

ONTARIO FEDERATION OF ANGLERS & HUNTERS



Ontario Conservation Centre

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April 23, 2014

04/24/14

Eric Cobb, Management Biologist
Ministry of Natural Resources, North Bay District
3301 Trout Lake Road
North Bay Ontario
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COPY

Dear Mr. Cobb:

Subject: EBR Registry Number 012-1353: Lake Nipissing Fisheries Management Plan

On behalf of the Ontario Federation of Anglers and Hunters (OFAH, its 100,000 members, subscribers and supporters, and 720 member clubs, we have reviewed the draft Lake Nipissing Fisheries Management Plan (FMP) and have provided comments and recommendations for your consideration.

WALLEYE

The FMP includes further restrictions to recreational Walleye fishing. For a decade and a half, anglers and the tourism industry of Lake Nipissing have faced restriction after restriction with the hopes that their short-term losses would help improve the fishery. Despite these sacrifices, the Walleye fishery continues to decline. The numerous benefits of an enormously important recreational fishery, including the livelihoods of many locals, are more in jeopardy now than ever before.

New size limits essentially create a catch and release only fishery for Walleye

The MNR is proposing to change the current protected slot (no harvest of Walleye between 40 and 60 cm) to a minimum size of 46 cm. Given the current state of the Walleye population, the use of this high minimum size limit will result in an almost total catch and release (no harvest) Walleye fishery in Lake Nipissing. Despite catch and possession limits remaining the same, these changes in Walleye size limits in Lake Nipissing are likely to restrict anglers more than if MNR had decided to reduce the catch limit from two to one fish. You only need to look at the current state of the Walleye population in Lake Nipissing to understand the implications for anglers.

Lake Nipissing Walleye: By the numbers

Walleye in Lake Nipissing larger than 45cm are 4+ years old (mostly 5+) and do not make up a large proportion of the population. In 2011, 4+ year old fish only made up 2.7% of the population and 5+ year old fish made up 1.7% of the Lake Nipissing Walleye population. This means that less than 3% of Walleye in Lake Nipissing would be big enough to keep under the new regulation.

MNR has identified the problem and the solution

In fisheries management, we do not always have enough information to fully understand an issue. In the case of Lake Nipissing Walleye, the MNR not only has the data, but have also identified what is wrong and what they think they need to do to fix it.

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The FMP states:

"The proposed regulation protects approximately 100% of the male walleye spawning stock and approximately 50% of the female walleye spawning stock with the intention of ensuring that individuals have at least one reproductive event/opportunity in their lifetime prior to being harvested by the recreational fishery. Alternatively put, for the walleye recovery strategy to be successful, the harvest of walleye in Lake Nipissing below 46cm needs to cease."

Rather than discuss the merits of what size limit, if any, is appropriate for the recreational fishery, we need to ask the bigger question; if *"the harvest of walleye in Lake Nipissing below 46 cm needs to cease,"* then why is the MNR not imposing size restrictions on the commercial gill net fishery?

What is the rationale for allowing the commercial fishery to harvest the same Walleye that the recreational fishery cannot?

As of 2011, the commercial fishery harvests up to 94% of their catch below 46 cm. That means that the majority of the commercial harvest was of sizes that will now be prohibited for anglers.

What percentage of the population of male and female Walleye spawning stock in Lake Nipissing will be protected from the commercial gill nets?

Anglers will not benefit

The FMP also states:

"It should be understood however, that with the implementation of the proposed walleye regulation, over the short term, despite high catch rates, harvest rates in the recreational fishery will be low until the recruits (2009 on) reach 46cm in length. It is felt that this is a necessary compromise such that the fishery can remain sustainable in the future and recover sooner rather than later."

The OFAH believes that it is disingenuous of the MNR to imply that the proposed size restriction will result in improved fishing in the future. **The proposed size limit would only benefit anglers, and the sustainability of the Walleye fishery, if there was no other harvest of Walleye less than 46 cm.** This is not the case in Lake Nipissing, where an unregulated commercial gill net fishery harvests the majority of their Walleye (up to 24,400 kg of Walleye in 2012) under 46 cm. This further demonstrates why the proposed restriction on anglers, like all those preceding it, will not solve the problem.

Stocking is not a long-term solution

Many groups, such as the Lake Nipissing Stakeholder's Association, have been pushing for a restocking program to recover populations and restore the value of the Walleye fishery they depend on. Stocking can be a valuable management tool, but should not be used as a replacement for sound fisheries management. Although stocking can be used to supplement the existing population, it does not offer a sustainable, long-term solution that addresses the primary issue.

The reality is, stocked Walleye will be caught in commercial gill nets well before they make it to 46 cm. It is unlikely that stocking will contribute any significant increase in the abundance of spawning-sized fish to the population. In the past, the level of harvest in the unregulated commercial gill net fishery has varied depending on Lake Nipissing's Walleye abundance. Therefore, we can expect that any natural or stocking-induced increases in young Walleye will result in greater commercial gill net harvest, rather than improvements in the quality of the recreational fishery.

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“Continuing collaborative efforts with First Nations”

Until now, the responsibility of recovering Walleye in Lake Nipissing has been largely on the backs of the recreational fishery. For a decade and a half, Walleye anglers have been faced with restriction after restriction on Lake Nipissing. During the same time, MNR biologists made science-based recommendations for the management of the commercial gill net fishery; however, the majority of MNR recommendations, including quotas, have been ignored and not imposed. The government and local stakeholders continue to claim that they will work collaboratively with the commercial fishery to help recover Lake Nipissing Walleye. These are the same statements made each time the recreational fishery is restricted, but there has been no indication any significant changes have or will be made to commercial harvest.

The FMP states that Nipissing and Dokis First Nations have special harvesting rights in Lake Nipissing. If this is indeed the case, it should be acknowledged that special harvesting rights are not unfettered. Any special harvesting rights established by the constitution, treaties or case law do not determine when to harvest or how much harvest is sustainable. Unfettered use of a resource by any group is not consistent with the principles of conservation.

Ontario’s fisheries are a public resource, and therefore, the Ontario Government is responsible for managing them. There are limits to the amount of a fish stock that can be used if that resource is to be sustained at levels that maintain ecosystem function and stability, as well as the genetic diversity of resource stocks. It is the MNR’s responsibility, on behalf of the Ontario Government, to establish harvest controls for all users to ensure resource sustainability. This is particularly important wherever there is commercial harvest of the resource.

The government has an obligation and right to control special harvesting rights when there is conservation-based need to do so. In the case of Lake Nipissing Walleye, the MNR has long identified a conservation concern. The lack of management action on commercial fishery harvest has resulted in the abdication of their responsibility to the residents of Ontario – both Aboriginal and non-Aboriginal residents alike. When there is a legitimate and justified need to act, government action on a conservation concern should not be viewed as an infringement on special harvesting rights because it is the government’s responsibility. Rather, government action should be viewed as a protective measure that conserves a fisheries resource for continued use into the future for both Aboriginal and non-Aboriginal residents of Ontario. The Ontario Government has a justified reason to act in Lake Nipissing, and therefore, they must impose conservation measures to regulate commercial harvest. These conservation measures will benefit the resource itself, and ALL those who benefit from it.

The path forward

The recreational, commercial and subsistence fisheries share the Walleye resource. We all have a shared responsibility in the conservation management of Lake Nipissing’s Walleye stocks to ensure sustainability. If we hope to successfully recover the Walleye population in Lake Nipissing for future generations to enjoy, ALL harvesters must share in a solution. We share the benefits, so why do we not all share in the solution?

Last minute changes

The changes will come into effect for the spring Walleye opener on May 17, 2014. The Ontario Recreational Fishing Regulation Summaries have already been printed, and there are bound to be some individuals heading to Lake Nipissing this spring and summer who have not heard about the size limit changes. *What will the MNR do to inform anglers of the changes to the 2014 Ontario Recreational Fishing Regulation Summaries?*

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YELLOW PERCH and BASS

The catch and possession limits for Yellow Perch were increased on January 1, 2014 and extended bass seasons have been proposed to begin in June, 2014. The MNR is promoting these additional fishing opportunities in Lake Nipissing as a strategy to benefit the recovery of Walleye. Additional bass and Yellow Perch fishing opportunities are not a replacement for the recreational Walleye fishing opportunities that have been lost. The tourism industry does not expect the regulation changes for Yellow Perch and bass to have any significant positive impact on their businesses.

The OFAH fully supports establishing new sustainable angling opportunities in Lake Nipissing; however, we do not believe these additional opportunities will have a significant impact on angler harvest rates, or recovery of Walleye.

NORTHERN PIKE

The OFAH is concerned that the declines in Lake Nipissing's Northern Pike population may be linked to the use of commercial gill nets. Northern Pike are known to be highly susceptible to being captured in gill nets. Despite the fact that Northern Pike are not being targeted by the commercial fishery, there is a significant potential for them to be captured as bycatch. The absence of bycatch reporting by the commercial fishery makes it difficult to determine its occurrence and significance in Lake Nipissing.

The OFAH recommends that the MNR request bycatch reports from all commercial harvesters.

The OFAH recommends that alternative gear (e.g. trap nets) may be more appropriate for the commercial fishery in Lake Nipissing.

The OFAH supports the MNR's proposed management action to explore alternative commercial harvesting techniques or gear that eliminates or minimizes commercial harvest of non-targeted species.

CORMORANTS

The OFAH does not support the proposed management actions for double-crested cormorants because they are really inactions. Cormorants are not native to Lake Nipissing and the population has increased dramatically during the past two decades. The FMP states that "*more recent surveys indicate that the population is stabilizing*". Although the rate of increase is lower than it was in the 1990s, the number of nests is still increasing.

The MNR states that there is a need "*to increase public awareness of the importance of cormorants as part of the ecosystem and as part of our natural heritage and in turn, the rationale for various management actions taken*". Firstly, this statement is predicated on the assumption that cormorants are not having a negative impact on Lake Nipissing. Their negative impacts on overall biodiversity, as well as specific fisheries and terrestrial ecosystem values are well documented in the scientific literature. Secondly, cormorants are not native to Lake Nipissing. The current abundance of cormorants is not a part of our natural heritage, nor does it have a positive importance for Lake Nipissing's ecosystem. **Please explain the "importance of cormorants as part of the ecosystem and as part of our natural heritage".**

Although it is likely that cormorants are impacting Lake Nipissing's ecosystems, we agree with the MNR that cormorants are not responsible for the current status of the Walleye fishery.

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The MNR's decision to not actively manage cormorant populations on Lake Nipissing appears to be largely based on the 'Annual Calculation of Population Status related to Carrying Capacity' and the belief that cormorants are not causing negative effects in Lake Nipissing. It is not clear from the FMP how this metric is calculated (e.g. methodology, data used, etc.), and what criteria is used to determine how it informs management decisions. For example, **how does the information on diet analysis factor into the carrying capacity of cormorants for Lake Nipissing?** The FMP describes the quantity of Walleye (relative to perch) consumed by cormorants and the current abundance of Yellow Perch in Lake Nipissing, but does not indicate how that specifically relates to carrying capacity. **Please provide us with greater detail on the process used to calculate cormorant population status related to carrying capacity and how it is used in making management decisions.**

Management action to control cormorant populations to reduce these negative impacts is ongoing in many other jurisdictions. **The OFAH recommends that the cormorant population on Lake Nipissing must be actively controlled by the culling of adults and oiling of their eggs in whatever combination will best achieve reduction targets in a short time frame.**

Cormorant populations in Lake Nipissing could also be controlled if they were added to the list of provincially unprotected birds. The unnecessary protection afforded to double-crested cormorants by the Fish and Wildlife Conservation Act should be removed. This can be accomplished by adding them to the list of species under section 5 (2)(a) that includes American crows, brown-headed cowbird, common grackle, house sparrow, red-winged blackbird and starling. These species are in no way compromised. Fisheries and wildlife management objectives would determine population management. Overpopulation of cormorants continues to decrease benefits, and increase costs associated with fisheries and terrestrial ecosystem values.

Conclusion

The recreational Walleye fishery has been restricted time and again. The proposed regulation changes in this Fisheries Management Plan will all but eliminate angler harvest. Unfortunately, all of this sacrifice on behalf of anglers will not recover the Walleye fishery in Lake Nipissing. There is still a major harvest of Walleye in Lake Nipissing that will continue, and subsequently prevent recovery. The OFAH has been clear in our position that the Government of Ontario must take immediate action to regulate all commercial gill netting for Walleye on Lake Nipissing. We have demonstrated the need for government-imposed and biologically defensible quotas, size limitations, seasons, harvest reporting and bycatch reporting. Until the commercial gill net fishery for Walleye on Lake Nipissing is adequately regulated, the full ecological, social, economic and culture benefits of the Walleye fishery will not be restored.

Yours in Conservation,



Matt DeMille, M.Sc.
Assistant Manager of Fish and Wildlife Services/Fisheries Biologist

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cc: OFAH Zone D, Executive Committee
Angelo Lombardo, OFAH Executive Director
Dr. Terry Quinney, OFAH Provincial Manager of Fish and Wildlife Services
Greg Farrant, OFAH Manager of Government Affairs and Policy
OFAH Fish & Wildlife staff

Policy Proposal Notice:

Title:

Lake Nipissing Fisheries Management Plan

EBR Registry

Number: 012-1353

Ministry:

Ministry of Natural Resources

Date Proposal loaded to the Registry:

March 25, 2014

Some web links in this notice have been updated due to a web migration project. If you cannot access information that was previously available, you can request assistance from the contact listed in this notice. The remainder of the notice has not been altered.

Notice updated on May 12, 2014 to provide notification that the ministry is proceeding with a decision on the Ontario Fishing Regulations for walleye and bass on Lake Nipissing as proposed (see Environmental Registry Notice # 012-1724). These changes will come into effect May 17, 2014. Public input on the balance of the draft plan is being considered and a decision notice on the final Lake Nipissing Fisheries Management Plan is pending.

Keyword(s): Fish and Wildlife

The comment period for this proposal is now over.

Description of Policy:

The Ministry of Natural Resources in cooperation with the Lake Nipissing Fisheries Management Plan Advisory Council (LNFMPAC) recently drafted a new Fisheries Management Plan for Lake Nipissing. Lake Nipissing, a Specially Designated Water, is located within the broader Fisheries Management Zone 11. The proposed plan was developed using the Ecological Framework for Recreational Fisheries Management. It considers a broad set of lake and fish population objectives and management strategies that promote a healthy and ecologically diverse ecosystem. The plan recognizes the importance of maintaining and recovering sustainable fish populations and the significant cultural, economic, and recreational value of the fishery to the North Bay and surrounding area. The plan outlines proposed management actions, including regulatory changes to some fish species.

The ministry has strong concerns for the state of the Lake Nipissing walleye population. Recent data reviews show that juvenile walleye, currently the most abundant size classes in the population, are being harvested prior to maturing at a rate that is currently not sustainable. Further, surveys in 2013 revealed below average recruitment and a decrease in the overall number of adult females.

The current status of the walleye population is the result of an extended period of overfishing by both the recreational and commercial fisheries. The ministry is committed to working with the recreational angling community and the local First Nations regarding the long term sustainable management of the Lake Nipissing Fishery.

To aid in the recovery of the Lake Nipissing walleye population, the ministry is proposing a change to the current walleye fishing regulation from a protected slot size of 40 to 60cm to a minimum size limit of 46cm (i.e. no fish under 46 cm (18 inches)). There are no proposed changes to the current catch limit or season.

The ministry is also proposing to open the season for bass (smallmouth and largemouth) one week earlier than the current opening date, providing an additional week of bass fishing opportunities.

Contact:

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Management strategies for the lake have been informed by the best available science, discussions with the LNFMPAC and in consideration of preliminary feedback received in the early planning stages.

Consultation with, and engagement of interested and affected public, stakeholders, First Nations, and other governments and ministries has and will continue to form a critical component in the development of the Lake Nipissing Fisheries Management Plan.

Purpose of Policy:

The purpose of the posting is to seek input and comments from the public on the proposed Fisheries Management Plan for Lake Nipissing.

Other Information:

The proposed fishery regulation changes on Lake Nipissing require a change to the Ontario Fishery Regulations (OFR). The Fisheries Act, R.S.C., 1985, Chap F-14, as amended, and its regulations, including the Ontario Fishery Regulations (OFR), SOR/89-93 are not prescribed under the Environmental Bill of Rights. Under Subsection 14(1) of the OFR, the provincial Minister of Natural Resources may, through the issuance of a variation order, vary a close time, fishing quota or limit on the size or weight of fish where a close time, fishing quota or limit on the size or weight of fish is already fixed in respect of an area under these regulations.

The following web-links provide supporting information to the proposed Fisheries Management Plan:

Draft Lake Nipissing Fisheries Management Plan /Lake Nipissing Factsheets and Data Review

- BULLETIN - Ministry of Natural Resources Implements Changes to the Lake Nipissing Recreational Fishery (PDF, 133 kb)
http://apps.mnr.gov.on.ca/public/files/er/stdprod_110489.pdf
- Lake Nipissing Fisheries Management Plan -- DRAFT March 2014 (PDF, 1.8 mb)
http://apps.mnr.gov.on.ca/public/files/er/stdprod_110505.pdf
- Lake Nipissing Fisheries Management Plan Factsheet (PDF, 346 kb) - UPDATED
http://apps.mnr.gov.on.ca/public/files/er/stdprod_110491.pdf
- Five Critical Facts about Walleye in Lake Nipissing Factsheet (PDF, 370 kb) - UPDATED
http://apps.mnr.gov.on.ca/public/files/er/stdprod_110492.pdf
- Five Facts about Bass in Lake Nipissing Factsheet (PDF, 236 kb) - UPDATED
http://apps.mnr.gov.on.ca/public/files/er/stdprod_110490.pdf
- Five Facts about Yellow Perch in Lake Nipissing Factsheet (PDF, 238 kb)
http://apps.mnr.gov.on.ca/public/files/er/stdprod_110493.pdf
- Fact Sheet: Lake Nipissing Walleye Data Review, 1967- 2011 (PDF, 120 kb)
http://apps.mnr.gov.on.ca/public/files/er/stdprod_098192.pdf
- Report: Lake Nipissing Data Review 1967 to 2011 - Final Report November 2012 (PDF, 3.1 MB)

<http://www.ontario.ca/environment-and-energy/lake-nipissing-data-review-1967-2011-final-report-november-2012>

The proposed Fisheries Management Plan can also be viewed at the following location during regular business hours; please call to make an appointment:

Eric Management Ministry of Natural Resources, 3301 North Bay, Phone: 705-475-5530 Email: eric.cobb@ontario.ca	Trout ON	North lake P1A	Bay District Road 4L7 705-475-5500	Cobb Biologist
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Public Consultation:

This proposal was posted for a 30 day public review and comment period starting March 25, 2014. Comments were to be received by April 24, 2014.

All comments received during the comment period are being considered as part of the decision-making process by the Ministry of Natural Resources.

Please Note: All comments and submissions received have become part of the public record.

Other Public Consultation Opportunities:

A series of public information sessions were held during the spring of 2013 to inform the public of plan development commencement and to receive input into the development of the plan.

During the review and comment period, the ministry will be doing a local and provincial-level stakeholder mail-out to inform and invite the public to comment on and provide input into the proposed plan, through advertisements in local newspapers and other forms of media. The ministry will also be meeting with targeted stakeholder groups to seek input on the proposed plan throughout the comment period.

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