where the timber has been destroyed by fire, there is a good growth of spruce, tamarac, balsam, poplars and white birch along the banks of the river, but it does not extend far back, the country generally being open sphagnum swamps with small scattered tamarac and black spruce trees.

Three miles below the junction of the two channels, dark grey hornblende gneiss is exposed on the south side. It is distinctly bedded and strikes N. 50° W., angle 90°. Half a mile farther down, grey, strongly banded or ribboned gneiss strikes with regularity, N. 60° W. At a strong rapid, thirteen miles below the junction, a considerable area of fine-grained light reddish-grey contorted gneiss is exposed, the general strike of which is east and west. At nineteen miles below the junction, the river makes an "elbow" to the south-west and receives, at the angle, a large brook from that direction. On the south side, just below this brook, coarse grey gneiss is met with, striking from S. 40° to S. 60° W., but mostly in the latter direction, and dipping to the south-eastward at an angle of 40°. Two and a-half miles farther down, similar gneiss has an average strike of S. 50° W., with a dip to the south-eastward. Knobs and hummocks of this rock continue in the channel and on the right bank for more than a mile farther. In the last eight miles of the above thirty miles stretch, the river divides itself among numerous alluvial islands, one group of which (ten or twelve in number) is about two miles in breadth. Another Indian trail to Martin's falls leaves the river at the termination of this stretch. The distance is about fifty miles and the country traversed is described as a sphagnum swamp similar to that crossed by the trail to the same post which has been mentioned as leaving the Attawapishkat higher up. The old timber is still standing along the banks in some parts of the above section of the river, but as a rule, the forest consists of a second growth of poplars, white birch, spruce, tamarac and a little balsam. Here, as elsewhere, along this river, much of the timber has been killed by fires within the last few years, and only bushes and young trees have yet replaced it. Small black ash trees have been noticed here and there, all the way from Lake Lansdowne to beyond the termination of the present stretch, and white cedars have been of frequent occurrence, except where the ground is unfavourable for their growth.

At the termination of this thirty miles-stretch, the general course of the Attawapishkat changes to N.N.E., for about sixty miles, or to latitude 53° 0' 0", where a brook falls in from the left or west side. In the first nine miles of this distance, the river divides into two main channels, with several smaller ones, all flowing sluggishly through a level country between low alluvial banks. The place where they come together again is called Mattawa by the Indians and is a favourite burying-place for their dead. From Mattawa, the stream again becomes swift and rapid, as it was above these islands, and the banks resume their ice-swept bouldery and clayey character.

Last Exposure of Archæan

At eight miles below Mattawa we passed the last exposure of Archæan rock on the river. At low water it forms a conspicuous island in the middle of the stream and consists of a strongly banded mottled grey gneissoid rock, but is composed of light-coloured felspar and black hornblende. The strike is straight and regular, N. 5° E., and the dip is eastward at an angle of 45°. It is cut by a dyke of the same composition, ten feet wide, bearing due north, with smaller dykes running in other directions. A dislocation was noted running S. 60° W., towards which the stratification bends in approaching it from either side. Several boulders of a reddish grey syenite were observed at this locality, which exactly resemble the syenite in the Huronian rocks of Shebandowan lake.

Three miles below this rocky island, the river cuts through ridges of bouldery clay, capped with gravel, about 200 feet high, which here appear to run north and south. From where the river enters these earthy ridges, its course is eastward for about four miles,