

# NORTHWATCH

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**Re. Comment on the draft Agreement to conduct the Regional Assessment in the Ring of Fire Area**

On December 3, 2021 the Impact Assessment Agency announced a public comment period on the draft Agreement to conduct the Regional Assessment in the Ring of Fire Area (draft Agreement), inviting Indigenous communities, organizations and the public are to review and provide feedback on the draft Agreement by February 1<sup>st</sup>. The notice described the draft Agreement as a document which “sets out the goal, objectives and planned outcomes of the regional assessment, as well as key aspects of its governance and administration.” The draft Agreement also contains the draft Terms of Reference for an “independent Regional Assessment Committee” that would be responsible for conducting the Regional Assessment.

A year earlier, in February 2020, the federal Minister of Environment and Climate Change had made the decision to undertake, under the federal Impact Assessment Act, a Regional Assessment in the Ring of Fire Area, located approximately 80 kilometres east of Webequie First Nation and 120 kilometres north of Marten Falls First Nation.

The notice reports that during the intervening year, the Impact Assessment Agency of Canada (the Agency) and the Ontario Ministry of Northern Development, Mines, Natural Resources and Forestry have been in discussions on a potential agreement that describes how the Regional Assessment would be conducted. Following that ten month discussion period, the Agency then allowed only 60 days for Indigenous peoples, the public and public interest organizations to review and comment, and those 60 days included the Christmas and New Year holiday period and an unprecedented peaking of the COVID 19 pandemic. During this period, Indigenous communities in northern Ontario were particularly hard hit. In Northwatch’s view the 60 day comment period was insufficient in length and was poorly timed, and the timing and limited length did not express a commitment to engaging the public and Indigenous peoples with an interest in this project. This is particularly true given the COVID 19 infection rates during this period, and the consequences of this pandemic, including and particularly on impacted First Nations with an interest in this project.



## Project Summary and Scope

The Impact Assessment Agency summarizes the Regional Assessment in a link<sup>1</sup> from the notice for the current comment period as follows:

*The Regional Assessment will be conducted in the area centred on the Ring of Fire mineral deposits in northern Ontario, approximately 540 kilometres northeast of Thunder Bay and 1,000 kilometres north of Toronto. The Impact Assessment Agency of Canada will work with the Province of Ontario, Indigenous groups, federal authorities, non-government organizations and the public to determine the appropriate activities, outcomes and boundaries of the regional assessment.*

The description of the Ring of Fire presented in the notice, and in the Regional Assessment approach being presented by the Impact Assessment Agency more generally, is inconsistent with the broader description which has been consistently been presented by Ring of Fire proponents and government agencies to date.

For example, for one of the first of several environmental assessments related to the Ring of Fire, the Province of Ontario described that project – which is a subset of Ring of Fire projects – as follows:

*The purpose of the undertaking is for construction, operation and retirement of the four interrelated and key components, the Mine Site located near McFaulds Lake; an Ore-Processing Facility, co-located at the Mine Site; an Integrated Transportation System (ITS); and a Ferrochrome Production Facility (FPF) located near Capreol.<sup>2</sup>*

Consistent with this, the Canadian Environmental Assessment Agency also described Cliffs Natural Resources Inc. “Cliffs Chromite Project” as having a similar breadth to the project:

*The proposed project consists of constructing, operating and eventually decommissioning an open pit/underground chromite ore mine (30 year mine life at predicted extraction rate of 6,000 to 12,000 tonnes/day) and ore processing facility. The proposal also includes an integrated transportation system consisting of a new north-south all-season road corridor and a new ferrochrome production facility, which would be located at a different location than the mine site. The project mine site is located approximately 540 km north of the City of Thunder Bay, Ontario and 240 km west of James Bay in an area known as the " Ring of Fire ".<sup>3</sup>*

A more recent Ring of Fire proponent, Noront Resources, persistently described their Ring of Fire projects as including development of a number of deposits, including chromite, and associated infrastructure and processing:

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<sup>1</sup> <https://iaac-aeic.gc.ca/050/evaluations/proj/80468?version=4472>

<sup>2</sup> <https://www.ontario.ca/page/cliffs-chromite-project>

<sup>3</sup> [Cliffs Chromite Project](https://iaac-aeic.gc.ca/050/evaluations/proj/63927), <https://iaac-aeic.gc.ca/050/evaluations/proj/63927>

*Noront has a vast resource of chromite in the Ring of Fire in Northwestern Ontario. We are planning to mine this chromite and build a Ferrochrome Production Facility (FPF) to process it. Our FPF will be an expandable ferrochrome smelting facility that receives ore/concentrate from our Ring of Fire chromite mines and produces ferrochrome for the stainless-steel market. The FPF is planned to be part of Noront's high-grade, high quality, chrome business and will process our vast chromite resources in the Ring of Fire. Noront plans to use the infrastructure developed for our Eagle's Nest Ni-Cu-PGE Project to start the production of our first chromite mine — Blackbird. The ore would then be transported from the Ring of Fire to existing rail infrastructure by means of an all-season gravel road being developed by local communities and the provincial government. The ultimate destination for the ore will be Noront's FPF.<sup>4</sup>*

This inconsistency is problematic, and until rectified will have a direct and detrimental bearing on the conduct of this Regional Assessment. Related comment and proposed resolutions are presented later in this submission.

Further, there are multiple individual environmental assessments of Ring of Fire projects already underway, including assessment for the Webequie Supply Road Project between the Webequie Airport and the McFaulds Lake to connect Webequie First Nation to existing mineral exploration activities and potential future mineral development in the Ring of Fire area<sup>5</sup> and a project to construct and operate of an all-season multi-use community access road connecting the northern end of Painter Lake forestry road to the community of Marten Falls to enable future access to potential mineral development activities in the Ring of Fire area.<sup>6</sup> In some cases, environmental assessments were commenced and then terminated due to changed circumstance of the proponent (i.e. Cliffs and Noront) which are integral to the Ring of Fire project and which are now proceeding with a different proponent but with the same general intent, i.e. to develop the Ring of Fire mineral resources and transport them from the region for processing.<sup>7</sup> The summaries of these project, as excerpted from the Impact Assessment Agency /Canadian Environmental Assessment Agency registry, and included in a compendium attached to this submission as Appendix A.

#### Northwatch and Northwatch's Interests

Northwatch is a public interest organization concerned with environmental protection and social development in northeastern Ontario. Founded in 1988 to provide a representative regional voice in environmental decision-making and to address regional concerns with respect to energy, waste, mining and forestry related activities and initiatives, we have a long

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<sup>4</sup> <https://norontresources.com/projects/ferrochrome-production-facility/>

<sup>5</sup> [Webequie Supply Road Project](https://iaac-aeic.gc.ca/050/evaluations/proj/80183), <https://iaac-aeic.gc.ca/050/evaluations/proj/80183>

<sup>6</sup> [Marten Falls Community Access Road Project](https://iaac-aeic.gc.ca/050/evaluations/proj/80184), <https://iaac-aeic.gc.ca/050/evaluations/proj/80184>

<sup>7</sup> See, for example, "Noront to buy Cliffs Ring of Fire camp in Northern Ontario" at <https://www.cbc.ca/news/canada/thunder-bay/noront-to-buy-cliffs-ring-of-fire-camp-in-northern-ontario-1.2652021> and "Noront, Wyloo reach binding agreement on Ring of Fire takeover" at <https://www.northernontariobusiness.com/regional-news/far-north-ring-of-fire/noront-wyloo-reach-binding-agreement-on-ring-of-fire-takeover-4893540>

term and consistent interest in the mining sequence and its social and environmental costs and benefits, including mineral exploration, mine development, operation and closure, and metals processing.

As a regional organization based in northeastern Ontario, Northwatch's primary areas of interest relate to the impacts and potential impacts of Ring of Fire developments on northeastern Ontario and the lands and people of northeastern Ontario. While our primary concerns are those that impact the region of northeastern Ontario, we do have associated additional concerns and interest which are broader, geographically.

Our areas of interest with respect to Ring of Fire developments include:

- the direct impacts of Ring of Fire project activities which are outside the McFaulds Lake (in northwestern Ontario) and have been variously announced to be intended to take place in Sudbury or Algoma districts of northeastern Ontario, namely the smelting / processing of chromium and other metals.
- the energy demands of the project, the transportation routes and impacts, and the carbon footprint of the project
- the downstream impacts of the project components, including the downstream impacts of the mining and smelting of the various metals to be extracted
- the climate / carbon impacts of the project activities, including of mineral exploration, mineral extraction, mineral processing, transportation of mine products in various states of processing, and the smelting and refining of extracted minerals
- the recognition and realization of Indigenous authority and the ability of this project (including regional and subsequent assessments, and the carrying out of the various project activities) to further or to hinder reconciliation between non-Indigenous and Indigenous peoples and governments

In 2012, Cliffs Natural Resources announced its plans to build a \$1.8-billion chromite processing facility near Capreol, north of Sudbury. The \$1.8 billion for the processing facility was presented as part of a \$3.3-billion investment to build a chromite mine and transportation corridor in northern Ontario's Ring of Fire, according to the province.<sup>8</sup> Cliff Natural Resources later sold their interest in the Ring of Fire to Noront Resources. In February 2018, Noront received bids to host the FPF from four northern cities; Thunder Bay, Timmins, Sault Ste. Marie and Sudbury and site in Sault Ste. Marie was selected by Noront in May 2019.<sup>9</sup>

In late 2021 Noront Resources was acquired by Wyloo Resources.<sup>10</sup> Wyloo has made no statement on their plans for a ferrochrome smelter, but Alan Coutts president of Noront

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<sup>8</sup> <https://www.cbc.ca/news/canada/thunder-bay/sudbury-gets-1-8b-chromite-smelter-1.1138900>

<sup>9</sup> <https://norontresources.com/projects/ferrochrome-production-facility/>

<sup>10</sup> <https://www.northernontariobusiness.com/regional-news/far-north-ring-of-fire/noront-wyloo-reach-binding-agreement-on-ring-of-fire-takeover-4893540>

Resources replied to questions saying the future of the ferrochrome smelter "will ultimately be a question that will be answered by the new owners."<sup>11</sup>

There is, overall, a high level of uncertainty associated with the development and development timeline of the various components of the Ring of Fire project, including whether and when the various mineral deposits will be developed and whether and where the extracted minerals will be processed, including the chromite.

It does appear, however, that there is a high likelihood that if the chromite is ever extracted from the Ring of Fire area, a processing facility will be established in northeastern Ontario. We cite the history of two different siting processes by two different Ring of Fire proponents having both selected a site in northeastern Ontario for the then-proposed ferrochrome smelter, and the most recent proponent having considered four sites in their selection process, with three of those four sites being in northeastern Ontario (Timmins, Sudbury and Sault. Ste. Marie)<sup>12</sup>. Accordingly, Northwatch has a strong expectation that with a ferrochrome smelter being part of the Ring of Fire project, the regional assessment will be scoped accordingly, and will include adequate consideration of potential impacts of the project on northeastern Ontario.

#### Draft Agreement to Conduct a Regional Assessment in the Ring of Fire Area

Northwatch has reviewed the Draft Agreement and provides the following comments. For the sake of brevity and to assist the Agency in considering these comments in the context of those provided by Northwatch (et al) previously and by others commenting on the Draft Agreement, we are providing our comments in bullet form, in order of occurrence of the subject of comment in the draft agreement, and on a section-by-section basis.

##### **Preamble**

- “project” as previously described the series of proponents, by the Government of Ontario and by the Agency includes infrastructure and mineral processing that will extend a considerable distance from the McFaulds Lake area; as such, the area to be potentially impacted extends beyond the territory of Treaty #9 and includes the Robinson-Huron and/or Robinson-Superior Treaty territories, and these areas are inhabited and used by the Indigenous peoples of the treaty territories who hold and exercise Aboriginal and/or Treaty rights in the area; as such, and given the uncertainties of where a potential ferrochrome facility will be sited but recognizing that such a facility is part of the “Ring of Fire” project, the preamble should recognize these treaty areas and these peoples accordingly

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<sup>11</sup> <https://www.sootoday.com/local-news/wyloo-and-noront-agreement-key-step-in-ferrochrome-plant-proposal-4523937>

<sup>12</sup> <https://norontresources.com/projects/ferrochrome-production-facility/>

### **1.0 Regional Assessment Goal and Objectives**

- the goal and objectives should be more clearly stated to clarify that the Regional Assessment is for the Ring of Fire project, which includes a series of activities that are expected to occur in the area generally referred to as McFaulds Lake but will also extend beyond that geographical area; given the uncertainty with respect to the eventual location of some of the project activities, such as the ferrochrome smelter, the regional assessment must take a broad approach, and the goal and objectives must reflect and direct this broader approach
- the reference to “both Indigenous knowledge and scientific information” should be clarified, given that Indigenous knowledge can include scientific information and scientific information can be from both Indigenous and non-Indigenous sources
- the sequencing in section 1.2 raises some concern, in that it presents mitigation measure (of potential adverse effects) in advanced of identifying, examining and evaluating those potential adverse effects; this suggests an attitude that all adverse effects can be mitigated, rather than recognizing that some adverse effects must be avoided (and that a do-nothing option might be the best or only option for avoiding those adverse effects)
- 1.2 c must be restated to make clear that “future mine development activities” include activities along the mining sequence that are part of this project, i.e. they include not just mineral extraction but also the transportation and processing of mineral commodities that are extracted as part of this project

### **2.0 Scope of the Regional Assessment**

- The geographic boundary of the assessment area for the Regional Assessment as described in Subsection 2.2 and depicted in Appendix A is inappropriate; as described elsewhere in this document the Regional Assessment is for the Ring of Fire and the Ring of Fire project includes the area of mineral deposits depicted in the map in Appendix A, but also the transportation infrastructure and the mineral processing; this principle of “one project, one assessment” is fundamental to the practice of environmental assessment, and this regional assessment must adhere to that principle; while the individual project assessments (e.g. for the Webequie Supply Road Project and the Marten Falls Community Access Road Project) currently moving forward under the auspices of the Impact Assessment concurrent this Regional Assessment already bring into question the IAA’s adherence to this fundamental principle, the conduct of the Regional Assessment can provide an opportunity to rectify this by bringing the individual assessments into a more holistic approach by appropriately scoping and conducting the Regional Assessment; essential to this is proper boundary setting for the Regional Assessment
- The list of Assessment priorities set out in 2.3 must be expanded to include impacts to air and air quality, carbon outputs and impacts on the carbon budget (including potential loss of carbon sequestration through land disturbance), related climate impacts, and cumulative effects; community health and well-being should explicitly include gender-based analysis and the potential effects which are specific or might

more greatly affect women and girls; this should include the presence and fluctuations in work forces – including out-of-area workers – and in employment and income levels, and community impacts of having workers spending periods of time away from their homes, families and home communities

- The statement in 2.5 that road developments being assessed in other ongoing assessments will not be “duplicated” in the regional assessment is both unclear and of concern; the Regional Assessment must most certainly fully consider these activities and their potential impacts, in a holistic manner, including as part of the consideration that must be given to cumulative effects

### **3.0 Establishment, Purpose and Composition of the Committee**

- Between subsections 3.7 and 3.8 it should be made clear that the regional assessment is for the Ring of Fire project, which includes related infrastructure and mineral processing, in addition to the “mine development activities” which are noted in both subsections
- This section should clearly state that Indigenous authorities, such as leadership in First Nations or treaty organization, will have a role and be part of the decision-making in the selection of committee members
- This section should clearly state that Indigenous people will be among those selected to be on the Committee

### **4.0 Committee Secretariat**

- Indigenous authorities, such as leadership in First Nations or treaty organization, should have a role at least commensurate to that of the Agency the Government of Ontario in co-managing the Secretariat, and the staff should include those assigned by Indigenous authorities (who may be seconded from Indigenous organizations or recruited by Indigenous authorities from other organizations or bodies)
- The Secretariat should be housed in northern Ontario, either within the offices of an Indigenous authority or in an office of facility which is conducive to a close working relationship with Indigenous authorities

### **5.0 Advisory Supports to the Committee**

- Despite the several sub-sections, the role, function and makeup of the “Advisory Supports” remains unclear; this should be clarified
- the Regional Assessment must be carried out in an open and transparent manner; this applies to the role, function, input and information provided by “Advisory Supports” as it does in other area
- the separate listing of “Advisory Support: Indigenous Knowledge and Perspectives” and “Advisory Support: Scientific, Technical and Socio-Economic Information and Analysis” suggests that these are discrete and separate areas, which we find to be problematic; while we appreciate that the intent may have been to confirm and clarify that “Indigenous Knowledge and Perspectives” were a priority, which we support, by listing this as a separate area from “Scientific, Technical and Socio-Economic Information and Analysis” it unfortunately may be read to be suggesting that Indigenous knowledge and perspectives do not include scientific, technical and socio-

economic information and analysis which is a notion Northwatch would reject; these subsections need to be restated to clarify the relationship between these two overlapping areas

- representatives of Indigenous authorities need to be included as those from whom the Committee will seek scientific, technical and socio-economic information and advice, as they do from representatives of federal and provincial government, departments, agencies and ministries

#### **6.0 Indigenous Talking / Sharing Circle**

- the design and establishment of Indigenous Talking / Sharing circles is the prerogative of Indigenous peoples
- as noted with respect to other sections of the draft agreement, it is imperative that the assessment area be appropriately scoped to include the range of project activities, including the transportation of extracted minerals and the processing of those minerals, rather than limiting consideration to the location of only the mineral extraction (which is only one part of the Ring of Fire project); it is important that the “Circle” not be scoped to exclude peoples who may have an interest in or be affected by Ring of Fire project activities that go beyond mineral extraction, i.e. the activities of transporting and processing (smelting) ores extracted in the Ring of Fire project

#### **7.0 Reports and Records**

- in addition to make the Committee’s draft Report available for an Indigenous and public review and comment period, the inputs to the Committee and the evidence upon which they are relying to formulate their report and its conclusions must also be made available; this availability should be ongoing throughout the Committee process

#### **8.0 Interjurisdictional Cooperation**

- this section should clearly set out how the federal and provincial government, including the federal and provincial ministers, are going to co-operate with Indigenous authorities

#### **9.0 Costs**

- this section should set out the cost-recovery mechanisms by which the proponent(s) of the Ring of Fire project will be assigned costs

#### **10.0 Amending the Agreement**

- this section should clearly set out Indigenous authorities may initiate and/or are included in the decision-making related to amending the agreement

### Conclusions

While we remain very positive about the potential to conduct a regional assessment under the Impact Assessment Act, we have some concerns and have not yet found confidence in the conduct of this particular assessment.



We note that the summary at the beginning of the Impact Assessment Act sets out specifically in section (1) that a regional assessment “provides for the assessment of cumulative effects of existing or future activities in a specific region”.

In this instance, the “region” is the region of Northern Ontario, encompassing the territories of Treaty 3, Treaty 9, Robinson-Huron Treaty Area and Robinson-Superior Treaty area, and the watersheds of Hudson’s Bay, Lake Huron and Lake Superior. The “future activities” are the activities associated with the Ring of Fire project, which includes but may not be limited to mineral exploration, the development of mines and mining infrastructure, the extraction of mineral ores and on-site processing, the transportation of those mineral products, and the off-site processing, such as the smelting of chromite or nickel or the refining of copper or gold.

In its current version, the draft Agreement to conduct the Regional Assessment in the Ring of Fire Area does not meet the requirements of the Act, in that it does not encompass the activity set of the Ring of Fire project and it does not adequately set out that the cumulative effects within the region will be given due investigation and consideration. Nor does it make clear that the “region” is the region is appropriately defined.

Given these and others concerns, we would strongly encourage the Agency to take the current set of comments into consideration and to prepare a second draft of the Agreement to conduct the Regional Assessment in the Ring of Fire Area, and to post it for a second comment period of no less than 60 days (and longer should the comment period overlap with other culturally significant period or another peak in the effects of the COVID 19 pandemic).

In addition, we request that the Agency prepare a table setting out how they have dispositioned comments received on this first draft of the Agreement to conduct the Regional Assessment in the Ring of Fire Area. We ask this in part because we do not see our comments on regarding planning for the Regional Assessment in the Ring of Fire Area submitted as a joint letter on January 21, 2021 reflected in the draft of the Agreement to conduct the Regional Assessment in the Ring of Fire Area. We ask it also because we consider the dispositioning of comments to be good practice, and one which would demonstrate transparency and accountability on the part of the Agency in its conduct of this assessment.

Thank you for your consideration.



Brennain Lloyd  
Northwatch Project Coordinator



# **Northwatch Comments on the draft of the Agreement to conduct the Regional Assessment in the Ring of Fire Area**

## **Appendix A Ring of Fire Project Summaries on CEAA / IAA Registry**

### **Eagle's Nest Project**

Projects that were undergoing a comprehensive study at the time the provisions of the Canadian Environmental Assessment Act, 2012 came into force will continue to follow the requirements of the former Act. Under the former Act, the Canadian Environmental Assessment Agency is responsible for conducting the comprehensive study of this project. Noront Resources Ltd. is proposing the construction, operation, decommissioning and abandonment of an underground nickel-copper-platinum multi-metal mine, an on-site metal mill, and a facility for the extraction of 358,000 cubic metres per annum of groundwater. The proposed mine, located approximately 540 kilometres north of the city of Thunder Bay, Ontario and 240 kilometres west of James Bay in the Ring of Fire mining area, would have an ore production capacity of approximately 2,960 tonnes per day, with an anticipated mine life of approximately 11 years. The on-site metal mill would have an ore input capacity of 2,960 tonnes per day.

On August 28, 2019, the Impact Assessment Act came into force, replacing the Canadian Environmental Assessment Act, 2012. As a result, the comprehensive study, which was being conducted under the former Canadian Environmental Assessment Act, was terminated per the transitional provisions of the Impact Assessment Act.

### **Webequie Supply Road Project**

Webequie First Nation is proposing the construction and operation, including maintenance, of a 107-kilometre all-season road connecting the Webequie Airport and the McFaulds Lake area in northern Ontario. The corridor would be approximately 35 metres in width in order to accommodate a two-lane gravel surface industrial supply road and could enable future infrastructure development such as transmission lines and broadband. As proposed, the Webequie Supply Road Project would connect Webequie First Nation to existing mineral exploration activities and potential future mineral development in the Ring of Fire area. The project could also become part of a future all-season road network connecting Webequie First Nation and the Ring of Fire area to the provincial highway system in Nakina and/or Pickle Lake.

February 24, 2020 — The Impact Assessment Agency of Canada has posted the Notice of Commencement of an Impact Assessment and issued the Tailored Impact Statement Guidelines and required plans to the proponent for the preparation of an Impact Statement.

## **Marten Falls Community Access Road Project**

Marten Falls First Nation is proposing the construction and operation, including maintenance, of an all-season multi-use community access road approximately 190 to 230 kilometres in length, connecting the northern end of Painter Lake forestry road to the community of Marten Falls. Marten Falls is located at the junction of the Albany and Ogoki rivers, approximately 170 kilometres northeast of Nakina, Ontario. As proposed, the Marten Falls Community Access Road Project could enable future access to potential mineral development activities in the Ring of Fire area.

February 24, 2020 — The Impact Assessment Agency of Canada has posted the Notice of Commencement of an Impact Assessment and issued the Tailored Impact Statement Guidelines and required plans to the proponent for the preparation of an Impact Statement.

## **Cliffs Chromite Project**

Projects that were undergoing a comprehensive study at the time the provisions of the Canadian Environmental Assessment Act, 2012 came into force will continue to follow the requirements of the former Act. Under the former Act, the Canadian Environmental Assessment Agency is responsible for conducting the comprehensive study of this project. The proposed project consists of constructing, operating and eventually decommissioning an open pit/underground chromite ore mine (30 year mine life at predicted extraction rate of 6,000 to 12,000 tonnes/day) and ore processing facility. The proposal also includes an integrated transportation system consisting of a new north-south all-season road corridor and a new ferrochrome production facility, which would be located at a different location than the mine site. The project mine site is located approximately 540 km north of the City of Thunder Bay, Ontario and 240 km west of James Bay in an area known as the " Ring of Fire ".

February 05, 2015 - The assessment process has been terminated.