

Comments of Interested Person Carol Pierson regarding Updates to the Fish River
Lakes Concept Plan

Prepared by her agent Steve DeMaio

Since the Petitioner has declined to make any adjustments to proposed development zones Cross Lake E and D south of the landing road, we urge the Commission to review all of our submissions and testimony to this point regarding the unsuitability of those areas for development [slopes, soils etc.]

These new comments focus on the new phosphorous control plan for Cross Lake, and, briefly, the Conservation Easement.

While the easement has increased in size, there remains a significant issue between Rt. 161 and the southern portions of Cross Lake and, subsequently, Square Lake. This is an area that had been identified as a wildlife corridor of international significance. While we appreciate what appears to be an increase in the size of the easement here, the corridor itself remains chopped up into areas of easement, non easement areas of the concept plan [currently working forest], as well as significant development areas. [please reference Concept Plan maps.] This may obviate whatever utility this area has as a natural wildlife corridor. We maintain our position that, if this corridor is actually to be preserved, the Development zone Cross Lake E should be eliminated, and Cross Lake D terminated at the Landing Road.

We have reviewed the phosphorus control addendum, and remain very concerned that these are inadequate, based on the following reasons:

There is no clear methodology for what records the petitioner will keep, or how it will generate and keep them;

It would appear that the Petitioner being in charge of monitoring is at the very least a potential conflict of interest. Testing and recordkeeping should be done by a qualified independent entity;

We are unsure what happens after the 30 year life of the plan. Do the limitations remain in perpetuity?

What baseline is being used.? It appears to us that there must be a clear, measurable standard against which the intensity [and carefulness] of both development and forest

practice activities is measured. It seems to us that the actual level of phosphorus in Cross Lake, which is regularly monitored by an independent entity, should be that standard. It should be clearly listed in the phosphorus control language.

It seems to us that the proposed plan for allocating phosphorus export would demand independent inspections of areas to which allocations have been made as they are developed. Consider this scenario: by careless and irresponsible development in one area the Cross Lake budget is exceeded. Do other landowners with phosphorus allocations, who have yet to develop their parcels, thereby forfeit their development rights? Does the Petitioner have to stop roadbuilding and logging? Does this, in effect, constitute a government taking [given the LUPC sanction]? Litigation ensues...

We note here the conclusion of the DEP comments on the phosphorous language:

The goal DEP had in its participation in the development of the phosphorus allocation and control measures in the Concept Plan has been to limit phosphorus contributions from the Plan area sufficiently to prevent perceivable increase in the trophic state of the Concept Plan lakes. The Plan limits the amount of additional contribution to levels that should meet this goal provided:

- 1. Phosphorus loading from activities on portions of the watershed not controlled by Irving do not increase significantly;*
- 2. All aspects of the plan are adhered to;*
- 3. Actual construction and maintenance of development within the Development Areas adheres to the requirements of the specific permits under which they are developed;*
- 4. Irving's estimate of future land management and other activities outside of the Development Areas is accurate and is not exceeded; and*
- 5. Harvesting activities (e.g. clear cuts) within the watersheds are no more intense than those that have been applied in recent decades in the watersheds. Concentration of intense forestry practices in the watershed of any single tributary to any of the Plan lakes could alter the contributing watershed's hydrology and, during large, intense storms expose the stream channel to unnaturally high flows resulting in extreme erosion of the stream channel and its banks. The eroded soil could carry large amounts of phosphorus to the downstream lake – phosphorus inputs that have not been accounted for in the allocations adopted in the Plan.*

Given that the health of Cross Lake is at stake, there are simply too many contingencies noted in the DEP conclusions to proceed under the current plan proposed by the

Petitioner. At the absolute minimum, the plan must include strict standards and independent and frequent monitoring of those specific standards under a sound methodology. It must also include independent inspections of areas under development [including road building and forest practices.]

At the risk of being redundant, but in conclusion, we propose that the Commission apply Occam's razor to the issue of phosphorus control in Cross Lake. The easiest, simplest and best way to limit phosphorus deposition caused by development on Cross Lake is to limit development on Cross Lake. Therefore, and in conjunction with our comments on the conservation easement above, we repeat our request that the Development zones Cross Lake E and Cross Lake D be removed from the Concept plan.

The LUPC may be aware of the recent formation of the Friends of Cross Lake [FOCL,] and the subsequent Cross Lake watershed survey. The surveying has been done and is being compiled. FOCL has recently been chosen as one of the three projects statewide to receive DEP funding for development of a watershed management plan for Cross Lake. It seems only logical to assure that any development on Cross Lake should be delayed while that plan is being developed. The plan should provide a much more concrete picture of what development may [or may not] be possible without degrading the lake further. It would be foolish to do otherwise.

From: [steve demaio](#)
To: [Beaucage, Timothy](#); [Cathy Johnson](#); [Karin Tilberg](#); [Cheryl St. Peter](#); [steve demaio](#); [Noel Musson](#)
Subject: Re: interested person comments, fish river lakes concept plan
Date: Friday, June 28, 2019 3:39:36 PM

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supplement to written comments:

please see the attached photos. the photos were sent to Kathy Hoppe of DEP, who confirms it as algae, and Sean Bernard of DEP is planning to come take a sample later today. it was present, today, directly in front of the interested party's camp, and extended southward therefrom for some distance [at least 1/8 mile.] Pictures were taken around 11:30 am on 6/28/2019. this seems to be quite early for an algae bloom and may be indicative of even more serious water quality problems in Cross Lake. The Interested Person, who has owned this camp for 30 years or more, has never seen this on this part of the lake before. As you might expect, this only increases our concerns regarding development in the Cross Lake watershed.

please incorporate into our submission. more photos may follow.

thanks
sd

On Fri, Jun 28, 2019 at 6:15 AM steve demaio <gardencycle2@gmail.com> wrote:
| please note the attached for the record
|
| sd

These photographs were attached to the 6/28/2019 3:40 PM email from S. Demaio but organized in this format by the LUPC staff for record purposes.

Cross Lake 1



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Cross Lake 2



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Cross Lake 3



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Cross Lake 4



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Cross Lake 5



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Cross Lake 6



From: steve.demaio
To: [Beaucage, Timothy](mailto:Beaucage.Timothy); [Cathy Johnson](mailto:Cathy.Johnson); [Karin Tilberg](mailto:Karin.Tilberg); [Cheryl St. Peter](mailto:Cheryl.St.Peter); steve.demaio; [Noel Musson](mailto:Noel.Musson)
Subject: Re: interested person comments, fish river lakes concept plan
Date: Saturday, June 29, 2019 2:40:20 PM

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the algae seemed to disperse last night, but was back at 11am this morning, so here are 2 more photos for the record. plustoday we received reports from kirk st. peter and rick st. peter that the algae bloom was present in other areas of the lake yesterday, and thus more widespread than i was able to report yesterday.

thanks
sd

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sd

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Cross Lake 7



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Cross Lake 8

