

Métis Nation of Ontario Region 2 Comments on Potential Conditions for the Marathon Palladium Project under the Canadian Environmental Assessment Act, 2012

The Métis Nation of Ontario is undertaking continued discussions with the Crown Consultation Team and the Marathon Palladium Project Proponent, GenPGM. This review is to offer suggestions in relation to potential conditions with the spirit of those ongoing discussion in mind.

The Métis Nation of Ontario, through their ongoing work on the Crown Consultation and Accommodation Report has identified that the Project is likely to cause significant adverse effects on Métis rights and interests. The Métis Nation of Ontario continues to state that the effects of the metal ore in the Project are currently unregulated and has the potential to cause extensive environmental contamination and significant public health problems (Ravindra et al., 2004, *Sci. Total Environ.*, 5;318(1-3):1-43. doi: 10.1016/S0048-9697(03)00372-3; World Health Organization: Environmental Health Criteria 125 Platinum, 226 Palladium). These impacts can be assessed and mitigated with government regulation and statistically significant baseline studies with continued monitoring and testing in humans, Métis VECs, and the environment (animal tissues, plants, fungi, lichen, soil, air, and water). Early detection of environmental and public health impacts are crucial to the public and Indigenous Groups and are the responsibility of the Federal and Ontario governments and the Proponent. The Métis Nation of Ontario has a positive working relationship with GenPGM and believes with the collaboration of the Crown such effects will be properly monitored and mitigated. Having sufficient conditions of approval, improved monitoring and testing methodology and techniques, and regulations will contribute to this justification.

The below condition review is divided into two topics to facilitate discussion, suggested amendments to proposed conditions, as well potential additional conditions. These are included sequentially based on the IAAC Potential Conditions document.

2 General Condition, Condition 2.1
Condition Text as Proposed by the IAAC
“The Proponent shall ensure that its actions in meeting the conditions set out in this document during all phases of the Designated Project are considered in a careful and precautionary manner, promote sustainable development, are informed by the best information and knowledge including policies, guidelines and directives, and community and Indigenous knowledge, available at the time the Proponent takes action, are based on methods and models that are recognized by standard-setting bodies, are undertaken by qualified individuals, and have applied the best available economically and technically feasible technologies.”
Suggested Amendment
The Proponent shall ensure that its actions in meeting the conditions set out in this document during all phases of the Designated Project are considered in a ‘careful and precautionary manner’, promote sustainable development, are informed by the best information and knowledge including policies, guidelines and directives, community and Indigenous knowledge, and an understanding of Indigenous rights, available at the time the Proponent takes action. The best information and knowledge will include Traditional Knowledge and methods and models that are recognized by professional and academic standard-setting bodies undertaken by qualified individuals, and have applied the best available economically and technically feasible technologies. IAAC and other Federal and Provincial Ministries must also meet these requirements, in a ‘careful and precautionary manner’, including updates to environmental and public health regulations to include metals within the Designated Project (e.g. Toxic substances list: schedule 1 under the Canadian Environmental Protection Act, 1999 to include base metals (i.e. copper) and platinum-group metals (i.e. platinum, rhodium, etc.)
Rationale
The Proponent must commit and be required to identify, contextualize and understand Indigenous rights as actions it can take in meeting conditions could have unintended positive or negative effects on those rights post approval. This understanding can be gained through ongoing relationships with Indigenous Nations including the Métis Nation of Ontario which GenPGM has committed to throughout the regulatory phase.
The Crown must ensure that regulations are included in their ‘careful and precautionary manner’ to this Project.

2 General Condition, Consultation, Condition 2.3.1
Condition Text as Proposed by the IAAC
"provide a written notice of the opportunity for the parties being consulted to present their views and information on the subject matter of the consultation;"
Suggested Amendment
provide a written notice, no later than 30 days prior, of the opportunity for the parties being consulted to present their views and information on the subject matter of the consultation;
Rationale
Providing sufficient time for consideration of consultation opportunities is critical in ensuring Métis Nation of Ontario Region 2 participation.

2 General Condition, Consultation, Condition 2.3.2
Condition Text as Proposed by the IAAC
"provide all information available and relevant to the scope and the subject matter of the consultation and a reasonable period of time agreed upon with the parties being consulted, not to be less than 15 days, to prepare their views and information;"
Suggested Amendment
provide all information available and relevant to the scope and the subject matter of the consultation and a reasonable period of time agreed upon with the parties being consulted, not to be less than 45 days, to prepare their views and information;
Rationale
Providing sufficient time for consideration of available information is critical in ensuring Métis Nation of Ontario Region 2 participation. This must be a reasonable time for review of material and internal voting protocols to be accomplished, where required.

2 General Condition, Consultation, Condition 2.3.4
Condition Text as Proposed by the IAAC
"advise as soon as feasible the parties being consulted on how the views and information received have, or have not, been integrated into the subject matter of the consultation by the Proponent, and provide a justification."
Suggested Amendment
Provide a draft of any prepared documentation for comment and review to the parties being consulted 15 days prior to submission and/or finalization on how the views and information received have, or have not, been integrated into the subject matter of the consultation by the Proponent, and provide a justification.
Rationale
Open, honest, and respectful two-way dialogue is a key tenant of successful consultation/engagement. Where Métis Nation of Ontario Region 2 input is provided, the proponent must illustrate how this is integrated and receive confirmation that the integration is acceptable.

2 General Condition, Consultation, NEW CONDITION
Condition Text as Proposed by the IAAC
N/A
Suggested Amendment
<ul style="list-style-type: none"> a) As part of the annual report in condition 2.10 the Proponent must provide a list of Indigenous Groups that were offered capacity funding to support post-approval consultation activities and reviews. b) As part of the annual report in condition 2.10 the Proponent must provide a list of post-approval consultation activities and reviews which affected Indigenous Groups are interested in participating in; and c) A summary of any outstanding concerns raised by Indigenous groups regarding the Proponents offer of funding to support post-approval consultation and reviews, including a description of how these concerns were addressed by the Proponent and/or a detailed explanation of why these concerns will not be addressed by the Proponent. d) A summary of any outstanding concerns raised by Indigenous groups regarding the Federal and Provincial Ministries' offer to honour a 'careful and precautionary manner'. This includes updates to environmental and public health regulations, including enforcement, concerning the ore and waste in the Designated Project. This 'careful and precautionary manner' would also include updating regulations concerning the metals in the Designated Site with toxicological potential (e.g. updating the toxic substances list: schedule 1 under the <i>Canadian Environmental Protection Act, 1999</i> to include base metals (i.e. copper) and platinum-group elements (i.e. platinum, rhodium, etc. and inclusion of ingested Valued Ecological Components into the Canadian Food Inspection Agency regulations).
Rationale
<p>Involvement in post approval activities are often funded to a lesser degree, and Indigenous groups ability to request and/or dispute these funding amounts is lessened. This condition will ensure the Proponent is transparent with both Indigenous groups and the regulator with ongoing capacity discussions.</p> <p>Updates to environmental and public health regulations and enforcement follow the 'careful and precautionary manner' stated by the Agency. Regulation of metals in the Designated Project area must be studied and regulated in regards to impacts to the environment, human health, and Métis Valued Ecological Components. The Proponent cannot be expected to assess these impacts without a clear benchmark and regulations from Federal and Provincial ministries.</p> <p>This condition will ensure the Federal and Provincial ministries are transparent with both Indigenous groups, the general public, and the regulator with ongoing capacity discussions.</p> <p>This condition is based on language from Condition 15 within the Canadian Energy Regulator Report for the NOVA Gas Transmission Ltd. Application for the NGTL West Path Delivery 2023 Project.</p>

2 General Condition, Follow-up Programs, NEW CONDITION
Condition Text as Proposed by the IAAC
<p>"The Proponent shall, where a follow-up program is a requirement of a condition set out in this document, determine, as part of the development of each follow-up program and in consultation with the parties being consulted during the development, the following information, unless otherwise specified in the condition:</p> <p>2.6.1 the methodology, location, frequency, timing and duration of monitoring associated with the follow-up program;"</p>
Suggested Amendment
<p>"The Proponent shall, where a follow-up program is a requirement of a condition set out in this document, determine, as part of the development of each follow-up program and in consultation with the parties being consulted during the development, the following information, unless otherwise specified in the condition:</p> <p>X.X.X any existing gaps in legislation, regulation, policy, procedure or otherwise which could affect the development or implementation of an adequate follow-up program;</p> <p>2.6.1 the methodology, location, frequency, timing and duration of monitoring associated with the follow-up program;</p>
Rationale
<p>The Métis Nation of Ontario Region 2 has ongoing concern with the lack of tailored baseline studies on base metals and platinum group elements in relation to potential effects on soil, water, bioaccumulation and cycling within the ecosystem (including Métis Valued Ecological Components). This could result in limitations for follow-up programs and the gaps should be identified, tracked and filled when information becomes available.</p>

2 General Condition, Follow-up Programs, Condition 2.6.2
Condition Text as Proposed by the IAAC
<p>"the scope, content and frequency of reporting of the results of the follow-up program to the parties consulted for the development of the follow-up program;"</p>
Suggested Amendment
<p>the available capacity funding, scope, content and frequency of reporting of the results of the follow-up program to the parties consulted for the development of the follow-up program;</p>
Rationale
<p>Involvement in post approval activities such as the execution and review of follow-up programs are often funded to a lesser degree, and Indigenous groups ability to request and/or dispute these funding amounts is lessened. This condition will ensure the Proponent is transparent with both Indigenous groups with ongoing capacity discussions.</p>

2 General Condition, Follow-up Programs, Condition 2.6.4
Condition Text as Proposed by the IAAC
<p>"the levels of environmental change relative to baseline that would require the Proponent to implement modified or additional mitigation measure(s), including instances where the Proponent may require Designated Project activities causing the environmental change to be stopped;"</p>
Suggested Amendment
<p>the levels of environmental change relative to baseline that would require the Proponent to implement modified or additional mitigation measure(s), including instances where the Proponent may require Designated Project activities causing the environmental change to be stopped as well as instances where the change required is uncertain;</p>
Rationale
<p>The Métis Nation of Ontario Region 2 has ongoing concern with the lack of tailored baseline studies on base and heavy metals and platinum group elements in relation to potential effects on soil, water, bioaccumulation and cycling within the ecosystem (including Métis Valued Ecological Components). This could result in limitations for follow-up programs and the gaps should be identified, tracked and filled when information becomes available.</p> <p>This concern extends to the Federal and Ontario ministries current lack of regulations on these elements in the environment and in concern to human health. The Métis Nation of Ontario requests a timeline from the ministries on when this will be developed and implemented.</p>

2 General Condition, Follow-up Programs, Condition 2.6.6
Condition Text as Proposed by the IAAC
"the specific and measurable end points that must be achieved before the follow-up program can end. Those end points should indicate that the accuracy of the environmental assessment has been verified and/or that the mitigation measures are effective."
Suggested Amendment
the specific and measurable end points that must be achieved before the follow-up program can end, or identification of where these may be unknown. Those end points should indicate that the accuracy of the environmental assessment has been verified and/or that the mitigation measures are effective.
Rationale
The Métis Nation of Ontario Region 2 has ongoing concern with the lack of tailored baseline studies on platinum group elements in relation to potential effects on soil, water, bioaccumulation and cycling within the ecosystem. This could result in limitations for follow-up programs and the gaps should be identified, tracked and filled when information becomes available.
This concern extends to the Federal and Ontario ministries current lack of regulations on these elements in the environment and in concern to human health. The Métis Nation of Ontario requests a timeline from the ministries on when this will be developed and implemented.

2 General Condition, Follow-up Programs, Condition 2.9
Condition Text as Proposed by the IAAC
"report all results of the follow-up program to the Agency no later than March 31 following each reporting year during which the follow-up program is implemented and, subject to information determined pursuant to 2.6.2, to the parties being consulted during the development of the follow-up program."
Suggested Amendment
report all results of the follow-up program to the Agency and Indigenous Groups no later than March 31 following each reporting year during which the follow-up program is implemented and, subject to information determined pursuant to 2.6.2, to the parties being consulted during the development of the follow-up program.
Rationale
The Métis Nation of Ontario Region 2 has ongoing interest in follow-up programs and requires specific reporting on results. Then, based on capacity and available funding, the Métis Nation of Ontario Region 2 can identify any further actions.

2 General Condition, Annual Reporting, Condition 2.11
Condition Text as Proposed by the IAAC
"The Proponent shall submit the annual report referred to in condition 2.10 to the Agency, including a plain language executive summary in both official languages, no later than March 31 following the reporting year to which the annual report applies."
Suggested Amendment
The Proponent shall submit the annual report referred to in condition 2.10 to the Agency and Indigenous Groups, including a plain language executive summary in both official languages and any identified Indigenous language required, no later than March 31 following the reporting year to which the annual report applies.
Rationale
The Métis Nation of Ontario Region 2 has ongoing interest in the Marathon Palladium Project and requires specific reporting on results. Then, based on capacity and available funding, the Métis Nation of Ontario Region 2 can identify any further actions.

2 General Condition, Change to the Designated Project, Condition 2.16.1
Condition Text as Proposed by the IAAC
"a description of the proposed change(s) to the Designated Project and the environmental effects that may result from the proposed change(s);"
Suggested Amendment
a description of the proposed change(s) to the Designated Project and the environmental effects or effects on the rights of Indigenous Peoples that may result from the proposed change(s);
Rationale
Changes to the designated Project must explicitly consider impacts to Indigenous rights to ensure these details are collected, outlined and reported.

2 General Condition, Change to the Designated Project, Condition 2.16.2
Condition Text as Proposed by the IAAC
“any modified or additional measure to mitigate any environmental effect that may result from the proposed change(s) and any modified or additional follow-up requirement; and”
Suggested Amendment
any modified or additional measure to mitigate any environmental effect or effects on the rights of Indigenous Peoples that may result from the proposed change(s) and any modified or additional follow-up requirements and how these were co-developed with Indigenous Groups; and
Rationale
Changes to the designated Project must explicitly consider impacts to Indigenous rights to ensure these details are collected, outlined and reported. Additionally, any modified or additional follow-up requirements must also be co-developed with interested Indigenous Groups including the Métis Nation of Ontario Region 2.

2 General Condition, Change to the Designated Project, Condition 2.16.3
Condition Text as Proposed by the IAAC
“an explanation of how, taking into account any modified or additional mitigation measure referred to in condition 2.16.2, the environmental effects that may result from the proposed change(s) may differ from the environmental effects of the Designated Project identified during the environmental assessment.”
Suggested Amendment
an explanation of how, taking into account any modified or additional mitigation measure referred to in condition 2.16.2, the environmental effects that may result from the proposed change(s) may differ from the environmental effects or effects on the rights of Indigenous Peoples of the Designated Project identified during the environmental assessment.
Rationale
Changes to the designated Project must explicitly consider impacts to Indigenous rights.

2 General Condition, Change to the Designated Project, Condition 2.17
Condition Text as Proposed by the IAAC
“The Proponent shall submit to the Agency any additional information required by the Agency about the proposed change(s) referred to in condition 2.16, which may include the results of consultation with Indigenous groups and relevant authorities on the proposed change(s) and environmental effects referred to in condition 2.16.1 and the modified or additional mitigation measures and follow-up requirements referred to in condition 2.16.2.”
Suggested Amendment
The Proponent shall submit to the Agency any additional information required by the Agency about the proposed change(s) referred to in condition 2.16, which may include the results of consultation with Indigenous groups and relevant authorities on the proposed change(s) and environmental effects or effects on the rights of Indigenous Peoples referred to in condition 2.16.1 and the modified or additional mitigation measures and follow-up requirements referred to in condition 2.16.2.
Rationale
Changes to the designated Project must explicitly consider impacts to Indigenous rights.

3 Fish and Fish Habitat, Condition 3.6.2
Condition Text as Proposed by the IAAC
"identify, prior to construction and in consultation with Biigtigong Nishnaabeg and other Indigenous groups and relevant authorities, any technically and economically feasible measures to supplement water for Stream 6 (Angler Creek) and implement these measures during construction and operation in such a manner that other natural water sources are not adversely affected, unless otherwise authorized;"
Suggested Amendment
identify, prior to construction and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous groups and relevant authorities, any technically and economically feasible measures to supplement water for Stream 6 (Angler Creek) and implement these measures during construction and operation in such a manner that other natural water sources are not adversely affected, unless otherwise authorized;
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

3 Fish and Fish Habitat, Condition 3.8.2
Condition Text as Proposed by the IAAC
"develop, prior to construction and in consultation with Biigtigong Nishnaabeg and other Indigenous groups and relevant authorities, and implement, prior to conducting any authorized Designated Project activity requiring the removal of fish habitat, a protocol to salvage and relocate fish in a manner that complies with any authorization issued under the Fisheries Act and provincial requirements; and"
Suggested Amendment
develop, prior to construction and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario , and other Indigenous groups and relevant authorities, and implement, prior to conducting any authorized Designated Project activity requiring the removal of fish habitat, a protocol to salvage and relocate fish in a manner that complies with any authorization issued under the Fisheries Act and provincial requirements; and
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

3 Fish and Fish Habitat, Condition 3.8.3
Condition Text as Proposed by the IAAC
"when using explosives, ensure an overpressure of 50 kPa is not exceeded in fish habitat to avoid lethal or sub-lethal effects on fish and do so in locations that are not fish habitat, unless not technically feasible."
Suggested Amendment
when using explosives, ensure an overpressure of 50 kPa is not exceeded in fish habitat to avoid lethal or sub-lethal effects on fish and do so in locations that are not fish habitat, unless not technically feasible. Where this is identified as 'not technically feasible' the rationale and instances must be reported to the Agency and Indigenous Groups.
Rationale
Notice of activities in exceedance of identified limits must be communicated with the Métis Nation of Ontario Region 2.

3 Fish and Fish Habitat, Condition 3.9
Condition Text as Proposed by the IAAC
"The Proponent shall establish and maintain during construction and operation a minimum 30 metre buffer zone along all fish habitat that are not being overprinted as part of the Designated Project, and shall not conduct any work within this buffer zone that disturbs vegetation, unless not technically or economically feasible. If the Proponent must conduct any such work in that buffer zone, the Proponent shall develop and implement additional measures to protect fish and fish habitat, including conducting the work within the timing windows of least risk referred to in condition 3.8.1, where technically and economically feasible."
Suggested Amendment
The Proponent shall establish and maintain during construction and operation a minimum 30 metre buffer zone along all fish habitat that are not being overprinted as part of the Designated Project, and shall not conduct any work within this buffer zone that disturbs vegetation, unless not technically or economically feasible. Where this is identified as 'not technically feasible' the reasonable rationale and instances, including costs, must be reported to the Agency and Indigenous Groups by professional and qualified persons. If the Proponent must conduct any such work in that buffer zone, the Proponent shall develop and implement additional measures to protect fish and fish habitat, including conducting the work within the timing windows of least risk referred to in condition 3.8.1, where technically and economically feasible. Where this is identified as 'not technically feasible' the reasonable rationale and instances, including costs and technical limitations, must be reported to the Agency and Indigenous Groups by professional and qualified persons.
Rationale
Notice of activities in within identified buffer zones or where additional measures to protect fish and fish habitat are not completed, this must be communicated with the Métis Nation of Ontario Region 2.

3 Fish and Fish Habitat, Condition 3.10
Condition Text as Proposed by the IAAC
"The Proponent shall develop, to the satisfaction of Fisheries and Oceans Canada and in consultation with Biigtigong Nishnaabeg, other Indigenous groups, and other relevant authorities, including provincial authorities, and implement any offsetting plan related to the harmful alteration, disruption, or destruction of fish habitat, and death of fish associated with the carrying out of the Designated Project activities. The Proponent shall submit the approved offsetting plan(s) to the Agency prior to implementation. As part of the offsetting plan, the Proponent shall include:
3.10.1 a detailed description of monitoring measures to be implemented to verify the effectiveness of offsetting and the modified or additional measures to be implemented should monitoring indicate offsetting objectives are not met."
Suggested Amendment
The Proponent shall develop, to the satisfaction of Fisheries and Oceans Canada and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, other Indigenous groups, and other relevant authorities, including provincial authorities, and implement any offsetting plan related to the harmful alteration, disruption, or destruction of fish habitat, and death of fish associated with the carrying out of the Designated Project activities. The Proponent shall submit the approved offsetting plan(s) to the Agency prior to implementation. As part of the offsetting plan, the Proponent shall include:
3.10.1 a detailed description of monitoring measures to be implemented to verify the effectiveness of offsetting and the modified or additional measures to be implemented should monitoring indicate offsetting objectives are not met.
3.10.2 a detailed description of consultation undertaken with Indigenous Groups; including a description of any outstanding items or areas of continued dispute.
Rationale
The Agency and Indigenous Groups must have continued awareness through reporting for ongoing consultation for post-approval matters.
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

3 Fish and Fish Habitat, Condition 3.10**Condition Text as Proposed by the IAAC**

"The Proponent shall, for any fish habitat offsetting measure proposed in any offsetting plan referred to in condition 3.10 that may cause adverse environmental effects not considered in the environmental assessment, develop and implement, following consultation with Biigtigong Nishnaabeg, other Indigenous groups and relevant authorities, measures to mitigate those effects. The Proponent shall submit these measures to the Agency before implementing them."

Suggested Amendment

The Proponent shall, for any fish habitat offsetting measure proposed in any offsetting plan referred to in condition 3.10 that may cause adverse environmental effects or effects on the rights of Indigenous Peoples not considered in the environmental assessment, develop and implement, following consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, other Indigenous groups and relevant authorities, measures to mitigate those effects. The Proponent shall submit these measures to the Agency and Indigenous Groups before implementing them.

Rationale

Changes to conclusions reached within the environmental assessment must explicitly consider impacts to Indigenous rights.

3 Fish and Fish Habitat, Condition 3.11
Condition Text as Proposed by the IAAC
"The Proponent shall, for any fish habitat offsetting measure proposed in any offsetting plan referred to in condition 3.10 that may cause adverse environmental effects not considered in the environmental assessment, develop and implement, following consultation with Biigtigong Nishnaabeg, other Indigenous groups and relevant authorities, measures to mitigate those effects. The Proponent shall submit these measures to the Agency before implementing them."
Suggested Amendment
The Proponent shall, for any fish habitat offsetting measure proposed in any offsetting plan referred to in condition 3.10 that may cause adverse environmental effects not considered in the environmental assessment, develop and implement, following consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, other Indigenous groups and relevant authorities, measures to mitigate those effects. The Proponent shall submit these measures to the Agency before implementing them.
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

3 Fish and Fish Habitat, Condition 3.13
Condition Text as Proposed by the IAAC
"The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, other Indigenous groups and relevant authorities, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to adverse environmental effects of the Designated Project on groundwater quality and quantity. In doing so, the Proponent shall:"
Suggested Amendment
The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, other Indigenous groups and relevant authorities, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to adverse environmental effects of the Designated Project on groundwater quality and quantity. In doing so, the Proponent shall:
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

3 Fish and Fish Habitat, Condition 3.13
Condition Text as Proposed by the IAAC
"The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, other Indigenous groups and relevant authorities, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to adverse environmental effects of the Designated Project on groundwater quality and quantity. In doing so, the Proponent shall:"
Suggested Amendment
The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, other Indigenous groups and relevant authorities, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to adverse environmental effects of the Designated Project on groundwater quality and quantity. In doing so, the Proponent shall:
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

3 Fish and Fish Habitat, Condition 3.15
Condition Text as Proposed by the IAAC
“The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, other Indigenous groups, Environment and Climate Change Canada, and other relevant authorities, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to adverse environmental effects of the Designated Project on surface water quality. The Proponent shall seek consensus with Biigtigong Nishnaabeg on the content of the follow-up program and its implementation. As part of the follow-up program, the Proponent shall:”
Suggested Amendment
The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, other Indigenous groups, Environment and Climate Change Canada, and other relevant authorities, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to adverse environmental effects of the Designated Project on surface water quality. The Proponent shall seek consensus with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous groups on the content of the follow-up program and its implementation. As part of the follow-up program, the Proponent shall:
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

3 Fish and Fish Habitat, Condition 3.17
Condition Text as Proposed by the IAAC
“The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, other Indigenous groups and relevant authorities, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to adverse environmental effects of the Designated Project on fish and fish habitat, including lake sturgeon (<i>Acipenser fulvescens</i>) and its habitat. The Proponent shall seek consensus with Biigtigong Nishnaabeg on the content of the follow-up program and its implementation. As part of the follow-up program, the Proponent shall:”
Suggested Amendment
The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, other Indigenous groups and relevant authorities, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to adverse environmental effects of the Designated Project on fish and fish habitat, including lake sturgeon (<i>Acipenser fulvescens</i>) and its habitat. The Proponent shall seek consensus with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous Groups on the content of the follow-up program and its implementation. As part of the follow-up program, the Proponent shall:
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

4 Migratory Birds, Condition 4.2
Condition Text as Proposed by the IAAC
"The Proponent shall schedule vegetation clearing required for the Designated Project outside of the applicable regional nesting periods for the Designated Project area. In the event that vegetation clearing outside regional nesting periods is not technically or economically feasible, the Proponent shall ensure it continues to carry out vegetation clearing in a manner described in condition 4.1 by developing and implementing additional mitigation measures."
Suggested Amendment
The Proponent shall schedule vegetation clearing required for the Designated Project outside of the applicable regional nesting periods for the Designated Project area. In the event that vegetation clearing outside regional nesting periods is not technically or economically feasible, the Proponent shall ensure it continues to carry out vegetation clearing in a manner described in condition 4.1 by developing and implementing additional mitigation measures. Where this is identified as 'not technically or economically feasible' the reasonable rationale and instances, including costs and technical limitations, must be reported to the Agency and Indigenous Groups including the request for quotations from the Proponent, the industry and academic third-party responses, and the percentage differences in the final mine-site and production budgets. The Agency and Indigenous Groups must participate in the decision with the Proponent on what is 'not technically or economically feasible' and reasonable rationale and instances.
Rationale
Notice of activities in where vegetation clearing will be completed outside of nesting periods must be communicated with the Métis Nation of Ontario Region 2. Further, the Métis Nation of Ontario Region 2 must be offered the opportunity to participate in mitigation development should this occur.

6 Health and Socio-Economic Conditions of Indigenous Peoples, Condition 6.2
Condition Text as Proposed by the IAAC
"The Proponent shall identify, prior to construction and in consultation with Biigtigong Nishnaabeg, any groundwater springs used by Biigtigong Nishnaabeg that could be adversely impacted by the Designated Project within the local study area for hydrology identified in Figure 2.4-3 of Appendix 6 of the Joint Review Panel Report."
Suggested Amendment
The Proponent shall identify, prior to construction and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous Groups, any groundwater springs used by Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous Groups that could be adversely impacted by the Designated Project within the local study area for hydrology identified in Figure 2.4-3 of Appendix 6 of the Joint Review Panel Report. Further, the Proponent shall complete any outstanding data collection with the Métis Nation of Ontario and other Indigenous Groups which may result in the identification of additional usage of groundwater springs as per condition 6.8.
Rationale
The Métis Nation of Ontario Region 2 is working with the Proponent to negotiate completion of an updated Traditional Knowledge and Land Use Study and/or pre-construction surveys which have potential to contribute data with the required level of specificity. Therefore, this condition should be expanded.

6 Health and Socio-Economic Conditions of Indigenous Peoples, Condition 6.3
Condition Text as Proposed by the IAAC
<p>"The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, other Indigenous groups and relevant authorities, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to adverse environmental effects of the Designated Project on the health of Indigenous Peoples caused by changes in concentrations of contaminants of potential concern in water, including Hare Lake and any groundwater springs identified pursuant to condition 6.2. The Proponent shall seek consensus with Biigtigong Nishnaabeg on the content of the follow-up program and its implementation. As part of the follow-up program, the Proponent shall:"</p>
Suggested Amendment
<p>The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, other Indigenous groups and relevant authorities, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to adverse environmental effects of the Designated Project on the health of Indigenous Peoples caused by changes in concentrations of contaminants of potential concern in water, including Hare Lake and any groundwater springs identified pursuant to condition 6.2. The Proponent shall seek consensus with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous Groups on the content of the follow-up program and its implementation. As part of the follow-up program, the Proponent shall:</p>
Rationale
<p>As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i>, 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.</p>

6 Health and Socio-Economic Conditions of Indigenous Peoples, Condition 6.4
Condition Text as Proposed by the IAAC
<p>"The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, other Indigenous groups, Environment and Climate Change Canada, Ontario Ministry of Environment, Conservation and Park and other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and to determine the effectiveness of the mitigation measures as it pertains to the adverse environmental effects on the health of Indigenous Peoples caused by changes to air quality. The Proponent shall implement the follow-up program beginning prior to construction and continuing until the end of decommissioning. As part of the follow-up program, the Proponent shall:"</p>
Suggested Amendment
<p>The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, other Indigenous groups, Environment and Climate Change Canada, Ontario Ministry of Environment, Conservation and Park and other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and to determine the effectiveness of the mitigation measures as it pertains to the adverse environmental effects on the health of Indigenous Peoples caused by changes to air quality. The Proponent shall implement the follow-up program beginning prior to construction and continuing until the end of decommissioning. As part of the follow-up program, the Proponent shall:</p>
Rationale
<p>As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i>, 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.</p>

6 Health and Socio-Economic Conditions of Indigenous Peoples, Condition 6.5
Condition Text as Proposed by the IAAC
<p>"The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, other Indigenous groups, Health Canada, Ontario Ministry of the Environment, Conservation and Parks, and other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to adverse environmental effects of the Designated Project on the health of Indigenous Peoples caused by changes in concentrations of contaminants of potential concern in country food, including vegetation, fungi, and fish and other wildlife. The Proponent shall seek consensus with Biigtigong Nishnaabeg on the content of the follow-up program and its implementation, and shall implement the follow-up program during all phases of the Designated Project. In doing so, the Proponent shall:"</p>
Suggested Amendment
<p>The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, other Indigenous groups, Health Canada, Ontario Ministry of the Environment, Conservation and Parks, and other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to adverse environmental effects of the Designated Project on the health of Indigenous Peoples caused by changes in concentrations of contaminants of potential concern in country food, including vegetation, fungi, and fish and other wildlife. The Proponent shall seek consensus with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous Groups on the content of the follow-up program and its implementation, and shall implement the follow-up program during all phases of the Designated Project. In doing so, the Proponent shall:</p>
Rationale
<p>As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i>, 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.</p>

6 Health and Socio-Economic Conditions of Indigenous Peoples, Condition 6.10
Condition Text as Proposed by the IAAC
<p>"The Proponent shall develop, prior to construction and in consultation with Pays Plat First Nation, Métis Nation of Ontario, Red Sky Métis Independent Nation and Jackfish Métis Association, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to adverse environmental effects on the socio-economic conditions of these Indigenous groups from changes to the environment caused by the Designated Project. The Proponent shall implement the follow-up program during all phases of the Designated Project."</p>
Suggested Amendment
<p>The Proponent shall develop, prior to construction and in consultation with Jackfish Métis Association, Métis Nation of Ontario, Pays Plat First Nation, and Red Sky Métis Independent Nation, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to adverse environmental effects on the socio-economic conditions of these Indigenous groups from changes to the environment caused by the Designated Project. The Proponent shall implement the follow-up program during all phases of the Designated Project. The Proponent shall seek consensus with Jackfish Métis Association, Métis Nation of Ontario, Pays Plat First Nation, and Red Sky Métis Independent Nation on the content of the follow-up program and its implementation. The assessment on socio-economic conditions must account for the social determinants of health in these Indigenous groups and the surrounding communities.</p>
Rationale
<p>As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i>, 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.</p>

6 Health and Socio-Economic Conditions of Indigenous Peoples, Condition 6.11
Condition Text as Proposed by the IAAC
"The Proponent shall communicate to the Indigenous groups named in condition 6.7 and 6.10, the results of the follow-up programs that pertain to each Indigenous group and shall determine, in consultation with each group, the procedures, including timing and methods, for sharing this information."
Suggested Amendment
The Proponent shall communicate to the Indigenous groups named in condition 6.7 and 6.10, the results of the follow-up programs that pertain to each Indigenous group and shall determine, in consultation with each group, the procedures, including timing, capacity funding, and methods, for sharing this information.
Rationale
Involvement in post approval activities such as the execution and review of follow-up programs are often funded to a lesser degree, and Indigenous groups ability to request and/or dispute these funding amounts is lessened. This condition will ensure the Proponent is transparent with both Indigenous groups with ongoing capacity discussions.

7 Current Use of Lands and Resources for Traditional Purposes, Condition 7.1.1
Condition Text as Proposed by the IAAC
"monitor the Designated Project area for invasive and noxious plants using methods and a monitoring frequency determined in consultation with Biigtigong Nishnaabeg, other Indigenous groups and relevant authorities; and"
Suggested Amendment
monitor the Designated Project area for invasive and noxious plants using methods and a monitoring frequency determined in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, other Indigenous groups and relevant authorities; and
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

7 Current Use of Lands and Resources for Traditional Purposes, Condition 7.2
Condition Text as Proposed by the IAAC
"The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg and other Indigenous groups, mitigation measures to reduce ambient lighting within the Designated Project area to mitigate adverse environmental effects of the Designated Project, including on the current use of lands and resources for traditional purposes and migratory birds. The Proponent shall implement these measures during all phases of the Designated Project. As part of these measures, the Proponent shall:"
Suggested Amendment
The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous groups, mitigation measures to reduce ambient lighting within the Designated Project area to mitigate adverse environmental effects of the Designated Project, including on the current use of lands and resources for traditional purposes and migratory birds. The Proponent shall implement these measures during all phases of the Designated Project. As part of these measures, the Proponent shall:
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

7 Current Use of Lands and Resources for Traditional Purposes, Condition 7.3
Condition Text as Proposed by the IAAC
"The Proponent shall develop in consultation with Biigtigong Nishnaabeg and other Indigenous groups, and implement measures to mitigate the impacts of noise from the Designated Project on the current use of lands and resources for traditional purposes. As part of these measures, the Proponent shall:"
Suggested Amendment
The Proponent shall develop in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous groups, and implement measures to mitigate the impacts of noise from the Designated Project on the current use of lands and resources for traditional purposes. As part of these measures, the Proponent shall:
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

7 Current Use of Lands and Resources for Traditional Purposes, Condition 7.4
Condition Text as Proposed by the IAAC
"The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg and other Indigenous groups, and implement a communication plan to share information with Indigenous groups on adverse environmental effects of Designated Project activities as they relate to impacts on Indigenous health and the current use of lands and resources for traditional purposes. The Proponent shall implement and maintain the communication plan during all phases of the Designated Project. The communication plan shall include:"
Suggested Amendment
The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous groups, and implement a communication plan to share information with Indigenous groups on adverse environmental effects of Designated Project activities as they relate to impacts on Indigenous health and the current use of lands and resources for traditional purposes. The Proponent shall implement and maintain the communication plan during all phases of the Designated Project. The communication plan shall include:
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

7 Current Use of Lands and Resources for Traditional Purposes, Condition 7.8
Condition Text as Proposed by the IAAC
"The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, and other Indigenous groups, and implement, during construction and operations, a follow-up program to verify the accuracy of the environmental assessment as it pertains to adverse environmental effects of the Designated Project on current use of lands and resources for traditional purposes related to noise-generating activities, including near-surface blasting activities."
Suggested Amendment
The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous groups, and implement, during construction and operations, a follow-up program to verify the accuracy of the environmental assessment as it pertains to adverse environmental effects of the Designated Project on current use of lands and resources for traditional purposes related to noise-generating activities, including near-surface blasting activities.
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

7 Current Use of Lands and Resources for Traditional Purposes, Condition 7.9
Condition Text as Proposed by the IAAC
"The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, Pays Plat, and other Indigenous groups, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment and the effectiveness of any mitigation measures, including measures in condition 3.6, as it pertains to adverse environmental effects of the Designated Project on current use of lands and resources for traditional purposes and the cultural heritage of Indigenous groups related to Stream 6 (Angler Creek), not already addressed by follow-up programs referred to in conditions 3.14, 3.15 and 3.17."
Suggested Amendment
The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, Métis Nation of Ontario, Pays Plat, and other Indigenous groups, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment and the effectiveness of any mitigation measures, including measures in condition 3.6, as it pertains to adverse environmental effects of the Designated Project on current use of lands and resources for traditional purposes and the cultural heritage of Indigenous groups related to Stream 6 (Angler Creek), not already addressed by follow-up programs referred to in conditions 3.14, 3.15 and 3.17.
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

8 Physical and Cultural Heritage and Structures, Sites or Things of Historical, Archaeological, Paleontological or Architectural Significance, Condition 8.1
Condition Text as Proposed by the IAAC
"The Proponent shall complete, prior to construction and in consultation with Biigtigong Nishnaabeg and Pays Plat First Nation, an additional stage 2 archaeological assessment in accordance with Ontario's Standards and Guidelines for Consultant Archaeologists of the area surrounding the location of the discharge structure, if the final location of the discharge structure is in the area of archaeological potential on Hare Lake identified in Map 4 of the Supporting Information Document No. 27 of the environmental impact statement (Canadian Impact Assessment Registry Reference Number 54755, document number 227)."
Suggested Amendment
The Proponent shall complete, prior to construction and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and Pays Plat First Nation, an additional stage 2 archaeological assessment in accordance with Ontario's Standards and Guidelines for Consultant Archaeologists of the area surrounding the location of the discharge structure, if the final location of the discharge structure is in the area of archaeological potential on Hare Lake identified in Map 4 of the Supporting Information Document No. 27 of the environmental impact statement (Canadian Impact Assessment Registry Reference Number 54755, document number 227). There are limited number of professionals who specialise in both Métis and First Nation archeology but these persons, or a team that includes both expertise, must be utilized during archeological assessment.
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

8 Physical and Cultural Heritage and Structures, Sites or Things of Historical, Archaeological, Paleontological or Architectural Significance, Condition 8.2

Condition Text as Proposed by the IAAC

"The Proponent shall develop, in consultation with Biigtigong Nishnaabeg and Pays Plat First Nation and Ontario Ministry of Citizenship and Multiculturalism, and implement measures to mitigate adverse environmental effects of the Designated Project on any structures, sites or things of historical, archaeological, paleontological or architectural significance identified through the stage 2 archaeological assessment referred to in condition 8.1."

Suggested Amendment

The Proponent shall develop, in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and Pays Plat First Nation and Ontario Ministry of Citizenship and Multiculturalism, and implement measures to mitigate adverse environmental effects of the Designated Project on any structures, sites or things of historical, archaeological, paleontological or architectural significance identified through the stage 2 archaeological assessment referred to in condition 8.1. There are limited number of professionals who specialise in both Métis and First Nation archeology but these persons, or a team that includes both expertise, must be utilized during archeological assessment.

Rationale

As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the *Constitution Act*, 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

8 Physical and Cultural Heritage and Structures, Sites or Things of Historical, Archaeological, Paleontological or Architectural Significance, Condition 8.3

Condition Text as Proposed by the IAAC

"For any previously unidentified structures, sites or things of historical, archaeological, paleontological or architectural significance discovered within the Designated Project area by the Proponent, or brought to the attention of the Proponent by a Biigtigong Nishnaabeg and Pays Plat First Nation or another party during any phase of the Designated Project, the Proponent shall:"

Suggested Amendment

For any previously unidentified structures, sites or things of historical, archaeological, paleontological or architectural significance discovered within the Designated Project area by the Proponent, or brought to the attention of the Proponent by a Biigtigong Nishnaabeg, the Métis Nation of Ontario, and Pays Plat First Nation or another party during any phase of the Designated Project, the Proponent shall:

Rationale

As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the *Constitution Act*, 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

8 Physical and Cultural Heritage and Structures, Sites or Things of Historical, Archaeological, Paleontological or Architectural Significance, Condition 8.3.5
Condition Text as Proposed by the IAAC
“consult with Biigtigong Nishnaabeg, Pays Plat First Nation and relevant authorities on the manner by which the Proponent shall comply with all applicable legislative or legal requirements and associated regulations and protocols respecting the discovery, recording, transferring and safekeeping of previously unidentified structures, sites or things of historical, archaeological, paleontological or architectural significance.”
Suggested Amendment
consult with Biigtigong Nishnaabeg, the Métis Nation of Ontario, Pays Plat First Nation and relevant authorities on the manner by which the Proponent shall comply with all applicable legislative or legal requirements and associated regulations and protocols respecting the discovery, recording, transferring and safekeeping of previously unidentified structures, sites or things of historical, archaeological, paleontological or architectural significance.
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

9 Wildlife, Condition 9.1.1
Condition Text as Proposed by the IAAC
“mitigate the risks of collisions between vehicles and black bear (<i>Ursus americanus</i>), , grey wolf (<i>Canis lupus lycaon</i>), beaver (<i>Castor canadensis</i>), American martin (<i>Martes Americana</i>), moose (<i>Alces alces</i>), and woodland caribou (<i>Rangifer tarandus caribou</i>). In doing so the Proponent shall determine, in consultation with Biigtigong Nishnaabeg, other Indigenous groups and relevant authorities, and maintain during all phases of the Designated Project:”
Suggested Amendment
mitigate the risks of collisions between vehicles and black bear (<i>Ursus americanus</i>), grey wolf (<i>Canis lupus lycaon</i>), beaver (<i>Castor canadensis</i>), American martin (<i>Martes Americana</i>), moose (<i>Alces alces</i>), and woodland caribou (<i>Rangifer tarandus caribou</i>). In doing so the Proponent shall determine, in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, other Indigenous groups and relevant authorities, and maintain during all phases of the Designated Project:
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

9 Wildlife, Condition 9.1.5
Condition Text as Proposed by the IAAC
“develop, in consultation with Biigtigong Nishnaabeg, other Indigenous groups and relevant authorities, and implement training for employees and contractors associated with the Designated Project on practices that reduce wildlife-human interactions within the Designated Project, including collisions with wildlife on Designated Project roads.”
Suggested Amendment
develop, in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, other Indigenous groups and relevant authorities, and implement training for employees and contractors associated with the Designated Project on practices that reduce wildlife-human interactions within the Designated Project, including collisions with wildlife on Designated Project roads. Traffic and/or wildlife cameras should be used in areas of higher-risk to wildlife.
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

9 Wildlife, Condition 9.2
Condition Text as Proposed by the IAAC
"The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg and other Indigenous groups and relevant authorities, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment and the effectiveness of measures as it pertains to human interactions with wildlife in the Designated Project area. In doing so, the Proponent shall:"
Suggested Amendment
The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous groups and relevant authorities, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment and the effectiveness of measures as it pertains to human interactions with wildlife in the Designated Project area. In doing so, the Proponent shall:
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical. There is no hierarchy of rights within the <i>Constitution Act</i> , 1982. The tiering of Nations with some emphasized and others minimized is inappropriate.

10 Species at Risk, Condition 10.7
Condition Text as Proposed by the IAAC
"The Proponent shall mitigate, during all phases of the Designated Project and in consultation with Biigtigong Nishnaabeg and other Indigenous groups, Environment and Climate Change Canada, Ontario Ministry of the Environment, Conservation and Parks and other relevant authorities, adverse environmental effects on woodland caribou (<i>Rangifer tarandus caribou</i>) and its habitat. In doing so, the Proponent shall:"
Suggested Amendment
The Proponent shall mitigate, during all phases of the Designated Project and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous groups, Environment and Climate Change Canada, Ontario Ministry of the Environment, Conservation and Parks and other relevant authorities, adverse environmental effects on woodland caribou (<i>Rangifer tarandus caribou</i>) and its habitat. In doing so, the Proponent shall:
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical.

10 Species at Risk, Condition 10.8
Condition Text as Proposed by the IAAC
<p>"The Proponent shall develop, prior to operation, and in consultation with Biigtigong Nishnaabeg, other Indigenous groups, Environment and Climate Change Canada, Ontario Ministry of the Environment, Conservation and Parks and other relevant authorities, and implement a compensation plan for woodland caribou (<i>Rangifer tarandus caribou</i>) critical habitat that will be altered or destroyed by the Designated Project and which has not been mitigated pursuant to condition 10.7 and 11.2. When developing the compensation plan, the Proponent shall take into account Biigtigong Nishnaabeg's Caribou Strategy, Environment and Climate Change Canada's Operational Framework for Conservation Allowances and the Ontario Ministry of the Environment, Conservation and Parks requirements under section 17 of Ontario's Endangered Species Act. As part of the compensation plan, the Proponent shall:"</p>
Suggested Amendment
<p>The Proponent shall develop, prior to operation, and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, other Indigenous groups, Environment and Climate Change Canada, Ontario Ministry of the Environment, Conservation and Parks and other relevant authorities, and implement a compensation plan for woodland caribou (<i>Rangifer tarandus caribou</i>) critical habitat that will be altered or destroyed by the Designated Project and which has not been mitigated pursuant to condition 10.7 and 11.2. When developing the compensation plan, the Proponent shall take into account Biigtigong Nishnaabeg's Caribou Strategy, Environment and Climate Change Canada's Operational Framework for Conservation Allowances and the Ontario Ministry of the Environment, Conservation and Parks requirements under section 17 of Ontario's Endangered Species Act. As part of the compensation plan, the Proponent shall:</p>
Rationale
<p>As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical.</p>

11 Reclamation, Condition 11.2
Condition Text as Proposed by the IAAC
<p>"The Proponent shall develop, prior to operation, and in consultation with Biigtigong Nishnaabeg, other Indigenous groups, Environment and Climate Change Canada, Ontario Ministry of Mines, and other relevant authorities, a final reclamation plan for the Designated Project, taking into account Ontario Ministry of Mines requirements for a closure plan and Ontario's Best Management Practices for Mineral Exploration and Development Activities and Woodland Caribou in Ontario. The Proponent shall seek consensus with Biigtigong Nishnaabeg on the content of the final reclamation plan and its implementation. The Proponent shall implement the plan during decommissioning and post-closure. As part of the final reclamation plan, the Proponent shall:"</p>
Suggested Amendment
<p>The Proponent shall develop, prior to operation, and in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, other Indigenous groups, Environment and Climate Change Canada, Ontario Ministry of Mines, and other relevant authorities, a final reclamation plan for the Designated Project, taking into account Ontario Ministry of Mines requirements for a closure plan, Ontario's Best Management Practices for Mineral Exploration and Development Activities and Woodland Caribou in Ontario, and international standards set by International Organization for Standardization 45001 Certification for Mining Industry, International Council on Mining and Metals, and the United Nations Declaration on the Rights of Indigenous Peoples. The Proponent shall seek consensus with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous Groups on the content of the final reclamation plan and its implementation. The Proponent shall implement the plan during decommissioning and post-closure. As part of the final reclamation plan, the Proponent shall:</p>
Rationale
<p>As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, consensus must be reached with the Métis Nation of Ontario Region 2, in addition to other Indigenous Groups; particularly as Indigenous rights are not hierarchical.</p>

11 Reclamation, Condition 11.2.2.3**Condition Text as Proposed by the IAAC**

"identifying any technically and economically feasible alternative location for discharging water from the north pit lake into the Biigtig Zibi during post-closure. If a technically and economically feasible alternative location is identified, the Proponent shall notify the Agency in writing pursuant to condition 2.16 of their proposed change to the Designated Project before implementing the alternative. If a technically and economically feasible alternative is not identified, the Proponent shall report to Biigtigong Nishnaabeg and the Agency on the options considered and why they were determined not to be technically or economically feasible; and"

Suggested Amendment

identifying any technically and economically feasible alternative location for discharging water from the north pit lake into the Biigtig Zibi during post-closure. If a technically and economically feasible alternative location is identified, the Proponent shall notify the Agency in writing pursuant to condition 2.16 of their proposed change to the Designated Project before implementing the alternative. If a technically and economically feasible alternative is not identified, the Proponent shall report to Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous Groups, and the Agency on the options considered and why they were determined not to be technically or economically feasible, including request for quotations from the Proponent, the industry and academic third-party responses, and the percentage differences in the final mine-site and production budgets. The Agency and Indigenous Groups must participate in the decision with the Proponent on what is 'not technically or economically feasible' and reasonable rationale and instances.

Rationale

As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, discharge locations, particularly if a technically or economically viable option cannot be identified, must be discussed; particularly as Indigenous rights are not hierarchical.

12 Indigenous Monitors, Condition 12.1
Condition Text as Proposed by the IAAC
"The Proponent shall retain, prior to construction, the services of Indigenous monitors to participate in follow-up monitoring set out in condition 3.13 through 3.17, 4.5, 6.3 through 6.5, 6.7, 6.10, 7.9, 9.2, 10.6, 10.8.4, and 11.2.3. Prior to retaining the services of Indigenous monitors, the Proponent shall undertake a collaborative process to determine, in consultation with Biigtigong Nishnaabeg and other Indigenous groups, the scope, purpose, objectives, and details of the participation of Indigenous monitors and shall provide this information to the Agency prior to construction. In doing so, the Proponent shall determine:"
Suggested Amendment
The Proponent shall retain, prior to construction, the services of Indigenous monitors to participate in follow-up monitoring set out in condition 3.13 through 3.17, 4.5, 6.3 through 6.5, 6.7, 6.10, 7.9, 9.2, 10.6, 10.8.4, and 11.2.3. Prior to retaining the services of Indigenous monitors, the Proponent shall undertake a collaborative process to determine, in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and other Indigenous groups, the scope, purpose, objectives, and details of the participation of Indigenous monitors and shall provide this information to the Agency prior to construction. In doing so, the Proponent shall determine:
Rationale
As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, discharge locations, particularly if a technically or economically viable option cannot be identified, must be discussed; particularly as Indigenous rights are not hierarchical.

13 Independent Expert Review Committee, Condition 13.1.3
Condition Text as Proposed by the IAAC
"the means by which the Proponent shall support Indigenous group participation in the committee;"
Suggested Amendment
the means, including capacity funding, by which the Proponent shall support Indigenous group participation in the committee;
Rationale
Involvement in post approval activities such as participation in an independent expert review committee are often funded to a lesser degree, and Indigenous groups ability to request and/or dispute these funding amounts is lessened. This condition will ensure the Proponent is transparent with both Indigenous groups with ongoing capacity discussions.

15 Accidents and Malfunctions, Condition 15.5.2	
Condition Text as Proposed by the IAAC	
<p>"the measures to be implemented in response to each type of accident and malfunction referred to in condition 15.5.1 to mitigate any adverse environmental effect caused by the accident or malfunction, including an evacuation plan for a potential process solids management facility dam breach developed in consultation with Biigtigong Nishnaabeg and any other Indigenous groups that may be affected that includes:</p>	
15.5.2.1	an up-to-date map highlighting the areas that could be flooded during a dam breach; and
15.5.2.2	the frequency with which the evacuation plan shall be reviewed in consultation with Biigtigong Nishnaabeg and any other Indigenous groups that may be affected, and updated as necessary;"
Suggested Amendment	
<p>the measures to be implemented in response to each type of accident and malfunction referred to in condition 15.5.1 to mitigate any adverse environmental effect caused by the accident or malfunction, including an evacuation plan for a potential process solids management facility dam breach developed in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and any other Indigenous groups that may be affected that includes:</p>	
15.5.2.1	an up-to-date map highlighting the areas that could be flooded during a dam breach; and
15.5.2.2	the frequency with which the evacuation plan shall be reviewed in consultation with Biigtigong Nishnaabeg, the Métis Nation of Ontario, and any other Indigenous groups that may be affected, and updated as necessary;
Rationale	
<p>As the Métis Nation of Ontario Region 2 represents rights bearing Métis communities in the project area, local study area and regional study area, discharge locations, particularly if a technically or economically viable option cannot be identified, must be discussed; particularly as Indigenous rights are not hierarchical.</p>	

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