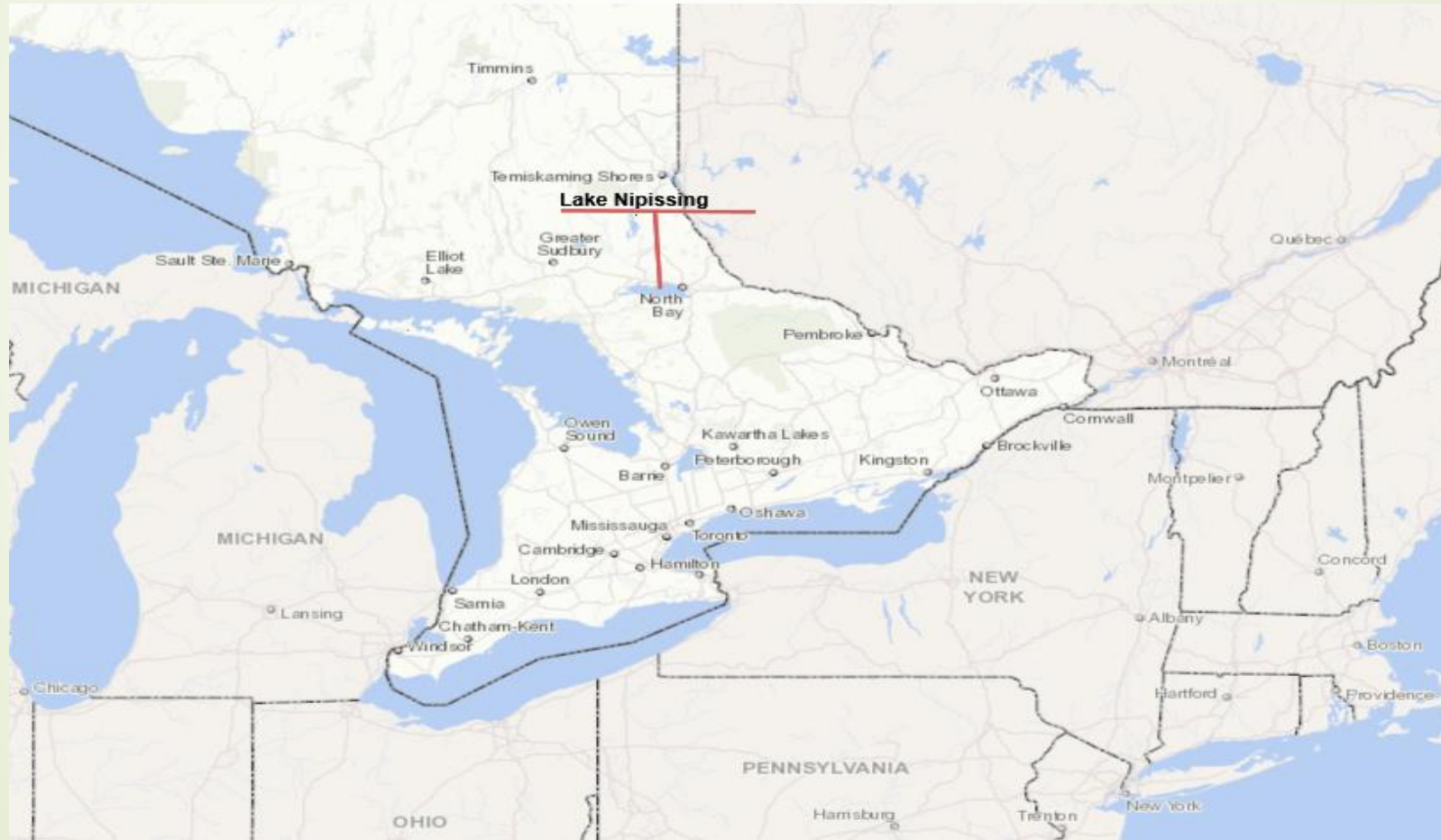


Nipissing First Nation

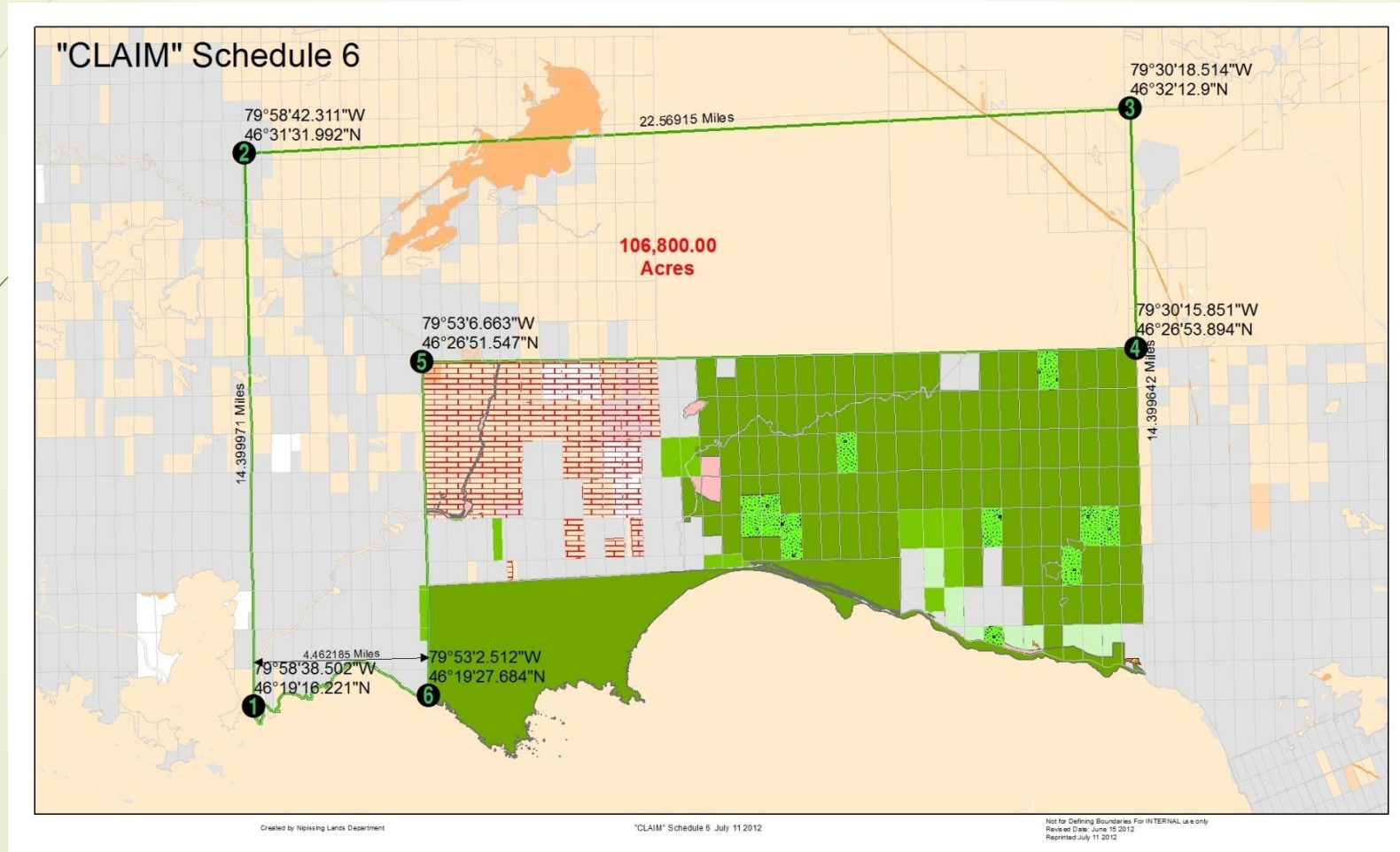
**Inherent Rights and
Commercial Fishing Law**



Lake Nipissing



Nipissing First Nation



Nipissing First Nation Land Base

- Original 1853 land base of 89,000 acres.
- In 1982 Nipissing was 16.8% of its former self.
- Nipissing today has repatriated to 64.4% of the 1853 land description.

	Hectares	Acres
Nipissing #10	6,466.45	15,978.97
Remaining Unsold Surrendered	229.60	958.50
Returned Unsold Surrendered	13,677.59	33,978.08
Corporate land	<u>2,605.04</u>	<u>6,437.20</u>
Total Land Base	22,958.68	57,352.75



Nipissing First Nation Population

> Nipissing is classified as an Urban Reserve

On-reserve population:	822
Other Nations	144
Non Nation Spouses & Children	410
Lessees clients of Nipissing	<u>1,274</u>
Total On-reserve population	2,650
Nipissing <u>Off reserve</u> population	<u>1,790</u>
Total On and Off Reserve	4,440

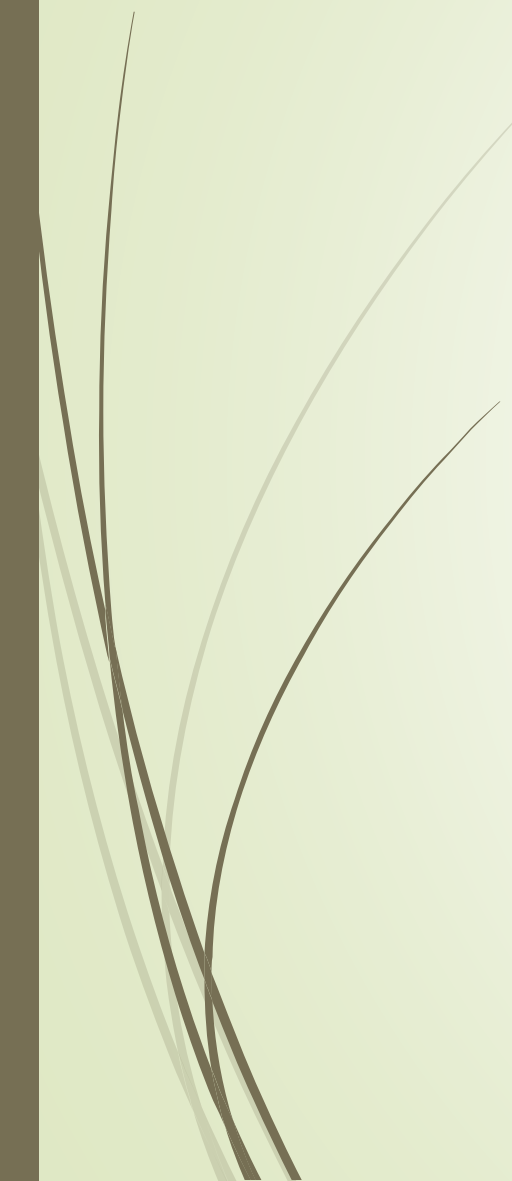


Lake Nipissing

- 873.3 km² (337.2 sq mi)
- Shallow mesotrophic lake (depth 4.5 m or 15 ft)
- >44 species: walleye, pike, yellow perch, musky, whitefish, herring, lake sturgeon, bass
- Municipalities: North Bay, Sturgeon Falls
- Georgian Bay Drainage via French River
- \$100 million/year economic value

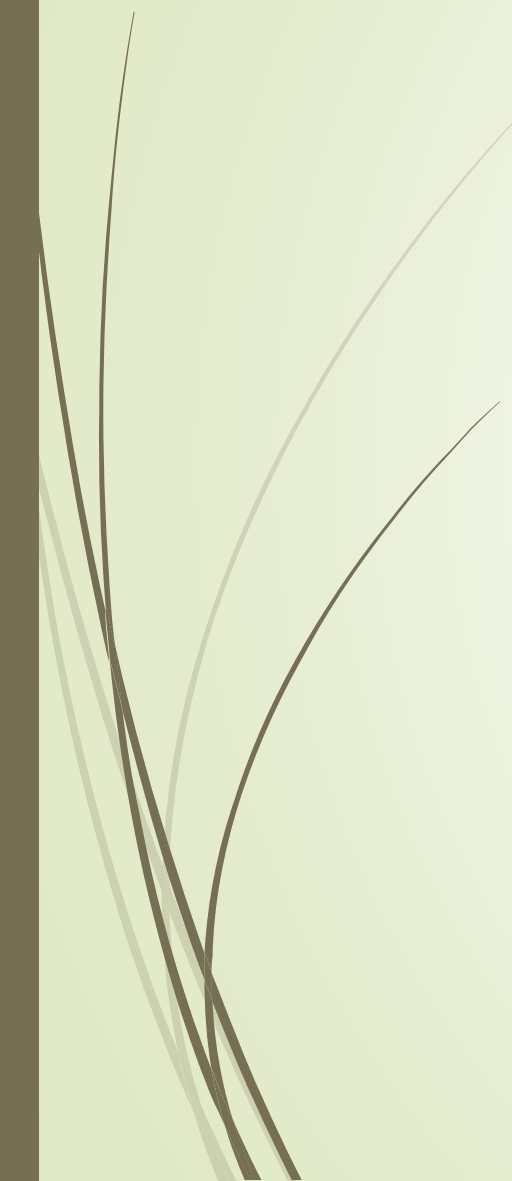


Pre-contact

- **Governance/ Clan Structures**
 - **Communal Laws**
 - **Well Established Trade Routes/Strong Economy**
 - **Culture/Language/Connection**
- 



Robinson Huron Treaty of 1850

- Protection of Inherent Rights
 - Including Hunting and Fishing
 - Culture and Language
 - Community Values, Laws
 - Governance
- 

Robinson Huron Treaty of 1850





Confederation 1867

- **British Colony enters into the BNA with Crown**
- **Forms the Dominion of Canada**
- **Not an agreement that included FNs**
- **Treaty Obligations transferred**
- **Inherent Rights stressed but still in tact**



Indian Act 1876

- ▶ Legislation that deals with the “Indian Problem” which strips FNs of:
 - ▶ Culture and Language
 - ▶ Hunting and Fishing
 - ▶ Community Values/Laws
 - ▶ Governance
 - ▶ Inherent Rights



Post Indian Act

- Indian Residential Schools
- Marginalization from Economy/Natural Resources
- Poverty
- Unemployment
- Social Issues
- Non-Indigenous benefit from wealth of resources
- Non-Indigenous Commercial Fishing
- 1950 & 60's s Lake Nipissing World Class Fishery

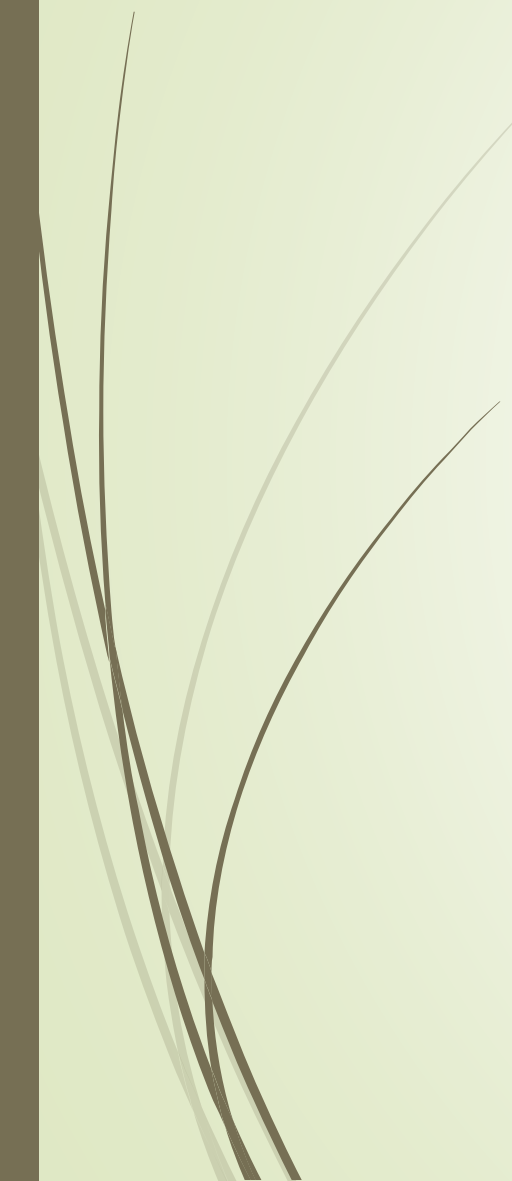


Assertion of Rights

- 1970s-1980s
- MNR charges NFN fishermen under Provincial Fishing Regulations
- Fishing without a Commercial Fishing License
- Court decision that NFN has a Treaty protected right to fish commercially on Lake Nipissing (R vs Commanda 1990)
- MNR continues to harass NFN fishermen
- Closure of non-Indigenous Commercial Fishery
- Refusal of ACFL
- NFN Fisheries Department



Resurgence of NFN Fishery 2000

- A noticeable rise in commercial and subsistence fishing
 - Recreational fishing heavy
 - Data showing increased stress on fish population
 - NFN leadership concerned with declining population
 - NFN Community want leadership to address problem
- 



NFN Fishing Laws 2004

- 2004-05 Nipissing Nation Fisheries Law developed to address concerns over walleye fishery and to assert jurisdiction over our own fishery
- Community consultation and vote on law
- Law addresses sustainable harvest limits, reporting, seasons, protected spawning, net identification/ownership
- However minimal enforcement capacity (Indian Act)
- Over harvesting continues to occur
- 2014 FWIN data indicates fishery on verge of collapse



Gichi-Naaknigewin 2014

- December 2013 NFN ratifies Gichi-Naaknigewin
- Adopted by the people of NFN on January 10, 2014 and signed into Law June 21, 2014
- Purpose of Gichi-Naaknigewin
 - Who we are as a people,
 - Principles, rules and structures (law-making authority),
 - Relationship between NFN governing structures and debendaagziwaad (people of or those who belong...),
 - Civil and political rights of debendaagziwaad, and
 - Accountability of the leadership to its people.



Gichi-Naaknigewin

➤ Supreme Law

- in the event of a conflict between this Gichi-Naaknigewin and Nipissing First Nation Laws or regulations, this Gichi-Naaknigewin will prevail to the extent of the conflict

➤ Values and Beliefs

- protecting the right to harvest the gifts of the Creator in a sustainable manner is essential

➤ Core Social Values

- the principles of sustainability and preservation of natural resources for generations to come balanced with interests of pursuing economic advancement

➤ Environment & Natural Resources

- NFN has exclusive jurisdiction to make laws with respect to environmental protection of natural resources. These laws shall be in accordance with NFN cultural practices designed to sustain and maintain our lands, fish, forest, wildlife, water and air and our heritage for future generations



Memorandum of Understanding

- **MOU discussions start in 2014 with OMNRF**
- **2015 new leadership is presented fishery update**
- **MOU signed in March 2016**
- **Recognizes NFN Fisheries Law in Provincial Legislation with respect to commercial fishing on Lake Nipissing**
- **Recognizes NFN authority to manage Lake Nipissing fisheries, with a heavy focus on the recovery of the walleye population**
- **A tool to address the jurisdictional void created by the Federal Legislative process/enforcement capabilities**
- **Provide financial resource to manage**



Memorandum of Understanding 2014

- **Purpose:** To further develop a constructive, ongoing and harmonious, long-term relationship between the NFN and the MNRF
- **Goals:** To work, cooperatively and collaboratively, to support walleye population recovery and the sustainability of the fisheries of Lake Nipissing and to support the effective implementation of the Nipissing First Nation Fisheries Law.
- **Objectives:** Ensure meaningful, open, transparent dialogue between NFN and MNRF regarding the Lake Nipissing fishery.
- **Principles:** Nothing in this MOU shall be construed so as to abrogate or derogate from the protection provided for existing treaty protected rights of the Nipissing First Nation peoples. This MOU, and any work related to it, will be consistent with the NFN Fisheries Law or applicable legislation.
- **Scope:** This MOU describes and supports the implementation of NFN Fisheries Law as it relates to commercial fishing activities on Lake Nipissing by NFN members. To identify the actions within the MOU for which the MNRF will provide resources to support of the successful and full implementation of the NFN Fisheries Law.



Memorandum of Understanding

<https://vimeo.com/252953887> password: Northbay





NFN/MOU Compliance Model

- ▶ NFN Compliance meeting, case review
- ▶ NFN Justice Circle
- ▶ NFN Judgement and reconciliation
- ▶ Non-compliance = Hand off MNRF Provincial Regs
- ▶ Our Law or Provincial Law, no Lawless in-between



Next Steps

- **Inherent right to self government**
 - **Fulfillment of Treaty**
 - **FN Adjudication Process**
 - **Education**
 - **Fishery Co-op**
 - **Responsible Management**
 - **7 Grandfather teachings**
- 