



AANJI- NAAKGOSIDJIGENG BAAWAATING

RENEWING RELATIONS IN BAAWAATING

A Report Summarizing an In-Person Engagement Session with the International Lake Superior Board of Control and Batchewana First Nation regarding Fluctuating Water Levels on St. Marys River and Whitefish Island

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With support from JDI Services and Incite Planning

Final Report
Prepared for:
The International Lake Superior Board of Control
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Plan Together for Common Ground



Executive Summary

Who

The International Joint Commission (IJC), the International Lake Superior Board of Control (ILSBC) and the Great Lakes – St. Lawrence River Adaptive Management (GLAM) Committee (a sub-committee to the Great Lakes boards) seek to build meaningful relations with Batchewana First Nation (BFN), through their work and responsibilities under the Boundary Waters Treaty. This work was supported by People Plan Community, a consultancy specializing in Indigenous and Non-Indigenous relations,

What

An in-person engagement session was held between BFN, the ILSBC, the IJC and the GLAM Committee to advance meaningful relations in accordance with *RESPECT: A Path Towards Working Effectively with Indigenous People*®, a leading Indigenous relations model by Bob Joseph.

Where and When

The engagement session was held by Baawaating nibi, within Robinson Huron Treaty (Anishinaabe) territory at the Delta Hotel in Sault Sainte Marie, Ontario, on November 21, 2023.

Why

As stated in Article 29 of the UN Declaration **Indigenous peoples have the right to conservation and protection of the environmental and the productive capacity of their lands, territories and resources. States shall establish and implement assistance programmes for Indigenous people for such conservation and protection without discrimination.**

Building upon an initial engagement process from 2022, on behalf of the GLAM Committee, the goal of the engagement session was to build a relationship between the ILSBC and BFN, share information on the review of Plan 2012 as part of the GLAM Committee's adaptive management process, and explore collaboration in a manner that supports the expression of Aboriginal Rights and interests.

This engagement session responds to Canada's Calls to Action #52 and #57 from the Truth and Reconciliation Commission's Final Report, Vol. 1 *Honouring the Truth, Reconciling for the Future* and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and is one of many [positive accomplishments](#) by the IJC achieved to date.

How

The day was structured into three parts: a site visit to Whitefish Island, a presentation and open discussion portion and a second site visit, at the end of the presentation to the Francis H. Clergue Hydropower facility, operated by Evolgen. The first site visit to Whitefish Island showed the impacts from fluctuating water levels and flows on the St. Marys River to the island, associated with the regulation (Regulation Plan 2012) of the gated dam at the head of St. Marys rapids (the Compensating Works). Following this, the group returned to the hotel to share the work of the ILSBC in managing flows (i.e., deviation strategy) and discuss ways to work better together. This included an exchange of tobacco, an opening from BFN members and welcoming to the territory, a presentation by ILSBC staff and circle discussion. Afterwards, a tour of the Canadian hydro facility, Francis H. Clergue, was held to see how one of three hydro power plants in this area operates.

In Summary

Overall, the in-person engagement session and associated site visits were well attended, positive in tone and represented a good step towards meaningful relations. It builds upon the good work of the IJC, ILSBC, GLAM Committee and provides an example for other levels of both the United States and the Canadian Government to follow.

Recommendations

Now the real work begins through the proposed eight recommendations, which include:

1. Ensure continuous engagement by setting a regular meeting cadence between ILSBC and BFN early in 2024.
2. GLAM Committee to build human resources capacity and retain an Upper Great Lakes Indigenous liaison to support with continued engagement and to coordinate annual gathering with First Nations in the region.
3. Through the Indigenous Liaison and alongside BFN develop a workplan in 2024 that includes communication and approaches for working together.

4. Identify opportunities for BFN to meet with the ILSBC, GLAM Committee, and IJC representatives to discuss the future working relationship, BFNs rights and responsibilities for St. Marys River and Whitefish Island, and their interests in participating in the monitoring and compliance of the Regulation Plan, including appropriate representation where interested.
5. IJC/ILSBC/GLAM Committee to present to the BFN Environment Committee to discuss working together and participating in or developing an Indigenous Advisory Group.
6. BFN/IJC/ILSBC/GLAM Committee collaborate on preferred data sharing agreements and monitoring goals.
7. Bridge the divide between hydro power agencies, Treaty partners and the IJC by extending invitations to Board meetings to Power entities Indigenous Liaison or other representatives.
8. IJC/ILSBC/GLAM Committee to support BFN in exploring ways the First Nation may secure financial capacity to continue to express their rights and responsibilities in their Treaty territory.



In Closing

The work of the IJC impacts Indigenous peoples across the border. Indigenous peoples have the right to participate in decision-making in matters which would affect their rights through free, prior, and informed consent. Incorporating the above eight recommendations, in good faith, into the work of the IJC, ILSBC and the GLAM Committee is a positive step towards undoing the harmful legacy of the *Indian Act* and building meaningful relations to “honour the truth and reconcile the future”.

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Introduction

This report summarizes the results of an in-person engagement session between Batchewana First Nation (BFN) and the International Joint Commission (IJC), the International Lake Superior Board of Control (ILSBC) and a subcommittee of the Great Lakes Boards known as the Great Lakes – St. Lawrence River Adaptive Management (GLAM) Committee, held on November 21, 2023, by Baawaating nibi, in the Robinson Huron Treaty territory, at the Delta Hotel in Sault Sainte Marie, Ontario.

The purpose of this in-person session was to build meaningful relations with BFN; to honour a commitment, from a previous engagement session to come to the territory and meet in person with the ILSBC; and to find ways to collaborate in the on-going review of Plan 2012 as part of the GLAM Committee's adaptive management process, in a manner that supports the expression of Aboriginal and Treaty Rights and interests. The ILSBC, through the IJC, retained People Plan Community to organize and facilitate this meeting.

Engaging Batchewana First Nation Regarding Fluctuating Water Levels and Flows through St. Marys River and Whitefish Island through RESPECT[®]: an Indigenous Relations Model (January 2023) summarizes the initial engagement effort lead in 2022. Consisting of three virtual engagement sessions, it set the groundwork for this in-person engagement session and was framed through *Indigenous Corporate Training Inc's RESPECT: A Path Towards Working Effectively with Indigenous People[®]*. For purposes of consistency, the RESPECT[®] model was applied again in this follow-up engagement effort but an expedited way, to leverage the work of the initial report, and to ensure an informed, prepared and strategic engagement methodology.

Background

The International Joint Commission (IJC) is a binational Canada-United States organization that is entrusted with helping the two countries prevent and resolve disputes over the waters shared along the boundary.

The IJC is guided by the principles in the **Boundary Waters Treaty**, signed in 1909 by both Canada and the United States, and has two key roles: 1) approving projects proposed by one or both countries that may affect water levels and flows across the boundary (e.g. the construction of a dam or a water diversion structure); and 2) investigating transboundary issues related to shared waters and recommending solutions. First Nations and Tribal Nations were not signatories to the Boundary Waters Treaty in 1909, despite the relationships and treaties in place on both sides of the border.

The IJC may appoint a board with members from Canada and the United States to monitor compliance with its orders of approval and to undertake studies. The IJC may also approve regulation plans (for the dams and control structures for which it has a mandate) to regulate the flow of water through these structures. These approved regulation plans are then implemented by the appointed board.

During the development of regulation plans, careful study, assessment, and consideration is given to how various interests and stakeholders could be affected. In the past, despite some outreach, rightsholders, i.e. First Nations and Tribal Nations have not been engaged in Board decision-making and the development of Regulation Plans in the Great Lake Region. However, the ILSBC has been in communication with representatives of Batchewana First Nation in the past when conditions have required high outflows through the compensating works.

Today, the IJC, and its boards and committees are working to reverse this pattern and build meaningful relations with rights-holding Indigenous communities within the Great Lakes basin. To this end, **many positive steps** have been taken.

In the Upper Great Lakes region, the IJC has appointed the **ILSBC** to oversee and monitor compliance of **Plan 2012**, the regulation plan for the outflows through the control structures spanning St. Marys River, near Sault Ste. Marie, Ontario and Michigan. Approved in January 2015, Plan 2012 was originally intended to be reviewed within 15 years.



St. Marys Rapids and Compensating Works

Supporting the ILSBC in managing compliance with Plan 2012, is the **GLAM Committee**, an IJC-appointed committee of 18 members that reports to the Great Lakes water regulation boards and implements an adaptive management process to review and evaluate the rules for regulating outflows.

Given its proximity to the rapids and that it is just downstream from the Compensating Works, Whitefish Island is particularly sensitive to flow changes in the St. Marys Rapids. These flows are typically adjusted on a month-to-month basis in accordance with Plan 2012 outflow requirements and capacities of the hydropower plants.



Whitefish Island Reserve 15, Batchewana First Nation

As part of their operational responsibilities, the ILSBC has been authorized by the IJC to deviate from the Plan's outflow rules several times in recent years to better manage expected hydro-power limitations due to maintenance activities at the plants. Through their deviations, the ILSBC have attempted to adjust gate settings to smooth flow changes in the St. Marys rapids towards a more natural regime to address the objectives of Plan 2012. Together the ILSBC and GLAM Committee are working to review the recent deviations and determine whether they should be incorporated as modifications into Plan 2012.

Known by First Peoples as Baawaating, or the place of the rapids, and colonially known as St. Marys River, this is the traditional lands and Treaty territory (**Robinson Huron Treaty**) of Batchewana First Nation. The various control structures, dams and hydro facilities and locks (built over the last 150 years) that span St. Marys River have had profound effects on the livelihood, culture and traditions of the Anishinaabek in their territory. This is reflected in the reclaiming of Whitefish Island as reserve land through occupation and finally a settlement agreement in 1992, which is just downstream of the compensating works. It is also reflected in a major settlement agreement that was just reached between the Canadian Crown and twenty-one First Nations for the Robinson Huron Treaty annuity payments based on historic activities in the territory. BFN has shared their concern to the IJC and the ILSBC about these negative outcomes. In addition to the historical impact, Batchewana First Nation has expressed concerns about the high flows through the compensating works that continue to negatively impact the Island today, including trails and structures on the island.

Given concerns and the recognition by the IJC of the need to engage with First Nations, Métis, and Tribal Nations, the GLAM Committee, consistent with IJC priorities, has reached out to the BFN to engage them in the on-going review of Plan 2012 as part of the adaptive management process, and more broadly to restore and enhance relationships with the Batchewana First Nation and all other federally recognized Tribal Nations and First Nations with rights and responsibilities in the territory for the future.

The early stages of relationship development took place through the 2022 engagement effort, facilitated by People Plan Community to build relationships and to create ethical space for the benefit of meaningful participation in the operations of the ILSBC and the adaptive management process. The first recommendation in that summary report was to meet with BFN in person, as a first step to strengthen the relationship and explore working together.

However, just prior to being able to coordinate the in-person session, high flows in the St. Marys rapids caused flooding of portions of Whitefish Island. At that time, the ILSBC reached out to Batchewana First Nation to explain the conditions with a request to meet virtually to discuss further. A meeting took place on April 21, 2023, between the ILSBC and BFN representatives. While this was not the ideal circumstances for a follow up meeting from the initial engagement effort, it opened a line of communication, and provided a real time example of the importance of establishing and maintaining strong connections with BFN in this area.

This engagement effort was initiated on the heels of those high-level water conditions and provided a meaningful segway from the discussions in April to furthering relationship development.

Methodology

This engagement effort was guided by the *RESPECT: A Path Towards Working Effectively with Indigenous People*®. As this engagement effort benefits from the previous work conducted in 2022, the approach was expedited. The following methodology summary follows the seven steps of the engagement model: Step 1 Research, Step 2 Examine, Step 3 Strategize, Step 4 Present, Step 5 Evaluate, Step 6 Customize and Step 7 Transform.

Step 1: RESEARCH

Research is the first critical step in preparing for Indigenous engagement, as it is not up to the community you are approaching to educate you.

The research gathered from the initial 2022 engagement session laid the groundwork for this in-person engagement session but was revisited through a review of community newsletters, media articles, and social media channels as of January 2023 to identify any new developments or issues.

This work was completed prior to the project team Kick Off Meeting and shared as part of the Engagement Plan which identified the engagement purpose, objectives, core engagement messages, rapid RESPECT® Steps 1 and 2, parameters and limitations and the project team (See Appendix B).

Step 2: EXAMINE

Step 1 identified the following issues for examination with potential implications for the in-person engagement session:

1. Garden River First Nation launched lawsuit that alleges that, in the past 150 years, the Crown coerced the sale of parts of the reserved lands against the community's wishes - landback
2. Batchewana First Nation (BFN) had settled the significant Robinson Huron Treaty Claim
3. BFN had upcoming elections (during which there was a significant turnover in Chief and Council)
4. St. Marys Rapids flows have been high this year leading to some flooding on Whitefish Island which was subsequently closed to the public by BFN. Due to these conditions the ILSBC met virtually with the BFN in April 2023 to discuss the conditions and provide information on the expected duration of these high flows.
5. Ministry of Environment, Conservation and Parks issued an advisory not to consume any Smelts caught south of Batchawana Bay to the St. Marys River headwaters (the Goulais Bay area) due to a toxin which has recently been detected in them called Toxaphene.

Upon examination, the issues identified had significant implications for the in-person engagement session. Thus, an education session on meaningful Indigenous relations was held with ILSBC to support them in preparing for the in-person engagement session.

Education Session

The goal of the education session was to share a high-level summary of:

- Indigenous-Crown relations
- Myriad impacts of the Indian Act
- Batchewana First Nation and their relationship to the St. Marys River and Rapids
- The “great hurt” and the effects the building of the dam and locks have had on the livelihood, culture and traditions of the Batchewana First Nation
- Current laws and policies of the Canadian and U.S. governments related to Indigenous engagement
- and tools to build meaningful Indigenous relations with Batchewana First Nation.

The secondary goal of the education session was to provide a safe space for IJC, ILSBC and GLAM Committee members to ask questions and develop an understanding of the depth and impact of Indigenous-Crown relations in Canada, prior to meeting in person with BFN.

Step 3: STRATEGIZE

Upon completion of the education session, the consulting team then reached out to BFN Natural Resources and Environment staff to reconnect, discuss the issues identified upon examination and to seek their guidance and insights on a good way to approach coordinating the in-person session. This was initiated through phone calls and follow-up emails to the established relations within the Natural Resources and Environment Department.

After conversations with staff, it was advised that the ILSBC and the GLAM Committee send a Request Letter to Council to follow-up from the previous engagement process of 2022 and to request the in-person meeting. This request letter was drafted and shared with staff for their review and comment and then was issued to Chief and Council through staff on July 10th, 2023 (See Appendix D). The timing of the request letter's issuance was very close to upcoming community elections, during which a significant turnover in Chief and Council occurred. As a result, the request letter made it onto the Chief and Council Agenda in the fall, after the summer election.

Fortunately, it was agreed by the new Chief and Council that a meeting should take place and November was the general target date. During this time, a draft agenda (See Appendix E) was collaboratively developed with BFN and the ILSBC which confirmed the preferred meeting location (the Delta Hotel) and that two site visits should be held: 1) to Whitefish Island to see

the impacts from fluctuating water levels and flows, and 2) to the Hydropower facility to see the operations.

From there, the draft agenda was shared with Chief and Council alongside a Memo update to the original July request letter (See Appendix F). Upon Chief and Council's review of the Memo and Draft Agenda, a set date was given, November 21st, 2023. This significant step would not have been possible without the amazing support of BFN staff.

After the process of approval, agenda setting and confirming location and site visit details, the draft presentation was shared with BFN staff for their review prior to the in-person meeting taking place to provide them with an opportunity to comment on the content to be shared. (See Appendix G.)

Step 4: PRESENT

On the day, the in-person session was well attended by both parties. Bundles of tobacco were exchanged with newly elected Oogima Mark McCoy present and the Co-Chair of the ILSBC, as well as International Joint Commission (IJC) and GLAM Committee staff with BFN Departmental staff, which included Natural Resources and Environment, Mining and Forestry and Operations and Management. Please see Appendix H for minutes from both the first site visit and the presentation/discussion portion of the meeting.

The site visit to Whitefish Island was up first, with a tour of the impacts. The group was joined by Parks Canada staff, who shared alongside BFN staff that the Island reserve is publicly accessible and very popular spot for anglers and community members and is a tourism hotspot in the region during the seasonal months, which can see up to 150,000 visitors a year. In addition to being a sacred site, that was reclaimed by the First Nation in 1998, Whitefish Island is also a Nationally Significant Site, and a national historic site, and is part of the location where the Robinson Huron Treaty Signing took place in 1850 and was subsequently part of the Treaty negotiations and Robinson Huron Treaty Gathering in 2022.



Project Team on Whitefish Island, November 21 2023

Access to the Island

It was shared that in 2023, large areas of the island shoreline and trails were under water during the prime season, and closed for 6 months, which had impacts on the community, as they can't access the area to fish and connect with the river as well as the general community can't access the area to hike. It was expressed that creates a burden for BFN and Parks Canada staff.

Damaged Infrastructure

From there, the team was shown whole areas of trails were washed away. At that time, BFN Operations staff shared that the First Nation has paid for all the infrastructure, including the damaged areas. They then inquired as to whether there would be funding available to repair infrastructure on the island from the fluctuating water flows. IJC staff indicated that the IJC does not have funds for repairs but there are federal tourism grants available that may be supportive.



A portion of the trail washed completely away in 2023 on Whitefish Island

Impacts to Salmon

Along the way, the team noticed various dead salmon that were trapped from water levels dropping. It was then noted by BFN staff that the island is an area of Remedial Action Planning, as one of the key Great Lakes Areas of Concern, which has been largely successful with the recent lifting of a beneficial use impairment on a species of concern. However, the fluctuating water levels compromise that work and there are genuine concerns for the salmon spawning as water levels change during the season of spawning and the fish get trapped on the island.



Dead salmon trapped under decking on Whitefish Island

After spending an hour on the site, touring the area, the team then left and returned to the hotel to initiate the presentation and discussion portion of the day. Please see Appendix H for photos and meeting minutes.

Upon return to the Delta Hotel, the team rejoined and began the presentation and discussion portion of the day with an Opening from Juliana Lesage-Corbiere, the head of the Natural Resources and Environment Department. From there, the presentation (available in Appendix G) was conducted, and discussion ensued with a series of questions asked by Oogima Mark McCoy and Councillor Luke McCoy. The results of the in-person session are summarized in Step 5: Evaluate, based on evaluation questions that come from the *RESPECT*® Model.

Lastly, upon completion of the presentation and discussion, the team then went for a site visit to the Francis H. Clergue Generating Station, where they were welcomed by staff and the Indigenous Liaison of Evolugen to visit the site. A tour was offered of the entire building. The team was shown how the infrastructure is designed and operates, including an up-close view of the turbine. Afterwards, a connection was made with the Brookfield Indigenous Liaison, who expressed interest in working together in the future.



Project team at the Francis H. Clergue Hydro Station

Findings

Step 5: EVALUATE

Upon completion of the in-person session, the following evaluation questions which come from the *RESPECT*® Model support subsequent relationship development and can be used as a template for further engagements sessions. While not all discussion points raised fall within the jurisdictions of the IJC, ILSBC, and GLAM they are included here to representative of the discussion.

How did the in-person engagement session go?	<p>There was good participation from both parties</p> <p>The newly elected Oogima was in attendance, as well as an elected Councillor and representation from 3 First Nation departments (Mining and Aggregates, Infrastructure and Natural Resources and Environment)</p>
What was the tone of the meetings?	<p>Receptive and positive</p> <p>Oogima Mark McCoy stated that the past is in the past and now is the time to look forward to the future</p> <p>Councillor McCoy stated that he knows how the system works because BFN is here and always has been</p>
What questions did the community members ask?	<p>BFN asked what does the new relationship look like?</p> <p>Councillor Luke McCoy asked why we are here and what is the purpose of the meeting?</p> <p>The power plants are not at the table and why not?</p> <p>BFN expressed that water flowed over break wall; never saw this before – Oogima Mark McCoy wanted to know how this happened - why were the levels so high?</p>
What questions remain outstanding that we may need to follow up on?	<p>Key people are not at the meeting and they should be here for future meetings, i.e. hydro people</p> <p>What are the real “red flags” for BFN?</p>
What are community concerns/impacts with fluctuating levels?	<p>First Nations are adaptive, but often not part of decision-making</p> <p>They look at things differently and must protect mother earth and as Bear Clan, Councillor McCoy takes this responsibility seriously</p> <p>We can't leave because it's our home - You can build something and leave, whereas we're here and we have not left</p> <p>We want to be part of the revenue stream</p> <p>BFN wants to give permission/consent to use the energy</p>
What community concerns/impacts exist or remain outstanding?	<p>Potential red flags for BFN</p> <p>Oogima Mark McCoy stated that in the past, the whitefish were so plentiful that you used to be able to cross the river by walking on their backs</p> <p>Nation to nation relationship development - Many First Nations are now thinking this way; struggling because we were NOT at the table</p> <p>Water pollution/contamination from Algoma Steel is also a major concern that cannot be left unmentioned in these discussions</p> <p>Algoma Steel is a major energy consumer from the hydro power plants</p> <p>Some boards along the border have Indigenous Representatives &/or Indigenous Advisory Groups</p> <p>Future agreements to be written in Anishinaabemowin so that things can be clear and that language cannot be used against them</p> <p>There is a lack of monitoring in the area - need for fisheries monitoring</p>
How critical are these concerns/impacts to the deviation strategy?	<p>First Nations are adaptive, but often not part of decision-making</p> <p>This issue is much bigger for BFN than developing performance indicators and this is the challenge</p>

Conclusion

Step 6: CUSTOMISE

This step in the *RESPECT*® Model encourages adapting your outreach style based on the review of Step 5: Evaluation and lessons learned through the engagement process.

What was expressed in the in-person engagement session is that First Nations need a seat at the decision-making table. There are significant impacts from the work of both the United States and the Canadian Governments, and in turn the IJC, to their livelihoods and as a beginning step, meetings should continue so that communications can be formalized, human resources can be enhanced, and financial capacity can be addressed to ensure that this journey will continue.

Step 7: TRANSFORM

The following recommendations from the contract team are grounded in the *RESPECT*® Model, reflect the priorities of BFN, and provide a good path forward for the IJC, ILSBC and GLAM Committee to meaningfully take responsibility for a better future together by ensuring that reconciliation is not a platitude.

Recommendations

The following recommendations are provided to the ILSBC by People Plan Community as meaningful next steps based on the engagement session discussion:

- 1 Ensure continuous engagement by setting a regular meeting cadence between ILSBC and BFN early in 2024.
- 2 GLAM Committee to build human resources capacity and retain an Upper Great Lakes Indigenous liaison to support with continued engagement and to coordinate annual gathering with First Nations in the region.
- 3 Through the Indigenous Liaison and alongside BFN develop a workplan in 2024 that includes communication and approaches for working together.
- 4 Identify opportunities for BFN to meet with the ILSBC, GLAM Committee, and IJC representatives to discuss the future working relationship, BFNs rights and responsibilities for St. Marys River and Whitefish Island, and their interests in participating in the monitoring and compliance of the Regulation Plan, including appropriate representation where interested.
- 5 IJC/ILSBC/GLAM Committee to present to the BFN Environment Committee to discuss working together and participating in or developing an Indigenous Advisory Group.
- 6 BFN/IJC/ILSBC/GLAM Committee collaborate on preferred data sharing agreements and monitoring goals.
- 7 Bridge the divide between hydro power agencies, Treaty partners and the IJC by extending invitations to Board meetings to Power entities Indigenous Liaison or other representatives.
- 8 IJC/ILSBC/GLAM Committee to support BFN in exploring ways the First Nation may secure financial capacity to continue to express their rights and responsibilities in their Treaty territory.

In closing, the work of the IJC impacts Indigenous peoples across the border. Indigenous peoples have the right to participate in decision-making in matters which would affect their rights through free, prior, and informed consent. Incorporating the above eight recommendations, in good faith, into the work of the IJC, ILSBC and the GLAM Committee is a positive step towards undoing the harmful legacy of the Indian Act and building meaningful relations to “honour the truth and reconcile the future”.

Appendices



Appendix A: Timeline of Engagement Process



Appendix B: Engagement Plan

International Joint Commission and Batchewana First Nation Engagement Plan

June 2023



Background

Batchewana First Nation (BFN) is an Anishinaabe/Ojibway First Nation located in and around Bawatung, or the Gathering-Place, as well as Baawaating (the place of the rapids) now known as the twin cities of Sault Ste. Marie, Michigan, and Sault Ste. Marie, Ontario.

In late 2022, the International Joint Commission (IJC) engaged with BFN on fluctuating water levels and flows on the St. Marys River and Whitefish Island, deviation decision-making, and exploring ways to incorporate BFN's perspectives into the review of Plan 2012. This initial Indigenous engagement with BFN set the foundation for a long-term relationship, built upon transparency, accountability, and meaningful partnership. At that time, BFN requested a follow-up in-person session in community.

Context

The United Nations Declaration on the Rights of Indigenous Peoples is in effect in law in Canada, with the *United Nations Declaration on the Rights of Indigenous Peoples Act*.

Article 25 of the UN Declaration is of particular relevance to this engagement process, which states that *Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.*



Purpose of Engagement

The purpose of this engagement process is to strengthen relationships with Batchewana First Nation (BFN) and the International Lake Superior Board of Control (ILSBC) so that: opportunity for BFNs meaningful involvement in the Great Lakes - St. Lawrence River Adaptive Management Committee's processes in the ongoing review of Plan 2012 can be realized; issues with BFN's capacity and exercising of their rights within their Treaty and traditional territory can be addressed; the development of priority physical, environmental, and cultural indicators that can be used to compare alternative outflow management strategies can be achieved; and, decisions on how best to communicate and work together can be explored; so that Indigenous Knowledge systems can meaningful inform ILSBC management decisions.



Engagement Objectives

- 1 To honour IJC’s commitment to participate in an in-person engagement session with BFN and the International Lake Superior Board of Control (ILSBC) as requested by BFN Natural Resources Department staff.
- 2 To re-establish the relationship and come together to discuss the best way to strengthen the relationship given the “big hurt”.
- 3 To listen to the impacts of outflow management for water levels and flows in the St. Marys Rapids and along the Whitefish Island shoreline for BFN.
- 4 To identify means to sustain BFNs involvement in the ongoing review of Plan 2012 and the adaptive management process for the meaningful integration of Indigenous Knowledge Systems, i.e. communication planning and tools, etc.

RESPECT© Indigenous Relations Model

Research	Like international relations, research the First Nation you hope to engage with, prior to outreach. Also check yourself, your colleagues and your or to gauge your preparedness.
Examine	Examine what the research shows you and discuss. Are there traditional activities happening when you hope to engage, are there events in the past or present that may impact your engagement process?
Strategize	Based on the results of your examination, strategize on how best to connect. Do you have contacts in the community, is an official letter, email or phone call the best way forward?
Present	Host your presentation while being mindful of First Nations cultural protocols. Listen to what’s being shared. Be succinct on who you are and what you hope to achieve. Ask yourself why this matters.
Evaluate	Evaluate how things went. Be honest and followup up immediately with comments and requests.
Customize	Adapt your approach based on what you’ve learned and try again. Good relations are always a work in progress.
Transform	Uphold respect, responsibility, relevance, relationality, reciprocity and refusal as core tenants of meaningful and sustained relations with rightsholders.

Batchewana First Nation

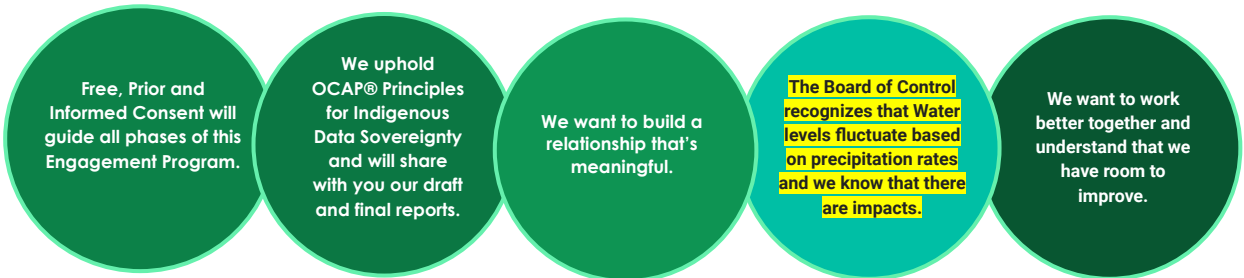
BFN asserts and relies upon the Covenant Chain of mutual respect and agreements with the Crown, including Treaty. Like the Constitution of Canada, the Covenant Chain is "a living tree" that continues to inform our ongoing relationship with other governments. The Covenant Chain reaches all citizens who, if they accept the benefit of our agreements with the Crown, must also accept the obligations of the Crown to BFN.

- 01 | Treaty Holder
- 02 | Four separate reserves
- 03 | Chief and Council, 2 year election term, July 2023 next election
- 04 | Actively engaged in legal negotiations
- 05 | Proud Anishinaabek Peoples



Key Messages

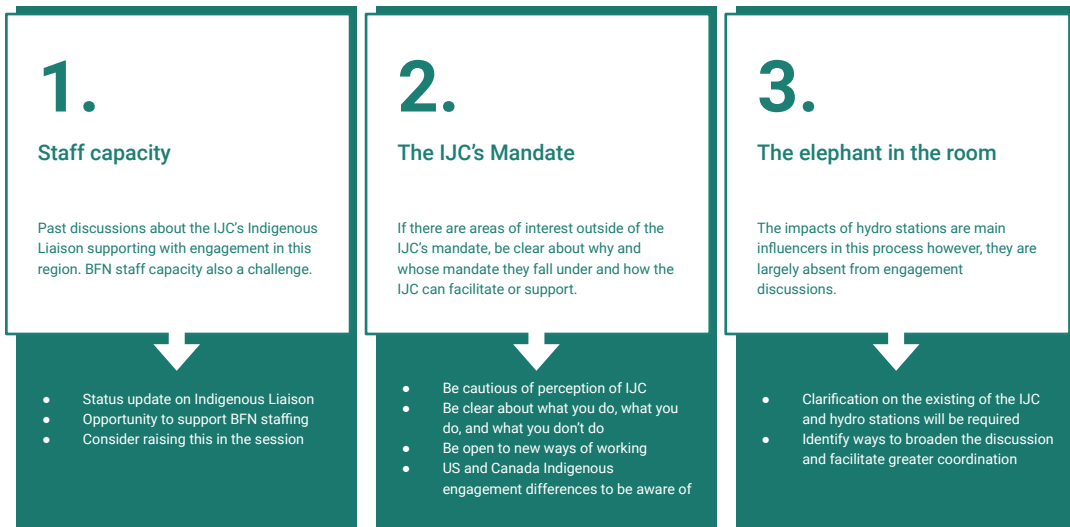
Our key messages are critical communication tools to the success of the meaningful relations.



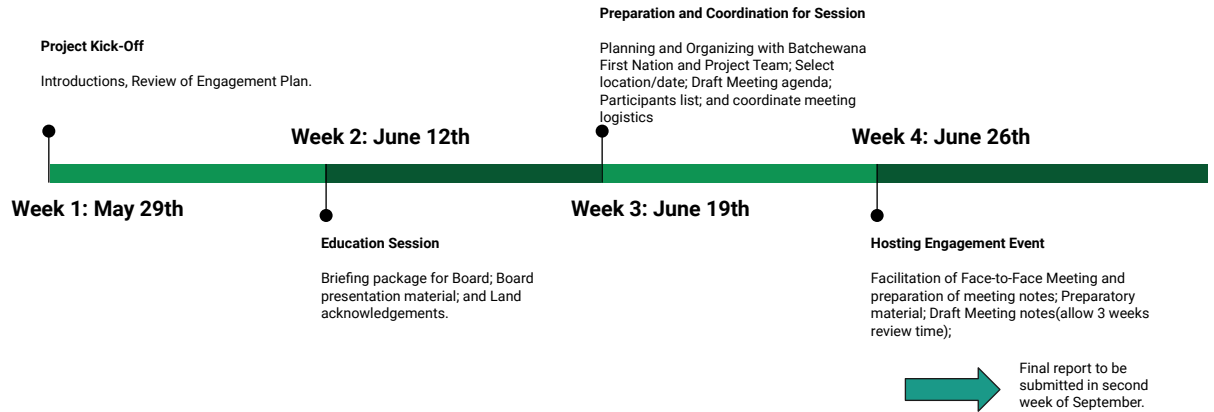
Rapid Steps 1: Research & 2: Examine

- 1 Sister First Nation, Garden River First Nation launched lawsuit that alleges that, in the past 150 years, the Crown coerced the sale of parts of the reserved lands against the community's wishes - landback
- 2 Batchewana First Nation has filed a Specific Land Claim for the historic loss of the Fishery
- 3 Robinson Huron Treaty Annuity Legal negotiations close to settlement which could set a legal precedent for honouring Indigenous worldviews
- 4 Ministry of Environment, Conservation and Parks issued an advisory not to consume any Smelts caught south of Batchewana Bay to the St. Mary's River headwaters (the Goulais Bay area) due to a toxin which has recently been detected in them called Toxaphene.
- 5 Water levels have been high this year and Whitefish Island was closed by BFN

Parameters and Limitations



Engagement Timeline and Deliverables



Team

People Plan Community collaborates with leading experts, including JDI Services, Lindsay Hill and Incite Planning.





Next Steps

1. Discuss the logistics of the face-to-face meeting, participants list, agenda etc.
 - a. Last week in June has been confirmed by BFN as available (June 26th to 30th)
 - b. Doodle Poll For In-Person Engagement Session - <https://doodle.com/meeting/participate/id/bWQ2WVJe>
 - c. Need to draft Request Letter for Juliana Lesage-Corbiere
 - d. **June 26th as an option?**

2. Set the dates for a preparatory session with the Board:
 - a. Doodle Poll for Board preparatory session - <https://doodle.com/meeting/participate/id/eZz5Z95e>

Appendix C: Education Session

Education Session

Preparing for the In-Person Session with Batchewana First Nation



Photo Credit: Saskatchewan Centre for Patient-Oriented Research

Recap on Previous Engagement

Agreed to meet in person

Identify mechanisms through which to sustain participation, i.e. relationship agreement, contribution Agreement

Retain Indigenous Liaison(s) in the Upper Great Lakes System

Indigenous Communications strategy



What is the Purpose of this Session

To create a safe space for the project team to learn about Indigenous histories and rights in advance of attending an in-person engagement session with Batchewana First Nation.



Canada Indigenous Relations

- The Indian Act 1876
- Royal Commission on Aboriginal Peoples 1996
- 10 Supreme Court Cases
- Duty to Consult and Accommodate 2010
- Truth and Reconciliation Commission of Canada 2015
- UN Declaration and Implementation Act 2021





© INDIGENOUS CORPORATE TRAINING INC.

Royal Commission on Aboriginal Peoples

A Canadian Royal Commission

Established in 1991, completed in 1996.

440 recommendations called for sweeping changes to the relationship between Aboriginal and non-Aboriginal people and governments in Canada



Major Supreme Court Cases in Canada

Calder, 1973: The Calder decision recognizes Aboriginal title.

Guerin, 1984: The Guerin decision is significant because it recognized pre-existing Aboriginal rights both on and off-reserve.

Sparrow, 1990: The Sparrow decision recognizes Aboriginal rights.

Delgamuukw and Gisday'way, 1997: The Delgamuukw and Gisday'way decision confirms Aboriginal title exists.

Haida, 2004: The Haida decision established the duty to consult & accommodate

Taku, 2004 : Clarifies the duties of consultation and accommodation with respect to government decisions.

Mikisew, 2005: Confirmed the duty to consult exists in the post-treaty context.

R. v. Marshall; R. v. Bernard, 2005: This case is important because it confirms Aboriginal interests are a burden on the Crown's underlying title.

Rio Tinto, 2010: This case confirmed the Haida Nation test of when the duty to consult arises.

Tsilhqot'in, 2014: Tsilhqot'in took the test to prove title and applied it.

Duty to Consult and Accommodate



Truth and Reconciliation Commission

Canada's cultural genocide

Government led to assimilate Indigenous People

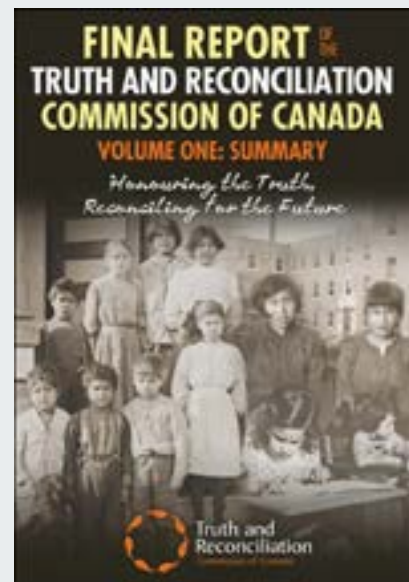
Initiated in 2007, completed in 2015

94 Calls to Action

6 years travelling to all parts of Canada and heard from more than 6,500 witnesses.

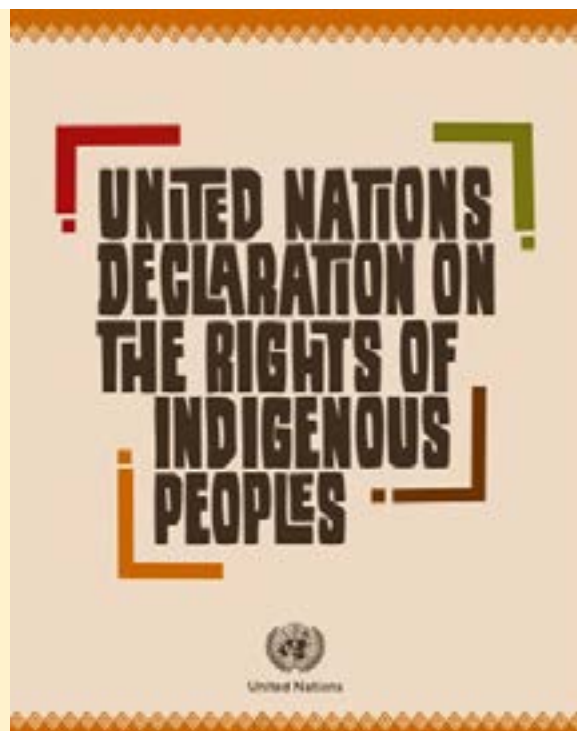
National Centre for Truth and Reconciliation

Bringing the Children home

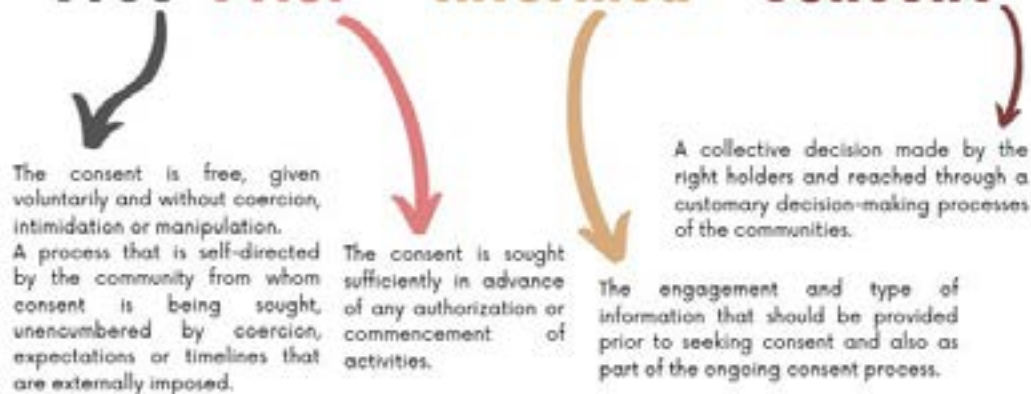


The Declaration

United Nations Declaration on the Rights of Indigenous Peoples



Free Prior Informed Consent



fao.org/indigenous-peoples

The Declaration in Canada

UN Declaration on the Rights of Indigenous Peoples Act

Action Plan 2023 - 2028

Action Plan includes 181 important measures

Implementing
the *United Nations Declaration*
on the *Rights of*
Indigenous Peoples Act

CANADA.CA/DECLARATION



Canada & US: First Nations & Tribal Nations

Where the two systems began to diverge:

Royal Proclamation

American Revolution

War of 1812

Two different countries, two different laws



Indigenous Perspectives on Colonial Divide

A colonial boundary that does not exist for their nationhood

The challenges are similar but there are differences

The Medicine Line



The International Joint Commission

- 01 | Boundary Waters Treaty
- 02 | Batchewana First Nation not included in this Treaty
- 03 | First Indigenous Commissioner
- 04 | First Indigenous Liaison



Batchewana First Nation

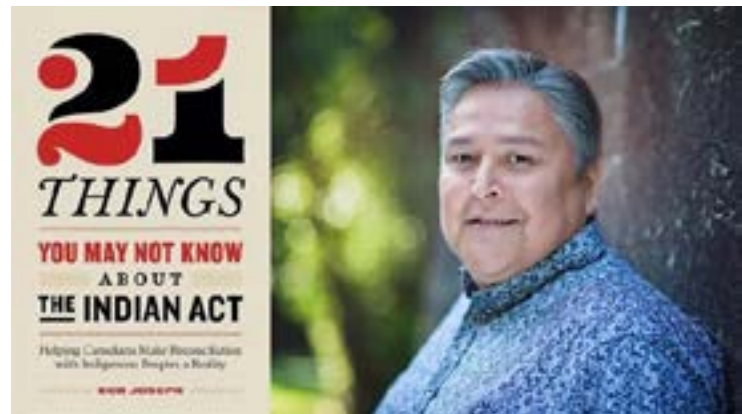
- 01 | Settlement agreement for Robinson Huron Treaty
- 02 | Specific Claim for Fisheries filed
- 03 | What We have Heard From BFN Staff
- 04 | Indigenous Knowledge Systems



Dr. Myrle Ballard

Respectful Relations

- Land acknowledgement
- Language to be mindful of
- Expectations from both sides
- Good Faith
- Continued Learning



Land Acknowledgements

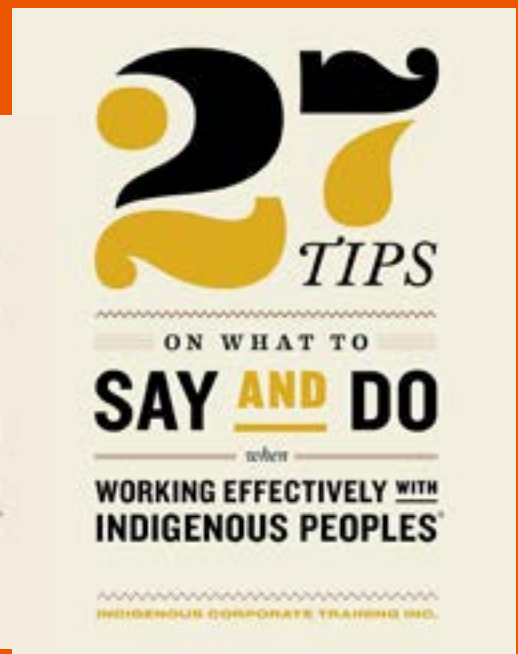
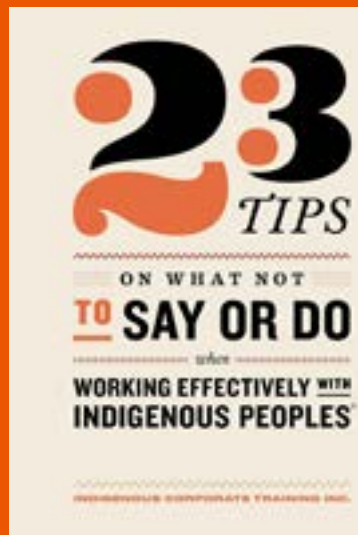


Language

1. PRE-HISTORY
2. CANADA'S INDIGENOUS PEOPLES
3. STAKEHOLDERS
4. EQUALITY
5. SPECIAL RIGHTS
6. CROWN LANDS
7. I HAVE A PH.D. IN LAND USE PLANNING
8. WE'RE HERE TO HELP
9. YOUR FILE
10. ANCIENT

<https://www.ictinc.ca/blog/9-terms-to-avoid-in-communications-with-indigenous-peoples>

Follow Good Guidance





Unpacking myths

1. Indigenous Peoples get a “free ride”
2. Indians have ample reserve lands
3. Indians can do what they want with their reserve lands and resources
4. Indigenous Peoples living on reserves get free housing
5. Indigenous Peoples get a free secondary education
6. There’s no connection between Indigenous unemployment and Indigenous health and social problems
7. Indigenous Peoples don’t pay taxes in Canada
8. Indigenous Peoples are all the same
9. Residential schools are ancient history
10. The myth of the vanishing Indian

<https://www.ictinc.ca/blog/insight-on-10-myths-about-indigenous-peoples>

RESPECT© Indigenous Relations Model

RESEARCH

Like international relations, research the First Nation you hope to engage with, prior to outreach. Also check yourself, your colleagues and your or to gauge your preparedness.

EXAMINE

Examine what the research shows you and discuss. Are there traditional activities happening when you hope to engage, are there events in the past or present that may impact your engagement process?

STRATEGIZE

Based on the results of your examination, strategize on how best to connect. Do you have contacts in the community, is an official letter, email or phone call the best way forward?

PRESENT

Host your presentation while being mindful of First Nations cultural protocols. Listen to what’s being shared. Be succinct on who you are and what you hope to achieve. Ask yourself why this matters.

EVALUATE

Evaluate how things went. Be honest and followup up immediately with comments and requests.

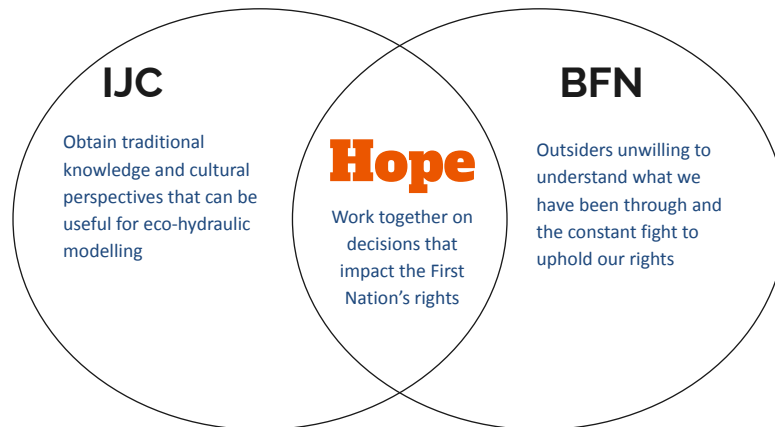
CUSTOMIZE

Adapt your approach based on what you’ve learned and try again. Good relations are always a work in progress.

TRANSFORM

Uphold respect, responsibility, relevance, relationality, reciprocity and refusal as core tenants of meaningful and sustained relations with rightsholders.

Managing Expectations



Strong Policy Context

Canada's [Indigenous Knowledge Policy Framework for Project Reviews and Regulatory Decisions](#) affirms that the Government of Canada **recognizes that Indigenous Knowledge improves federal decision-making and strengthens project reviews and regulatory decisions.** This federal policy document recognizes that Indigenous Knowledge systems and western scientific knowledge systems are equally valued and will be used in tandem or interwoven to achieve better outcomes. It aims to build long-term relationships with Indigenous Peoples based on mutual respect and trust, and identifies that working in collaboration with Indigenous Peoples, is critical for laying the groundwork for the sharing, understanding, and consideration of Indigenous Knowledge in project reviews and regulatory decisions.

U.S. [Guidance Document On Traditional Ecological Knowledge Pursuant To The Great Lakes Water Quality Agreement prepared by the United States Caucus of the Traditional Ecological Knowledge Task Team Annex 10 Science Subcommittee](#) from February 2021 states: **The recognition and integration of the values and knowledge of Indigenous communities will only strengthen collaborative science, policy, and management outcomes for the integrity of the Great Lakes and its ecosystems.**

Coming with Commitments

1. Offer a meaningful role for Batchewana First Nation in decision-making
2. Bring all parties into the room, i.e. Evolgen, Brookfield or the Ontario Energy Board into the room
3. Make a foundational commitment of material support in the form of time, money, and commitment for BFN to regain and/or assert their inherent responsibilities and rights
4. Develop knowledge sharing frameworks, i.e. a matrix of ongoing Adaptive Management work such as priority-setting, Indicator development, and reporting requirements, to enhance inclusion of Indigenous Knowledge in future GLAM work.
5. Support BFN research goals through Indigenous directed research based on their priorities, i.e. BFN protocols to govern knowledge and monitor researchers and access to research funding on their own terms.
6. Develop a protected database of Indigenous Knowledge relating to the health of the Great Lakes and ecosystems, through which data and narrative information can inform priority-setting and reporting requirements.

**Action has meaning only in relationship and
Without understanding relationship, action on any level
Will only breed conflict. The understanding of
Relationship is infinitely more important
Than the search for any plan of action.**

- J. Krishnamurti

Appendix D: Outreach Letter



July 10th, 2023

To: Batchewana First Nation Chief and Council

& Juliana Lesage-Corbiere, Fish and Wildlife Supervisor
Batchewana Natural Resources
Batchewana First Nation
236 Frontenac Street
Garden River, ON
P6A 6Z1

Aanii Boozhoo Juliana,

Chi Miigwetch for taking the time for our virtual meeting back in April. The International Joint Commission's (IJC) International Lake Superior Board of Control (ILSBC or Board) and Great Lakes - St. Lawrence River Adaptive Management (GLAM) Committee seek to build a meaningful relationship with Batchewana First Nation. We hope to better understand the impacts of outflow management planning decisions on your rights and interests. We also wish to work collaboratively with you in identifying how Indigenous Knowledge Systems can both inform the GLAM evaluation processes and best advise Board decision-making.

While the GLAM Committee monitors, models and assesses outcomes related to Great Lakes regulation plans, including Regulation Plan 2012 (implemented in January 2015), the ILSBC is responsible for applying the Plan, which regulates outflows from Lake Superior through the St. Marys River into Lake Huron-Michigan. The Board manages the outflows through the various control structures that span the St. Marys River near Sault Ste. Marie, including gate changes on the compensating works at the St. Marys rapids.

Recent water supply conditions and major repair work on hydropower facilities have led to fluctuating flows and water levels through the rapids. To adapt to these changing conditions, the Board developed a strategy to deviate from the Plan to manage water flows. The GLAM Committee is tasked with assessing the impacts and benefits of these deviations and would like to understand how they have affected your community. We hope this will enhance our assessment of Plan 2012 for the benefit of St. Marys rapids and river.

The ILSBC and GLAM Committee are being supported by Susan Robertson, Carolyn King, Lindsay Hill and David Stinson with outreach and engagement with your First Nation. From the virtual meeting they facilitated on April 19th, 2022, both the ILSBC and GLAM Committee better understand that the impact of fluctuating flows and water levels through the rapids has been significant for your First Nation. We have heard that the dam has significantly altered your way of life and continues to do so. We have heard that a higher-level discussion is required to address the absence of Indigenous Community voices at the table and the need for appropriate mechanisms to address this.



The ILSBC, GLAM Committee, and IJC representatives would be grateful to have the opportunity to come and meet with you in person. While we were hoping for Spring 2023, we understand that the week of September 11th is most suitable. Prior to this, we are happy to meet virtually with Chief and Council to discuss the planning and coordination of the in-person meeting. Our vision for the in-person meeting is for the ILSBC members, GLAM representatives, and IJC advisors to engage directly with your First Nation leaders and foster open, honest discussions on the regulation of outflows in the St. Marys River and possible next steps.

It is our hope that our discussions will eventually lead to closer collaboration regarding the outflow management of Lake Superior. We recognize that the integration of Indigenous Community monitoring activities, data sharing agreements, Contribution Agreements, Memorandums of Understanding, and the development of Indigenous performance metrics through the support of Indigenous Knowledge Systems will strengthen the science, policy, and management outcomes for the integrity of the Great Lakes.

We thank you for your interest in exploring future collaboration with the Board and GLAM Committee. We look forward to strengthening our relationship and find better ways of working together.

Baamaapii.

Yours truly,

Handwritten signature of Frank Seglenieks in blue ink.

Frank Seglenieks
ILSBC Co-Secretary

Handwritten signature of Bryce Carmichael in blue ink.

Bryce Carmichael
ILSBC Co-Secretary

Handwritten signature of Wendy Leger in blue ink.

Wendy Leger
GLAM Committee CoChair

Handwritten signature of Chris Warren in blue ink.

Chris Warren
GLAM Committee CoChair

Appendix E: Agenda for In-Person Session

DATE: Tuesday November 21, 2023
LOCATION: Delta Hotel, 208 St Marys River Dr, Sault Ste. Marie, ON P6A 5V4
TIME: 9:30 a.m. - 4 p.m.

9:30 a.m.	Morning gathering with coffee and continental breakfast
10:30 a.m.	Visit to Whitefish Island to take place for the morning portion of the meeting
Noon	Return to hotel for lunch
1 p.m.	Drumming circle to open the meeting portion of the day
1:30 p.m.	Presentation from IJC to take place after lunch, providing an overview of who they are, what they do, how they do it, and why they are here today
2:30 p.m.	Open discussion and answering questions that BFN may have
4 p.m.	Next steps developed from there - a continuation on conversation
4:30 p.m.	Site visit to Canadian Facility

Appendix F: Covering Memo

MEMO

November 1st, 2023

To: Batchewana First Nation Oogima and Council
& Juliana Lesage-Corbiere, Fish and Wildlife Supervisor

Batchewana Natural Resources

Batchewana First Nation

236 Frontenac Street

Garden River, ON

P6A 6Z1

Aanii Boozhoo Oogima and Council,

We look forward to meeting with you in-person on Tuesday November 21, 2023 in your Treaty territory.

Our vision for this meeting is to foster open, honest discussions on the regulation of outflows in the St. Marys River with your First Nation and the International Lake Superior Board of Control (ILSBC) members, Great Lakes Adaptive Management (GLAM) Committee representatives, and International Joint Commission (IJC) advisors.

The long term goal is that our discussions will lead to closer collaboration regarding the outflow management of Lake Superior. We recognize that the development of Indigenous performance metrics through Indigenous Community monitoring activities, data sharing agreements, Contribution Agreements, Memorandums of Understanding, all through the support of Indigenous Knowledge Systems will strengthen the science, policy, and management outcomes for the integrity of the Great Lakes.

Please note that we have booked the Delta Hotel and Conference Centre for the day and look forward to meeting there at 9:30am with a continental breakfast and then touring Whitefish Island together. Coming back to the hotel for lunch, we look forward to a good discussion about outflow management, water levels and collaboration. From there, we intend to conduct a site visit to a Canadian Hydro Facility.

Chi Miigwetch for agreeing to meet with us! We look forward to the day.

Leading up to the 21st, please contact Susan Robertson from People Plan Community for any outstanding questions.

Appendix G: In Person Session Presentation

New
Beginnings
through
Recognition,
Respect and
Responsibility



OVERVIEW

Who We Are
New beginnings
Our previous engagement
Plan 2012
Impacts from Plan 2012
Deviation from the Plan
Moving forward together

International Joint
Commission

Lake Superior
Board of Control

Great Lakes St-
Lawrence River
Adaptive
Management
Committee

IJC mandate



INDIGENOUS ENGAGEMENT PROGRAM: Engagement at a Glance

83% response rate to initial outreach

22 Indigenous Nations with both reserves and reservations, and treaty rights along Lake Ontario and St. Lawrence River

Respect: A Path Towards Working Effectively with Indigenous Peoples

"Adaptive management is the same process that Indigenous peoples use."

"Water is a lifeline"

Communities for adaptive management

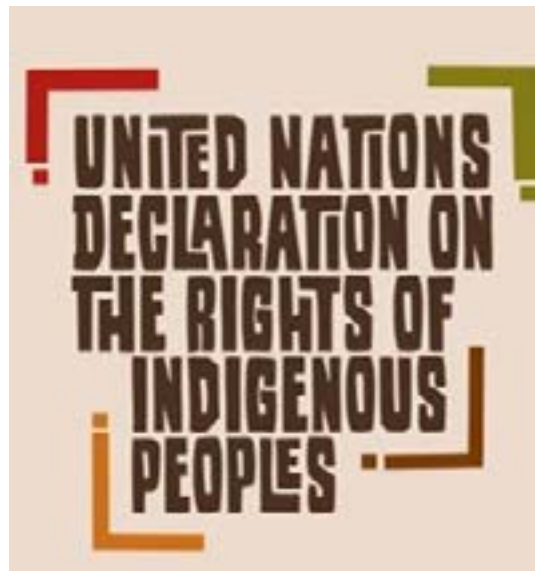
Positive Change

Truth before Reconciliation

Addressing the Big Hurt
No consultation in building the dams
Way of Life Irreparably Altered



New Beginnings



Robinson Huron Treaty



Recap on Previous Engagement Session

Significant concerns regarding the health of the fish and animals with water level changes.

Sudden water level changes cause significant stress to wildlife (mortality) witnessed in many ways.

The dam has irreparably altered BFNs way of life

BFN needs a seat at the table, nation to nation.



Recap on Previous Engagement Session

- Agreed to meet in person
- Identify mechanisms through which to sustain participation, i.e. relationship agreement, contribution Agreement Retain Indigenous Liaison(s) in the Upper Great Lakes System
- Indigenous Communications strategy

Lake Superior Regulation Plan 2012

Preferred Outcomes

Designed to provide natural flows

Balance upstream and downstream water levels



How Plan 2012 Works:

<p>1. Start with more NATURAL FLOWS</p> <p>Basis of Plan 2012 is the PRE-PROJECT Flow Relationship</p> <p>What is pre-project flow? It's the flow that would have occurred prior to the canals and dam being built in the 18th. Marys River, which began around the year 1887</p>	<p>2. Apply BALANCING PRINCIPLE</p> <p>To help BALANCE water level conditions and their impacts on All stakeholders</p> <p>SUPERIOR NICHOLSON</p> <p>Flows are adjusted depending on the difference of each lake's level from seasonal target levels based on average conditions</p>	<p>3. Respect PHYSICAL & OPERATIONAL LIMITS</p> <p>November Maximum = 3260 m³/s (except if Superior > 183.90 m...)</p> <p>3800 m³/s if Superior > 183.90 m</p> <p>May to November Winter Max = 2410 m³/s increased to 2600 m³/s if Superior > 183.90 m</p> <p>1700 m³/s Winter Flow Lake Sturgeon Bay (in June)</p>	<p>4. Determine RAPIDS FLOW & Multi-Use ALLOCATIONS</p> <p>MUNICIPAL & INDUSTRIAL USES NAVIGATION LOCKS RAPIDS & FISHERY HYDROPOWER</p> <p>PLAN 2012 FLOW & GATE SETTING</p>
--	---	---	--

First Nations interests and rights are not explicitly included

We Want to do Better

Impacts from Flows



Rapids with 1/2 Gate Open

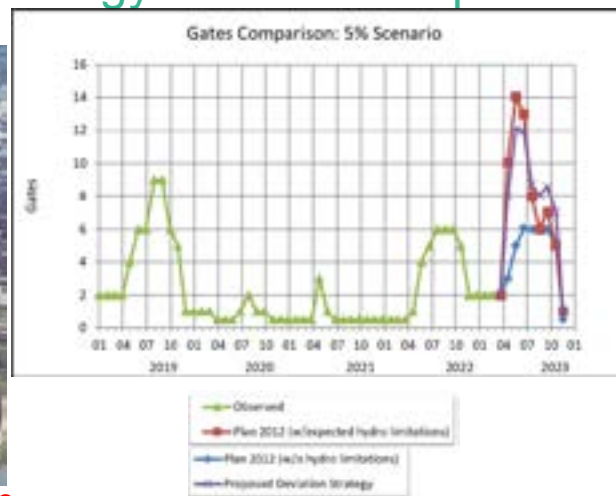
Rapids with 6 Gates Open



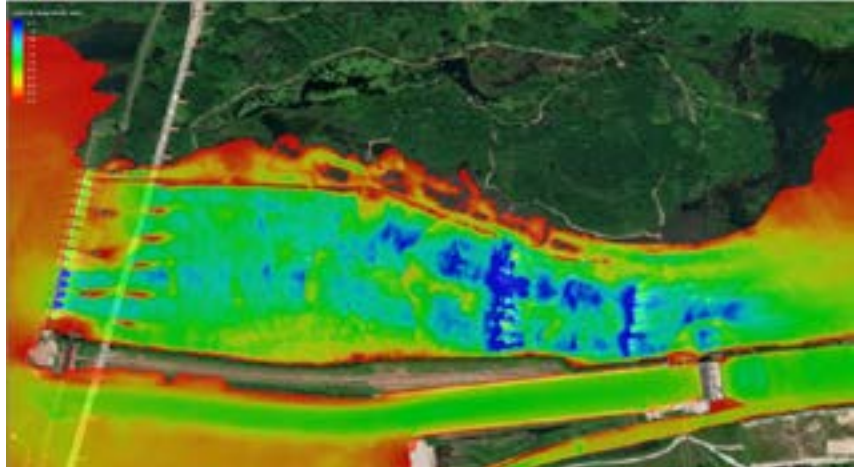
Deviation Strategy to Protect Rapids



Reduced flow here = Increased flow here



GLAM
analyzing
impacts of
making
deviation
strategy
permanent



- GLAM analysing impacts of making this decision permanent
- Data and models to assess impacts on Batchewana First Nation, rapids and Whitefish Island

Bridging Worldviews

IJC

- Build relationships
- Traditional knowledge into eco-hydraulic modelling
- Better decisions for the regulation Plan 2012

Ethical Space

Work together on decisions that impact the First Nation's rights

BFN

- Colonial Governments
- Treaty relationships
- Nation to Nation basis
- Aboriginal Rights are upheld



Open
Discussion
on how to
Change the
Process



Ethical Space

Upholding the 3Rs: Recognition, Respect and Reconciliation

Developing Agreements, i.e. Ownership Control Access and Possession® for Data Sharing, MOUs, etc.



Respectful
Relationships

Chi Miigwetch for welcoming us to your territory and for this opportunity today



Fig. 2. Saugeen Ojibway Nation and Ontario Ministry of Natural Resources and Forestry's ethical knowledge co-production framework. This framework was co-developed during the writing of a Two-Eyed Seeing research proposal submitted to the Great Lakes Fishery Commission on the role of lake trout in the declines of lake whitefish in Lake Huron and is meant to guide the project team and learning community in all aspects of the research study.

Evaluation of the Rainy/NamakanLakes Rule Curves

Muskrat
can control
cattail



Muskrat Survival Probability: Namakan 2000RC vs Natural

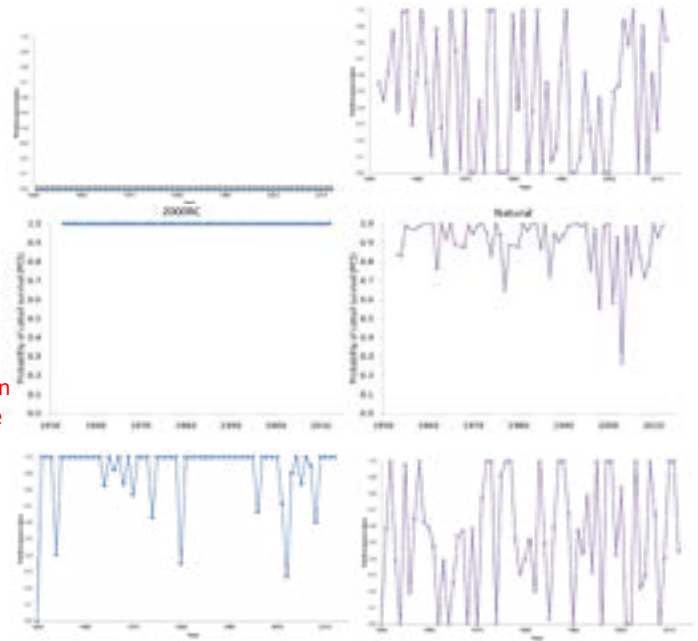


Water-Level Suitability Index for Cattail:
Rainy 2000RC vs Natural



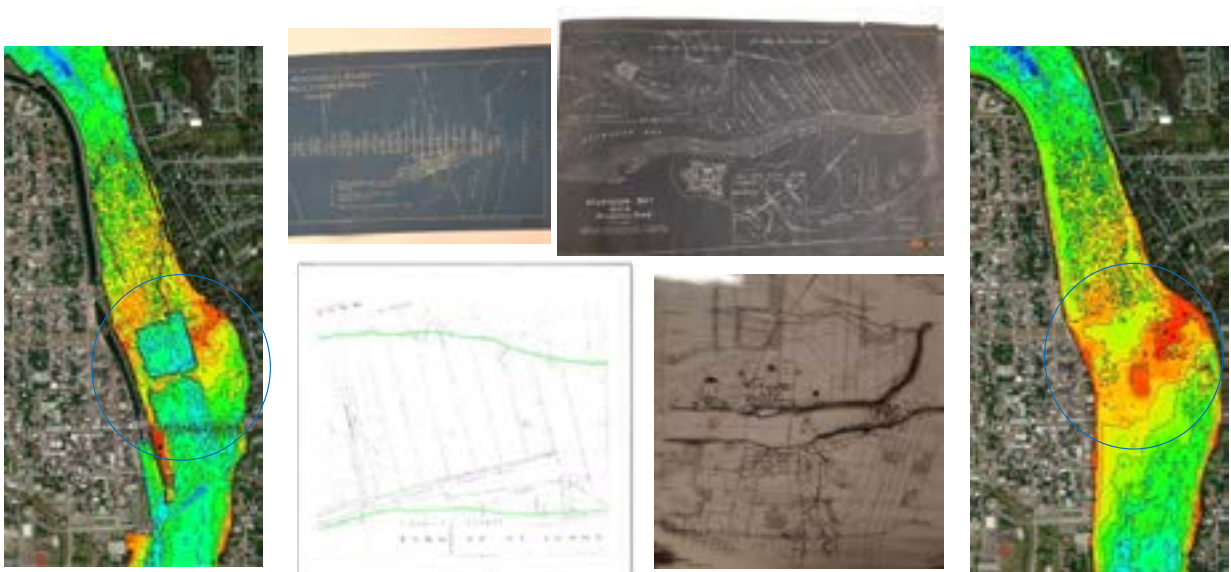
Wild Rice Survival Probability: Rainy 2000RC vs Natural

Cattail can
compete
with
wildrice



Lake Champlain-Richelieu River – reconstruction of the pristine rapids

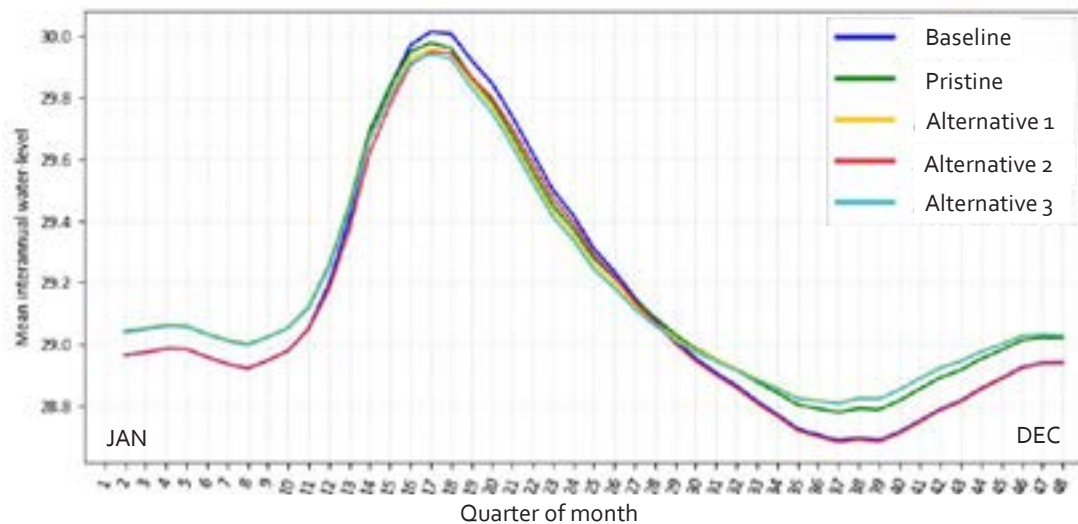
Reconstruction of the pristine DEM based on historical surveys



Average flow condition (300 m³/s) 2D hydraulics



Water level modeling for pristine and each alternative



Milltown Dam decommissioning 2023 – St. Croix River

NB Power



November 2023, Milltown Dam structures



- Objective 1: Characterize habitat (substrate) exposed at various gate operation scenarios during gate closures
- Objective 2: Determine incidence of stranding of fish, fish eggs, and benthos across exposed habitat to identify habitats more susceptible to gate closure impacts.
- Objective 3: Determine extent of flushing of invertebrates, fish eggs, larvae, and juveniles during gate openings.

Data Collection St. Marys Rapids

Appendix H: In Person Session Minutes

International Lake Superior Board of Control and Batchewana First Nation Tour of Whitefish Island Reserve

Meeting Minutes and Photos

Date: November 21st, 2023

Time: 10:30 am - Noon

Goal: To assess, in-person, the impacts from fluctuating waters levels to the Island.

Site Visit Attendees:

BFN: Juliana Lesage-Corbiere (Fish and Wildlife Supervisor), Michael Curtis (Operations), Jean Johnson (Mining and Aggregates)

ILSBC/IJC: Jean-Francois Cantin (ECCC), Bryce Carmichael (US Army Corps of Engineers), Frank Seglenieks (ECCC), Wendy Leger (ECCC), John Allis (IJC), Keith W. Kompoltowicz (US Army Corps of Engineers)

Parks Canada: Alisha Rosset, Sault Ste. Marie Canal National Historic Site

Consultants: Susan Robertson (People Plan Community), David J. Stinson (Incite Planning)

Site Visit Discussion:

- Remedial Action Planning that BFN is involved in, taking place on the Island, that has lifted a Beneficial Use Impairment for an aquatic species in the area
- Huge impacts to the community and BFN Community members when they are not able to access the area
- Batchewana First Nation has paid for all the trail infrastructure and signage on Whitefish Island, which is extensive and becoming damaged from fluctuating water levels
- Whitefish Island is adjacent to the Nationally Historic Site, as part of Parks Canada
- There are no user fees for accessing the Island, it is entirely open to the public to use
- Large areas of the island under water during the prime season, and closed for 6 months in 2023, which has impacts on the community, as they can't access the area to fish and the general community can't access the area to hike and connect with the river
- Over 150,000 visitors to the National Historic Site every year, which is greatly impeded by the Island being inaccessible due to flooding
- Funds to repair the infrastructure were requested and are actively being sought by the community to repair the damage
- Concern for salmon spawning expressed, as water levels change and areas where spawning occur can be flooded or dried out
- Lands along the shoreline, adjacent to Parks Canada Office, are the historic location of the signing of the Robinson Huron Treaty in 1850, and again in 2022 as part of the Robinson Huron Treaty Gathering.



Entrance Sign to Whitefish Island, written in English, French and Anishinabemowin



Area where trail was constructed, and now completely gone from water levels



Dead Salmon trapped under decking



Image in Parks Canada Office of Canal Construction, showing residences on Whitefish Island

International Lake Superior Board of Control and Batchewana First Nation In-Person Engagement Session

Meeting Minutes

Date: November 21st, 2023

Location: Delta Hotel, Sault Saint Marie

Time: 1 pm till 4pm

Attendees

BFN: Mark McCoy (Chief), Luke McCoy (Councillor), Juliana Lesage-Corbiere (Fish and Wildlife Supervisor), Raven Lesage & Michael Curtis (Operations), Jean Johnson (Mining and Aggregates)

IJC: Jean-Francois Cantin (ECCC), Bryce Carmichael (US Army Corps of Engineers), Frank Seglenieks (ECCC), Wendy Leger (ECCC), John Allis (IJC), Keith W. Kompoltowicz (US Army Corps of Engineers)

Consultants: Carolyn King (JDI Business Services), Susan Robertson (People Plan Community), David J. Stinson (Incite Planning)

Discussion

- Opening comments from Juliana Lesage-Corbiere
- Roundtable of introductions
- Water placed on the table to remind us of why we are here
- Presentation provided - sharing the truth of Treaties and the big hurt
- Chief McCoy thanked us for recognition of the Declaration and Treaty successes and acknowledged that we need to move towards the future now
- Chief McCoy stated that in the past, the whitefish were so plentiful that you used to be able to cross the river by walking on their backs
- BFN asked what does the new relationship look like?
- Councillor Luke McCoy asked why we are here and what is the purpose of the meeting
- He knows how the system works because BFN is here and always has been
- He mentioned that the revenue generated from the energy generation does not benefit the First Nation and it should as it's generated from their traditional territory

- BFN wants to give permission/consent to use the energy
- Duty to Consult opens up another process to other First Nations
- The power plants are not at the table and why not?
- Key people are not at the meeting and they should be here for future meetings, i.e. hydro people
- Future agreements to be written in Anishinaabemowin so that things can be clear and that language cannot be used against them
- Nation to nation relationship development
- Many First Nations are now thinking this way; struggling because we were NOT at the table
- They look at things differently and must protect mother earth and as Bear Clan, Councillor McCoy takes this responsibility seriously
- We look at things differently; must protect Mother Earth
- We can't leave because it's our home - You can build something and leave
- We're here and we have not left
- We want to be part of the revenue stream
- This issue is much bigger for BFN than developing performance indicators and this is the challenge
- The IJC and ILSBC are here to change this
- Plan 2012: changes that that need to be made to recognize the deviation strategy
- Goal of deviation strategy is to establish natural flows and to protect Whitefish island and the rapids
- FNs input was not sought as part of the development of the regulation plan and that's why they are here
- Make the deviation strategy permanent and to work together
- There is a lack of monitoring in the area - need for fisheries monitoring
- Some boards along the border have Indigenous Representatives &/or Indigenous Advisory Groups
- Plan 2012: aims to have more natural flows, balance up and down stream, respect physical and operational water levels, determine rapid flows and multi-use allocations
- Computer models (algorithms): use current flow and allocate who gets what; rest of the flow goes through the compensation works, which flood W.F. Island, lake levels determine outflow through power plants, power plants have outflow capacity issues as well... may have equipment down for maintenance and cannot accept the designated flow
- Water pollution/contamination from Algoma Steel is also a major concern that cannot be left unmentioned in these discussions
- Algoma Steel is a major energy consumer from the hydro power plants

----- **BREAK** -----

- ILSBC indicated that there was an increase in flow this last year (2023)
- BFN expressed that water flowed over break wall; never saw this before
- Chief Mark McCoy wanted to know how this happened - why were the levels so high?
- ILSBC indicated that overall flow is determined by: precipitation on the Lake (rain), precipitation in the watershed (rain), and evaporation and in 2013/2014: lots of rain; lots of snow cover, and again in 2019 - in these years there was more water than average in the system. Higher water levels coupled with hydropower plant maintenance outages meant that the ILSBC had to open more gates at the compensating works which increased flows in the St. Marys rapids in order to comply with Plan 2012.

- Therefore, in May-September IJC gave authority to deviate from the Plan
- BFN, as a result, in May-September BFN closed the Island due to flooding
- Monthly flow decisions: level of Superior + level of Michigan/Huron are put into algorithm to determine gate openings
- Priorities for Plan 2012 Regulation: 1st fish & ecosystem, 2nd municipal/industrial supply, 3rd locks/shipping, and 4th hydro, BUT 1st in volume
- Plan 2012 only implemented in 2015
- Lake Ontario Regulation Plan 2014 expedited because of flooding (2017 & 2019)
- BFN inquired about the stats and what the IJC/ILSBC and GLAM are seeing
- What are the real “red flags” for BFN?
- The IJC stated that they are studying fisheries (pickereel, whitefish, sturgeon)
- But IJC want to study more in this area specifically, and want to do that work together, including benthic (riverbed) conditions, flooding of W.F. Island, and which species are of concern to Batchewana
- ILSBC indicated that recent work with Abenaki First Nation demonstrated that muskrats control cattails, which compete with wild rice and the fewer cattails allow for greater movement of fish
- Adaptive Management
- First Nations are adaptive, but often not part of decision-making
- SON & MNRF co-production framework for whitefish – recently published work
- Recognition, Respect, Reconciliation
- Ownership, control access, possession for data sharing, MOUs

Next Steps

1. Presentation to the International Lake Superior Board of Control
2. Data Sharing Agreements
3. Indigenous Advisory Committee
4. Monitoring activities
5. Have virtual meetings
6. One larger meeting annually with other First Nations
7. Involve BFN Environment Committee
8. Bring Hydro to the table for the next meeting