

November 12, 2020

BY EMAIL

Colin Hovi
Mineral Exploration & Development Consultant
Mineral Development Office – Thunder Bay
435 James Street South, Suite B002
Thunder Bay, ON
P7E 6E3

Dear Mr. Hovi,

RE: RESPONSE TO PROPOSALS TO ISSUE MULTIPLE EXPLORATION PERMITS IN THE RING OF FIRE (ERO NO. 019-2571, 019-2583, 019-2584, 019-2591, 019-2592, 019-2594, 019-2605, 019-2606, 019-2647, 019-2650)

The Canadian Environmental Law Association (CELA), the Friends of the Attawapiskat River, MiningWatch Canada and Wildlife Conservation Society Canada have reviewed the numerous above noted proposals to issue permits for mineral exploration activities located in the Ring of Fire and provide the following comments.

As posted on the Environmental Registry of Ontario (“ERO”), the Ministry of Energy, Northern Development and Mines (“Ministry”) has invited comments on the following:

- Noront Resources Inc. – ERO Nos. 019-2571, 019-2583, 019-2584, 019-2591, 019-2594, 019-2592, 019-2647
- Wabassi Resources ULC – ERO No. 019-2605
- Donald Brown – ERO NO. 019-2606
- Midex Resources Inc. – ERO No. 019-2650

The locations of the proposed exploration activities and the 1,326 claims they encompass are illustrated in **Appendix 1**.

As discussed below, many First Nation communities near and downstream of the Ring of Fire have already communicated an urgent request to the province that mining exploration decisions not proceed when community members are unable to participate due to the COVID-19 pandemic. It is our shared view that the Ministry should not proceed with a decision on these permits given the express requests from First Nation communities to pause the permitting process during the COVID-19 pandemic, and instead, keep the Registry open for comments.

Canadian Environmental Law Association

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Failing to pause decision-making on these matters would also be contrary to the spirit and intent of the *Environmental Bill of Rights (EBR)* and the safeguards it provides for the public to participate in decisions that may affect the environment. Additionally, for the potential environmental, social, cultural, and Indigenous rights impacts of these permits to be reviewed and findings incorporated in the Ministry's decision, it is imperative that the combined activities and footprint of the permits be reviewed in their totality and not on an individual basis.

For these reasons, we request the Ministry pause any decision making on these exploration permits and instead, establish the precedent that decision-making only proceed when public and Indigenous engagement can be achieved and the participatory rights set out in the *EBR* fulfilled.

I. ABOUT US

(a) Canadian Environmental Law Association

CELA is a non-profit, public interest organization established in 1970 for the purpose of using and improving existing laws to protect public health and the environment. For nearly 50 years, CELA has used legal tools, undertaken ground-breaking research and conducted public interest advocacy to increase environmental protection and the safeguarding of communities. CELA works towards protecting human health and the environment by actively engaging in policy planning and seeking justice for those harmed by pollution or poor environmental decision-making.

(b) Friends of the Attawapiskat River

The Friends of the Attawapiskat River is an Indigenous, community-led organization comprised of community members, elders and youth from Attawapiskat and surrounding communities, including Neskantaga, Peawanuck, Kashechewan and Fort Albany First Nations. The Friends were formed in response to concerns that the communities living downstream of anticipated development in Ontario's Ring of Fire did not have adequate access to information and their concerns were not being meaningfully considered in consultation processes.

(c) MiningWatch Canada

MiningWatch Canada is a pan-Canadian initiative supported by environmental, social justice, Indigenous and labour organisations from across the country. It addresses the urgent need for a co-ordinated public interest response to the threats to public health, water and air quality, fish and wildlife habitat, and community interests posed by irresponsible mineral policies and practices in Canada and around the world.

(d) Wildlife Conservation Society Canada

WCS Canada is a national non-government organization that has been engaged in Ontario since 2004, with research and conservation priorities in Ontario largely focused on the far northern region. We conduct research on species and ecosystems to inform conservation decisions, and we are some of the few

scientists with continuous presence in the region. We lead ongoing field-based research programs that are currently focused on wolverine and freshwater fish; we support and collaborate with First Nations on community-based monitoring projects; work with academic and government researchers, and First Nations conducting ecological studies in the region. WCS Canada has a long-term and consistent engagement around impact assessment, cumulative effects, and planning for projects in northern Ontario: including the Ring of Fire.^{1,2}

II. COMMENTS ON PROPOSED MINERAL EXPLORATION PERMITS

(a) The COVID-19 pandemic requires an immediate cessation of mineral permitting processes

We collectively urge the government of Ontario to halt this disparate and fragmented approach to Ring of Fire decision-making and instead, respect requests to pause all mineral staking and permitting processes in light of the COVID-19 pandemic. In our view, the posting of these proposed permits for comment demonstrates the province has not respected urgent requests from First Nation communities to halt mineral exploration during the pandemic when they are unable to respond. Indigenous leadership must be able to consult directly with their members in order to discuss impacts posed by these proposals to their rights and interests.³ The Minister also has a duty under section 35 of the *EBR* to take every reasonable step to ensure all comments received in relation to a proposal are considered when decisions are made. However, this right is jeopardized when engagement is hindered or impossible in many northern First Nation communities who remain under a state of emergency.⁴

Thus, should the Ministry choose to move forward with decisions on these permits and not pause their review, inadequate consultation contrary to the Crown’s constitutional is certain to result. It would also deprive the government of critically valuable information on the related Indigenous, social and environmental values and interests associated with these permits and the Ring of Fire development, more generally.

(b) A piecemeal approach to Ring of Fire decision-making is contrary to reconciliation and environmental rights

There are considerable concerns about cumulative effects, including impacts to the rights of Indigenous people living in the area and downstream, of the proposed Ring of Fire. This was recognized by federal Minister of the Environment and Climate Change, Minister Wilkinson, in February 2020 when a regional assessment, centered on the Ring of Fire, was announced.⁵

¹ Online:

https://www.wscanada.org/Portals/96/Documents/RSEA_Report_WCSCanada_Ecojustice_FINAL.pdf

² Online: <https://www.wscanada.org/Policy-Comments/Environmental-Assessment.aspx>

³ See for instance: Amy Hadley, “Northern Ontario First Nations want pause to mining permits until COVID-19 subsides,” CBC News (30 April 2020; Osgoode Hall Law School, “Letter to the Honourable Greg Rickford Re: COVID-19 and Permitting on Indigenous Territory,” (3 June 2020); Tanya Talaga, “Canada tramples on First Nations treaty rights as it works to pay off its COVID-19 bill” The Globe and Mail (25 September 2020).

⁴ See also concerns expressed by Neskantaga First Nation regarding the inability to consult in light of the current water crisis, online: <https://www.cbc.ca/news/canada/thunder-bay/consultation-water-crisis-1.5778992>

⁵ See Minister’s Response, online: <https://iaac-aeic.gc.ca/050/evaluations/document/133854>

Further, as **Appendix 1** illustrates, there are thousands of approved and pending claims for exploration in the Ring of Fire. Presenting the permits on a case-by-case basis is unwarranted given their cumulative impacts and the length of time permits are approved for (e.g., 3 years) without follow-up or monitoring. The assumption seems to be that mineral exploration activities are low impact activities and pose low risk to the environment, but this premise remains untested. Together, the proposed mining permits present a high likelihood of cumulative impacts to the boreal, James Bay Lowlands region. Continuing with a piecemeal review of permits will heighten the lack of continuity among the processes and diminish the impacts of the activities which, if considered in their entirety, could have profound impacts on the land and environment. We are concerned by the lack of evidence demonstrating that the broader context and impacts are being tracked by either the proponent or the government.

These permits, if approved, would open up exploration activities in what is the second largest peatland complex in the world, covering over 325,000 km² and to date, remains largely undisturbed by industrial development. The peatlands, or muskeg, of this region are also a globally significant carbon store - containing nearly 35 gigatons of carbon. Further, drilling activities may disrupt groundwater flow pathways if they come in contact with subsurface aquifers, and can release underground water sources to the surface.⁶ However, in the absence of any regulations regarding number, timing, and depth of drilling operations or buffers with respect to waterbodies, it is impossible to understand how impacts will grow over time in this landscape that is more water than land, or how these impacts will be kept under control.

This region is also home for nearly 40,000 Indigenous people across 35 communities and their food, medicine, cultural and sacred spaces for traditional practices and ceremony sustained by the area's extensive river networks and wildlife habitats. Reviewing these permits on an individual and not combined basis, fails to capture the actual magnitude of adverse environmental, social and cultural effects.

(c) The government does not provide the necessary information needed to review these permits

We have been monitoring mineral exploration permits as they appear on the Environmental Registry. However, the brief window of time in which to comment (30 days) on each individual application, the lack of the details, and the absence of any broader context makes the exercise almost meaningless as a public consultation and engagement process.

The applications on the registry offer no descriptions of the impacts of the activities on fish, wildlife, and ecosystems and their services. While improvements have been made in the new ERO portal to show a simple placemark in Google maps representing the general location of a mineral exploration permit, the onus is on the public to look up each claim number individually in the Mining Lands Administration (MLAS) Map viewer⁷ to determine the full extent of the area covered by the permit, and then consider what all of the multiple claim permits may mean in terms of social and ecological impacts. This lack of

⁶ Webster, K. L., F. D. Beall, I. F. Creed, and D. P. Kreutzweiser. 2015. Impacts and prognosis of natural resource development on water and wetlands in Canada's boreal zone. *Environmental Reviews* 23:78-131.

⁷ Online: <https://www.mndm.gov.on.ca/en/mines-and-minerals/applications/mlas-map-viewer>

easy access to view the spatial context of multiple claims in relation to other features challenges anyone’s ability to determine the overall effects of these combined developments.

We have struggled to use the different Ministry products available to the public in order to consider impacts of mineral exploration permits and provide public comments, and we can only conclude that others face similar challenges in trying to respond to these applications. We remain concerned about the extent to which government are tracking these requests, and how they are assessing the cumulative impact of approvals on fish, wildlife, water, and air.

For the government to engage with First Nations and the public in good faith, the information provided must be up to date, and accessible.

III. CONCLUSION

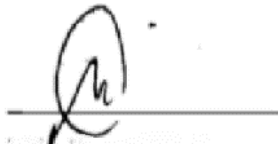
Based on the foregoing analysis, CELA, the Friends of the Attawapiskat River, MiningWatch Canada and Wildlife Conservation Society Canada request the Ministry pause any decision making on these exploration permits and instead, establish the precedent that decision-making only proceed when public and Indigenous engagement can be achieved, the participatory rights set out in the *EBR* fulfilled, and the cumulative footprint of the permits reviewed in their totality and not on an individual basis.

We trust that our comments on these proposals will be considered and acted upon by the Ministry. Thank you for your consideration of our submission.

Regards,



Kerrie Blaise
Northern Services Counsel
Canadian Environmental Law Association



Mike Koostachin
Friends of the Attawapiskat River



Jamie Kneen
Co-Manager
MiningWatch Canada



Justina Ray
President & Senior Scientist
Wildlife Conservation Society Canada

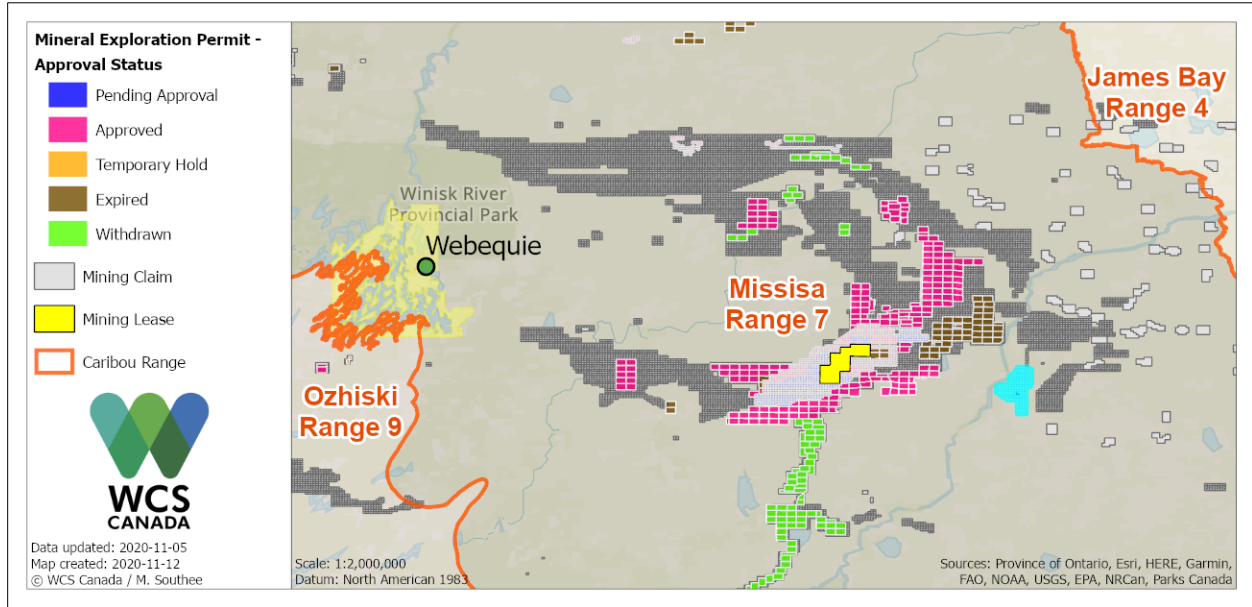
cc: Jerry DeMarco, Commissioner of Environment

APPENDIX 1:
LOCATION OF PERMITS AND CLAIMS IN
RING OF FIRE AND FAR NORTH

I. Noront Resource Permit Applications

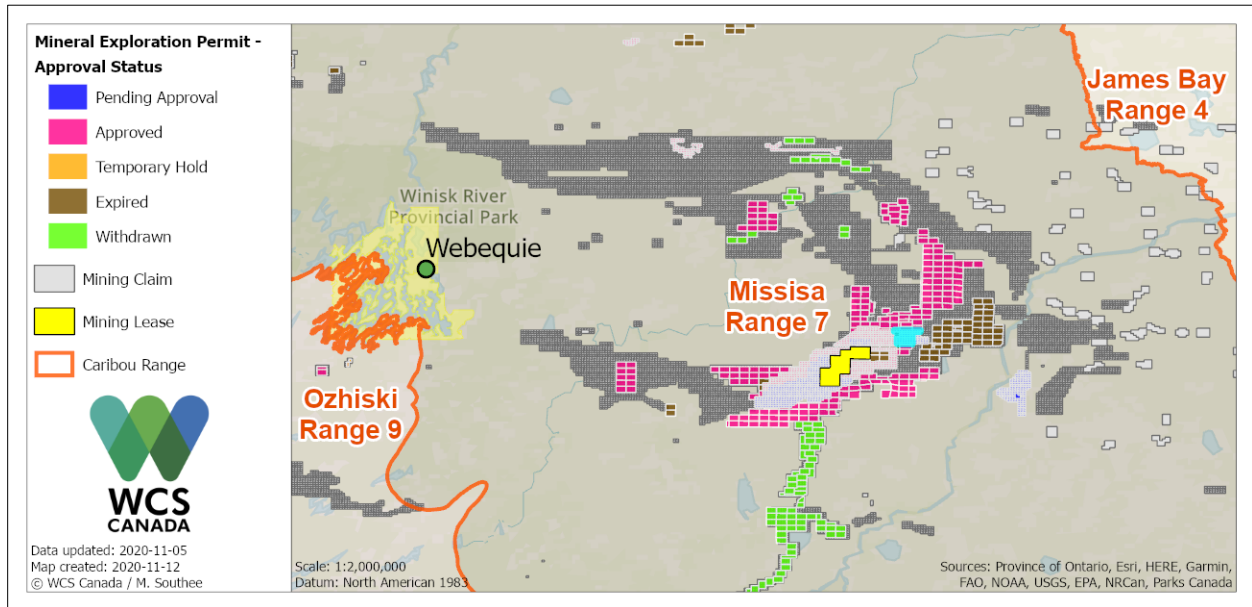
Permit Application #1: <https://ero.ontario.ca/notice/019-2571>

166 BLUE CLAIMS in SE corner



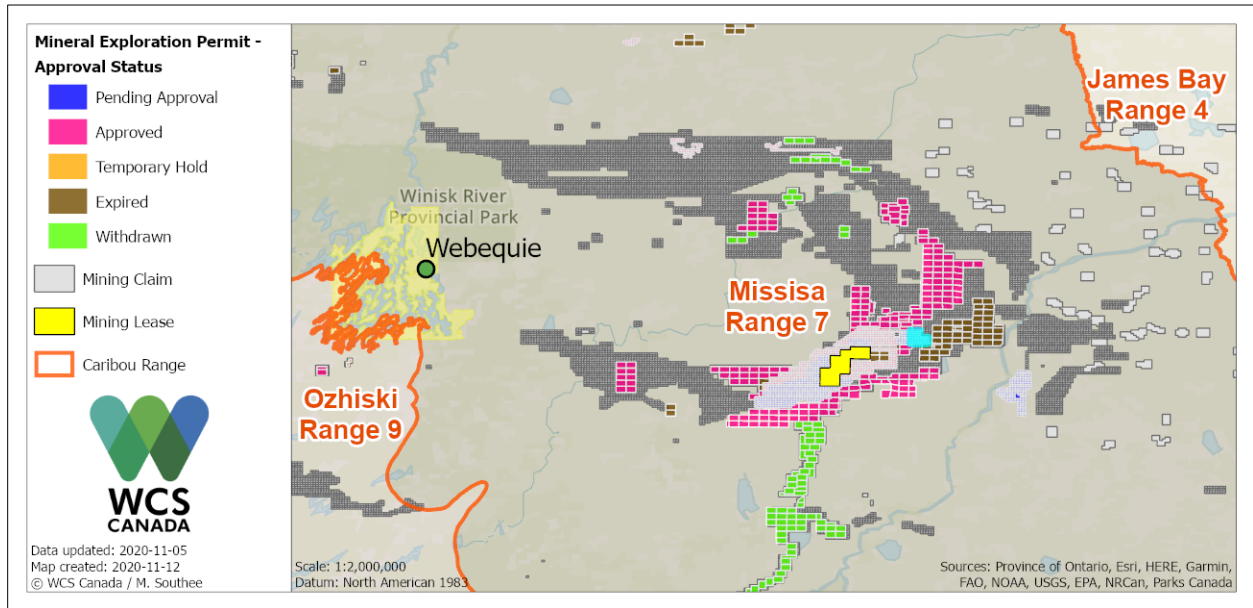
Permit Application #2: <https://ero.ontario.ca/notice/019-2583>

48 BLUE CLAIMS in center



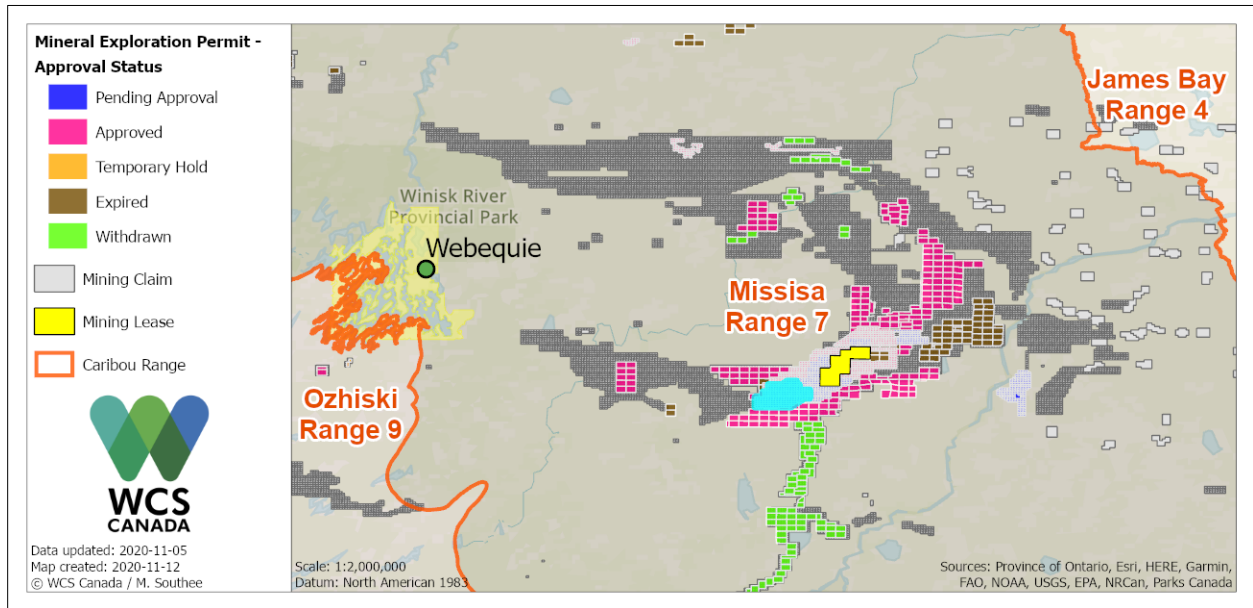
Permit Application #3: <https://ero.ontario.ca/notice/019-2584>

44 BLUE CLAIMS in center



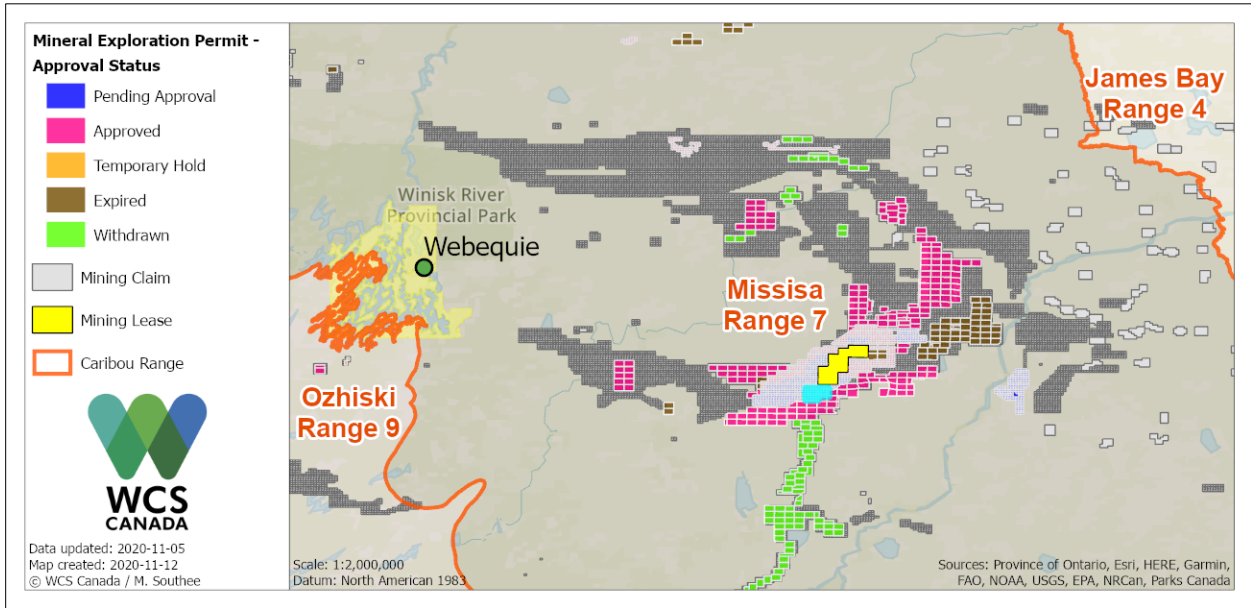
Permit Application #4: <https://ero.ontario.ca/notice/019-2591>

243 BLUE CLAIMS in center



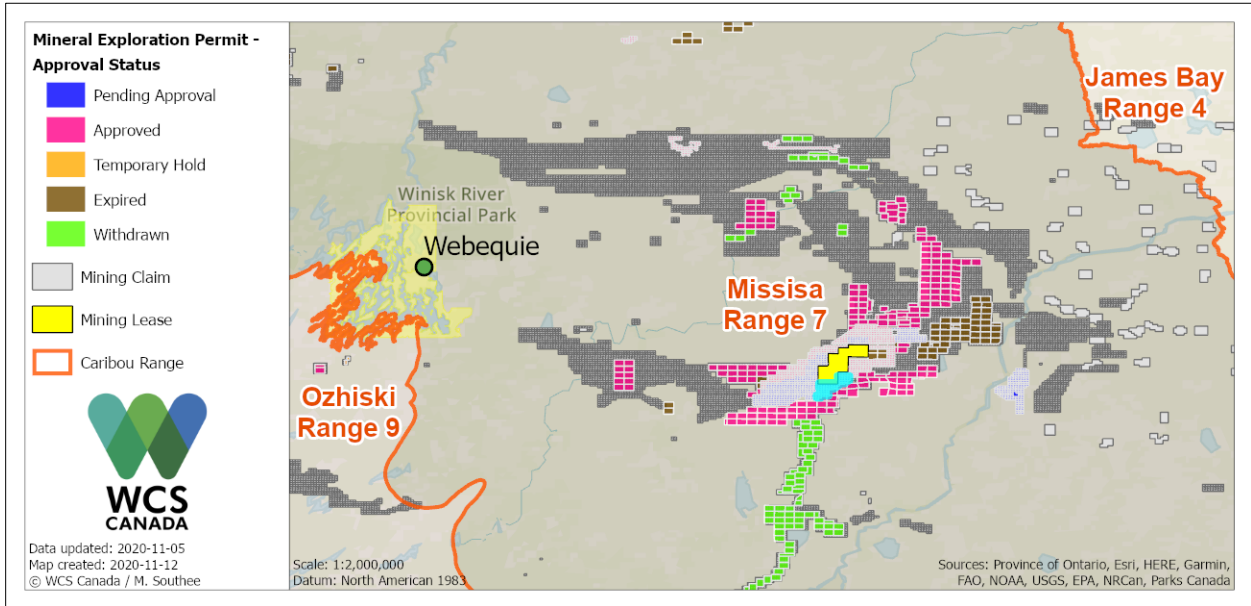
Permit Application #5: <https://ero.ontario.ca/notice/019-2594>

61 BLUE CLAIMS in center



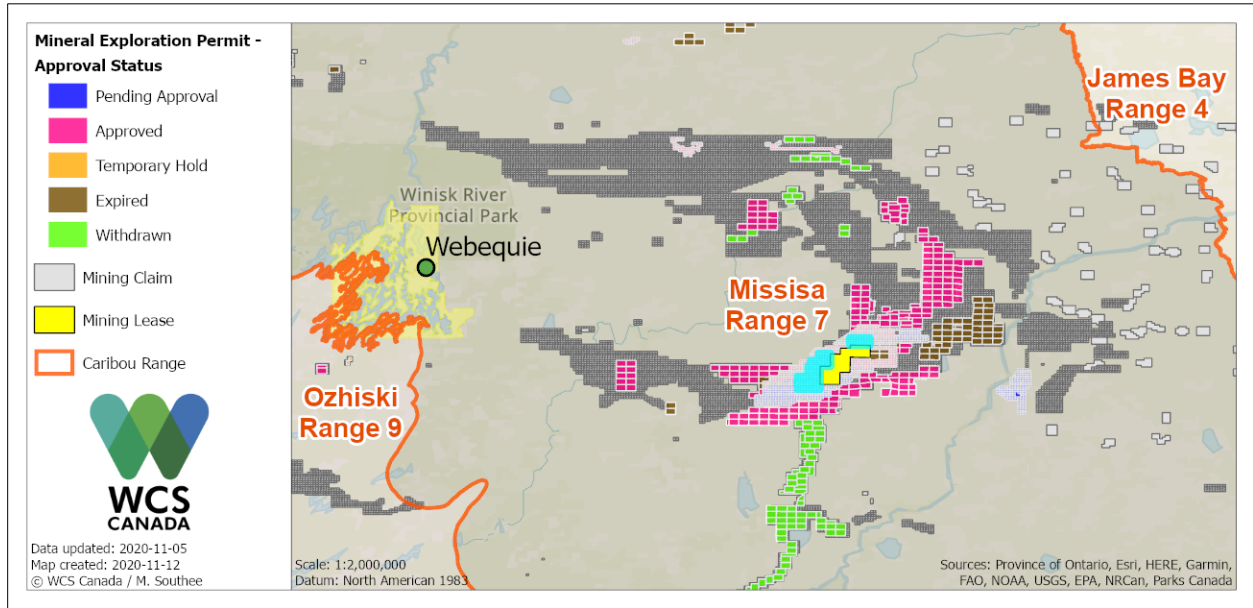
Permit Application #6: <https://ero.ontario.ca/notice/019-2592>

62 BLUE CLAIMS in center



Permit Application #7: <https://ero.ontario.ca/notice/019-2647>

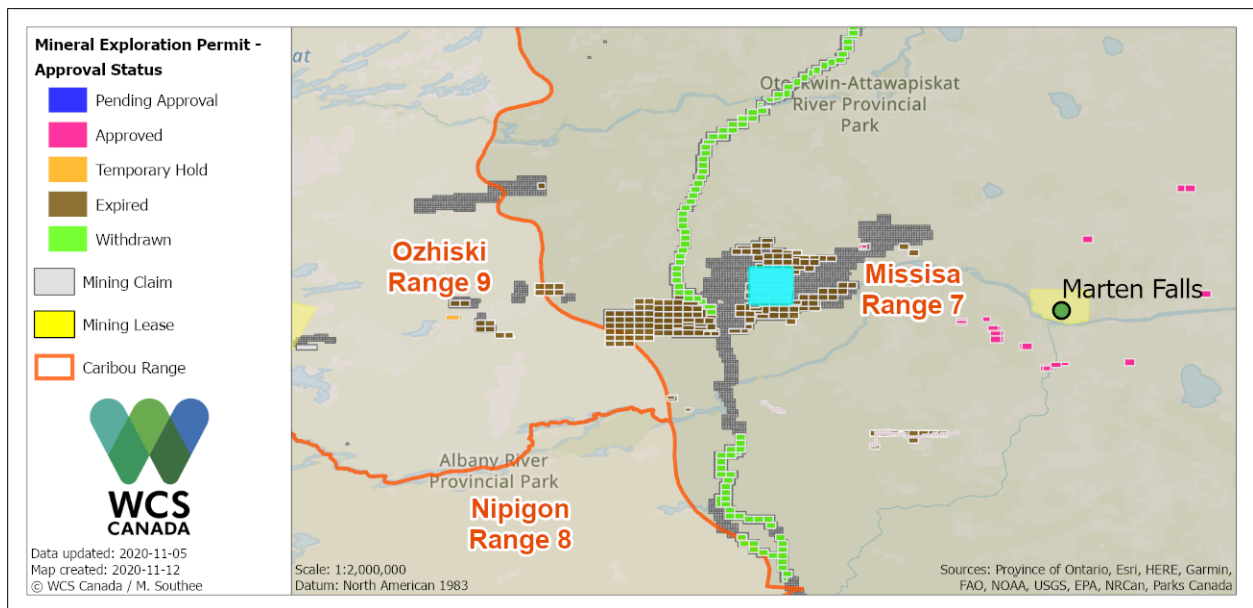
190 BLUE CLAIMS in center



II. Wabassi Resources ULC

Permit Application #8: Near Marten Falls <https://ero.ontario.ca/notice/019-2605>

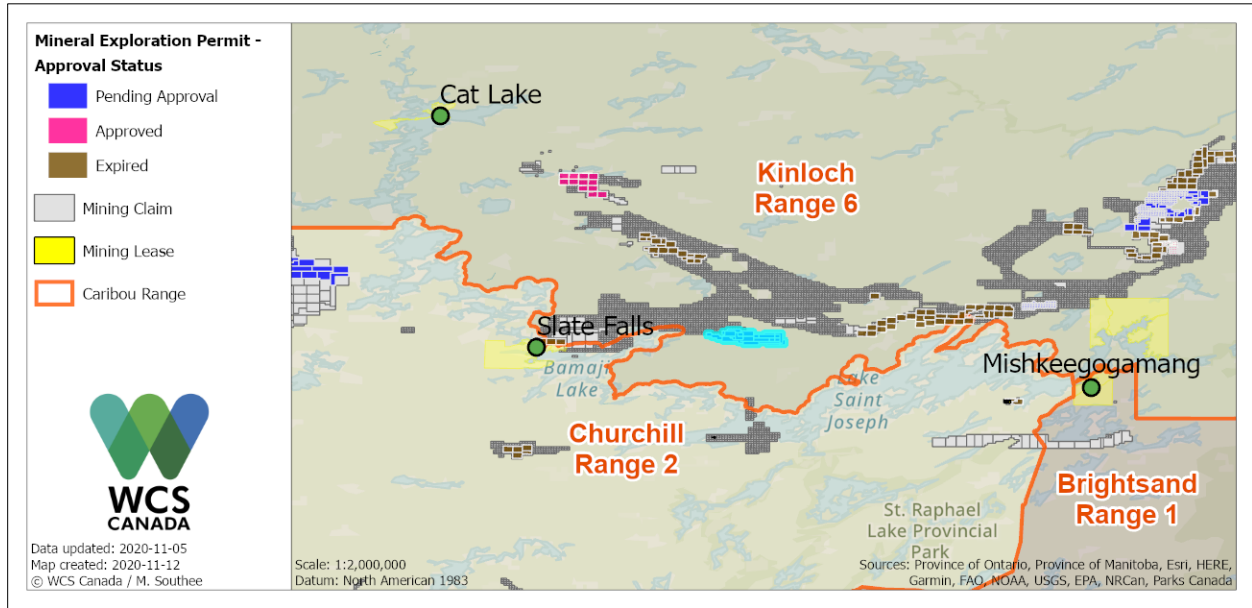
312 BLUE CLAIMS in center



III. Donald Brown

Permit Application #9: Near Mishkeegogamang <https://ero.ontario.ca/notice/019-2606>

22 BLUE CLAIMS in center



IV. Midex Resources Inc.

Permit Application #10 Near Sandy Lake: <https://ero.ontario.ca/notice/019-2650>

178 BLUE CLAIMS in center

