Legal Advocates for Nature's Defence

Feb 7, 2025

Submitted via email

Response to Crawford Nickel Canada's Project's Impact Statement (Ref No. 83857)

Legal Advocates for Nature's Defence (LAND) is pleased to provide these comments in response to the Impact Assessment Agency of Canada's (IAAC) call for comments on Crawford Nickel Canada's ("CNC") Impact Statement for its proposed mine site. This submission is also endorsed by the Ontario Rivers Alliance, Linda Heron, Chair as non-profit organization who has a high level of interest in this project and expertise in understanding its effects:

SUMMARY OF FINDINGS

CNC contemplates the construction, operation, decommissioning and abandonment of an open-pit nickel-cobalt mine and on-site metal mill, located 43 kilometres north of Timmins, Ontario. The Impact Statement ("IS") sets out CNC's plan to extract 1,715 million tonnes of ore over 30 years and process the ore for a period of 41 years.

Among the project's significant and direct impacts are the:

- unavoidable and harmful alteration, disruption and destruction of approximately 147 ha of fish habitat including the loss of all headwater streams, ponds, and mainstem channel within the Project Area (predominantly within the North Driftwood River watershed)
- direct loss of 11,504 ha of land, 8,667 ha of wetlands, and 26 ha of aquatic habitats
- removal of 11,785 ha of wildlife habitat
- noise disturbance to 3,371 ha of habitat, audible by wildlife up to 6km away from the site for a duration of 41 years
- irreversible effects for Indigenous governance and decision-making capabilities, including for members of Indigenous Nations

We submit CNC has not adequately met the factors required for review of an impact assessment, as set out at section 22 of the *Impact Assessment Act* and it cannot be shown that the known, significant and

adverse environmental effects can be mitigated.

Currently, the Impact Statement lacks the evidentiary basis and justification necessary to allow the project to proceed within the IA process. What's more, the proponent makes bold promises about the net-zero footprint of the project without there being a demonstrable, operative track record for such infrastructure. We therefore propose the below noted recommendations to the IAAC.

DETAILED RECOMMENDATIONS TO THE IAAC

1. Purposes of the *Impact Assessment Act* have not been met

Broadly speaking, impact assessment ("IA") is a process to identify, predict, evaluate and mitigate the ecological, socioeconomic, and cultural impacts of a project and potentially improve social and ecological conditions before major decisions or commitments are made to site a new project. Done well, IA ensures a "look before you leap" approach so that a proponent's claims with respect to safety, environmental risk or levels of impacts can be tested and publicly justified.

Over time, IA processes have also evolved from being just a technical screening for environmental impacts with little public participation or consideration of socio-economic factors, into a more comprehensive process that considers environmental, economic, and social effects on equal footing, requires effective public engagement, and integrates sustainability into its decision-making.[1]

As we detail more below, we do not see the statutory purposes of the *IAA*, "to foster sustainability" and "encourage the assessment of cumulative effects" adequately reflected in the Impact Statement. Gaps in information provided within the IS surrounding potential effects to fish and wildlife habitats also prevents the IAAC from fulfilling the Act's purpose to "prevent or mitigate significant adverse effects within federal jurisdiction — and significant direct or incidental adverse effects — that may be caused by the carrying out of designated projects…"[2]

RECOMMENDATION 1: The IS must be interpreted and reviewed in line with the fundamental purposes of the *IAA.* Currently, the IS does not contain the requisite level of detail nor analysis required for core sustainability and cumulative effects assessments.

2. Indigenous rights, including commitments to seek free, prior and informed consent are absent

Indigenous nations across Canada have criticized the lack of meaningful consultation on mining projects, have described the regulatory process as rushed and in need of space for Indigenous-led assessments,

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[1] M. Doelle, A.J. Sinclair, The evolution of Canadian environmental assessment practice and literature M. Doelle, A.J. Sinclair (Eds.), The Next Generation of Impact Assessment. Irwin Law (2021), pp. 11-31

[2] *Impact Assessment Act,* SC 2019, c 28, s 6(1)

and have criticized the government regulatory bodies for failing to uphold the principles set out in the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP).

The *IAA* was written with UNDRIP in mind, and its implementation is hardwired into its processes and decision-making. For example, the *IAA* requires consideration of Indigenous rights and Indigenous knowledge and reaffirms Canada's commitment to seek the free, prior and informed consent ("FPIC") of Indigenous peoples in relation to decisions under the *IAA*.

Respecting Indigenous voices and communities, who stand to be most directly affected from changes to the terrestrial and aquatic habitats of culturally significant fish and wildlife means requiring the most robust of assessment processes and one attuned to Indigenous laws. There is a critical and overdue need for meaningful Indigenous input and decision-making in IA processes, recognizing the need for reconciliation, building trust and nation-to-nation engagement.

When reading through the IS, there is no discussion of how CNC intends to implement UNDRIP, the *United Nations Declaration on the Right of Indigenous Peoples Act*, nor its principles including FPIC. At most, UNDRIP and FPIC are mentioned in passing in the chapters of the IS discussing the project's impacts on the different Indigenous nations, but there is no application of UNDRIP's principles or a commitment to implement them.[3]

While the IS makes reference to various memoranda of understanding ("MOU") and impact benefit agreements ("IBA") signed with various Indigenous nations, we emphasize that these agreements are not a replacement for FPIC, nor any other rights under UNDRIP that are both individually and communally held.

RECOMMENDATION 2: The Impact Statement must set out how CNC will commit to upholding UNDRIP. Indigenous peoples must be able to exercise their rights to participate in decisions regarding projects that may have adverse impacts in their territory, and UNDRIP provides the minimum threshold to be met to ensure Indigenous communities are exercising a fair degree of decision-making authority over their lands while also being able to exercise assessment powers stemming from their inherent rights.

3. Impacts to fish and fish habitat are unjustified, critical authorizations lacking

In addition to playing a role in enhancing biodiversity richness and aquatic ecosystem health, fish and fish habitat are culturally significant to the Indigenous communities being directly impacted by this project. The IS acknowledges that Apitipi Anicinapek Nation, Flying Post First Nation, Matachewan First Nation, Mattagami First Nation and Taykwa Tagamou Nation have all identified numerous species of fish

[3] *See generally,* IS Chapters 25-28

within the region that are important for nutrition, as well as transmitting traditional knowledge through fishing practices.[4]

As previously mentioned, this project is anticipated to cause unavoidable and harmful alteration, disruption and destruction (HADD) of approximately 147 ha of fish habitat including the loss of all headwater streams, ponds, and mainstem channel within the Project Area.

With loss of fish tributaries, lakes and ponds, we remain very concerned about the health and long-term quantity and quality of various fish populations in the region. This project will cause substantial HADD to the North Driftwood River watershed (70% of the fish habitat is within this watershed), and according to the IS, "…approximately 8 km of the North Driftwood River mainstem channel. However, most (92%) of the potentially affected fish habitat in the North Driftwood River watershed is headwater tributaries and headwater ponds."[5]

The impacts projected for this watershed, as well as the West Buskegau River watershed (predicted to have 29% of affected habitat), and the Jocko Creek watershed (predicted to have <1% of habitat affected), will persist over the entirety of the project's lifespan, with the IS identifying 28 different Project components or activities that have the potential to affect fish health, growth, or survival.[6]

One of the potential impacts to fish and fish habitat cited in the IS is one that would cause a ripple effect across the aquatic habitat: loss of benthic invertebrate communities. The IS states:

> Loss of fish habitat in the headwaters of the North Driftwood River and West Buskegau River watersheds will reduce the total benthic invertebrate community biomass in these two watersheds. Over time, this <u>will likely reduce the amount of benthic invertebrate drift available</u> for fish downstream of the PA. <u>This effect is unavoidable</u>. However, in the North Driftwood River watershed, some of this lost biomass is expected to be offset once a benthic invertebrate community becomes established in the North Driftwood River Diversion Channel [emphasis added].[7]

It is unclear as to what percentage of the lost biomass in the North Driftwood River watershed would be offset from the Diversion Channel, and it is also unclear as to what degree of the benthic invertebrate community in the West Buskegau River watershed will be reduced, as CNC merely notes that the reduction of benthic invertebrate biomass and drift in this watershed is "expected to be lower" than in

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[4] IS, Chapter 17 at p. 17.7
[5] IS, Chapter 17 at p. 17.35
[6] IS, Chapter 17 at p. 17.42
[7] IS, Chapter 17 at p. 17.63, *emphasis added*

the North Driftwood River "because only small, headwater tributaries to the west of the mainstem channel will be affected and benthic invertebrate drift from Prosser Lake and other headwater areas will be unaffected by the Project."[8]

The loss of a benthic invertebrate community within an aquatic habitat has a ripple effect on the health of the habitat. These tiny creatures have a huge role within aquatic ecosystems, serving as bioindicators in their respective habitats.[9] With entire benthic invertebrate communities likely being wiped out by the changes to multiple watersheds in the project area, there is an incomplete picture of the quality of the affected fish habitats.

While CNC suggests that over time these communities will be restored (at least in the North Driftwood River watershed), there is no guarantee that whatever benthic organisms establish themselves after the Diversion Channel is complete will be the same species (and/or make up of population) as what had resided in the habitat prior to displacement, nor is there any indication as to a timeline of population establishment for benthic invertebrates in these habitats.

As a result of these gaps in scientific study and information, the monitoring of water quality and ecosystem health for fish and other aquatic species (like amphibians who are sensitive to pollutants) will be inherently less robust. The accuracy with which we can monitor change to these habitats as compared to baseline will also be impeded. We propose that CNC provide more details on how it intends to reduce harm to benthic invertebrate communities, as well as attempt to restore these communities to provide a better picture of the water quality in these habitats during, and after the operations of the proposed project.

With unavoidable HADD associated with this project, the proponent will be required to seek authorization from the Ministry of Fisheries and Oceans to conduct the work, undertakings, or activities that will cause the harmful alteration, disruption, or destruction of fish habitat, pursuant to section 35 of the *Fisheries Act*. Despite the requirements clearly set out within *Fisheries Act* to protect fish and fish habitat, and/or compensate for the harm or destruction caused, the IS fails to provide a detailed discussion of any *Fisheries Act* permits for drilling, blasting/use of explosives, excavating and grading activities. The IS merely states that "Canada Nickel will require a paragraph 35(2)(b) Fisheries Act authorization from DFO prior to construction of the Project, an authorization that will require Canada Nickel to design and implement habitat restoration, enhancement, or creation that counterbalance the harmful habitat impacts, including the time lags and uncertainties associated with the habitat offsets."[10]

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[8] IS, Chapter 17 at p. 17.63

[9] Ottawa Riverkeeper, "Benthic Invertebrates" (version current January 2025)

[10] IS, Chapter 17 at p. 17.66

The IS contains no detail of what CNC intends to design and implement with the HADD anticipated for approximately 147 ha of fish habitat. As a result, there cannot be a thorough assessment of whether there are sufficient mitigation measures set in place for the fish and fish habitats that are to be subjected to unavoidable harm. The IAAC should not accept this profoundly deficient level of detail when understanding the effects to fish and fish habitat are a core consideration of IA within federal jurisdiction.

RECOMMENDATION 3: CNC must be required to provide details on how it intends to reduce harm to benthic invertebrate communities, as well as attempt to restore these communities to provide a better picture of the water quality in these habitats during, and after the operations of the proposed project.

RECOMMENDATION 4: The IS does not elaborate on work or activities associated with *Fisheries Act* authorizations for the project. Any and all reviews under the *Fisheries Act* should have been completed prior to the release of the IS, and provided for public review to provide a clear picture of the anticipated environmental impacts and their associated mitigation and restoration measures for the affected fish habitats.

4. Drastic impacts to the Arctic watershed have not been adequately considered or mitigated

This project is proposed to drastically alter the land and waterscape within the Arctic Watershed flowing through Northeastern Ontario. When reviewing the IS, several concerns emerged for LAND when considering how this project would alter the health and richness of the Arctic Watershed. The IS describes a rich wetland environment within the local study area (LSA) and project area (PA), with all four wetland classes—bog, fen, marsh, and swamp—being present throughout the LSA.[11] Wetlands play a key role in watersheds, and they provide "unique and irreplaceable functions linked to numerous ecosystem services essential for biodiversity conservation, climate change mitigation, and human well-being, and supporting important economic activities such as tourism."[12]

According to the IS, these wetlands contain "large, estimated volumes of peat. Within the PA a minimum of 33.9 Mm3 of peat is present, while in the LSA a minimum of 99.7 Mm3 is present. Bogs and Swamps contain the largest amounts of peat, accounting for 28% and 54%, in the PA and 20% and 64% in the LSA, respectively."[13] Because this project will result in the drainage and alteration of wetlands in the PA and LSA, there will be a substantial loss in peatlands:

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[11] IS, Chapter 9 at p. 9.14

[12] Carla S.S. Ferreira, Milica Kašanin-Grubin, Marijana Kapović Solomun, Svetlana Sushkova, Tatiana Minkina, Wenwu Zhao, Zahra Kalantari, *Wetlands as nature-based solutions for water management in different environments*, Current Opinion in Environmental Science & Health, Volume 33, 2023, 100476, ISSN 2468-5844, https://doi.org/10.1016/j.coesh.2023.100476.

[13] IS, Chapter 9 at p. 9.22

> Site preparation and clearing of wetlands during construction of the Project will result in a predicted direct loss of approximately 8,474 ha of peat-containing wetlands within the Project Area. Clearing of peatlands will result in the loss of over 34 Mm3 of peat and a change in peat volumes of 28% in the LSA.[14]

The loss of peatlands is detrimental to curbing climate change impacts, as these wetland features are incredible carbon sinks storing more carbon than "all other vegetation types in the world combined."[15] As previously stated, this project will result in the change in peat volumes of 28% in the LSA. Over a quarter of the peatlands within the LSA will be lost.

LAND is gravely concerned by the lack of any mitigation measures proposed in the IS to reduce the loss of these valuable carbon sinks within the Arctic watersheds, nor elaboration on how restoration of peatland within the LSA would occur.

In addition to the destruction of peatlands within the Arctic Watershed, the project identifies a loss of a rare vegetation community amidst the site preparation and clearing activities during the construction of the project: Hardwood Swamp communities. The project will result in the direct loss of approximately 3 ha of Hardwood Swamp, which corresponds to approximately 41% of the habitat in the LSA.[16] Despite this substantial percentage of Hardwood Swamp habitat being lost in the LSA, the IS states:

> Loss in abundance of potential hardwood swamp rare vegetation communities is expected to be adverse and low in magnitude since rare vegetation communities' occurrences in the PA and LSA have not been confirmed. No sensitivity to timing is predicted with the duration occurring over the long-term from single and repeated events. Residual effects to potential rare vegetation communities are predicted to be reversible [emphasis added].[17]

With hydrological changes potentially affecting Hardwood Swamp communities through changes in drainage, drier conditions are likely to occur within these communities.[18] LAND is concerned with CNC's determination that loss of potential Hardwood Swamp rare vegetation communities is expected to be low in magnitude because these communities' occurrences in the PA and LSA have not been confirmed. We submit that there should be a study of the occurrence of these rare communities within the PA and LSA, and they should be documented to provide a more fulsome understanding of these vegetation communities within the Arctic watershed.

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[14] IS, Chapter 16 at p. 16.48

[15] International Union for the Conservation of Nature, "Peatlands and Climate Change" Issues Brief, November 2021 [**IUCN Brief**]

[16] IS, Chapter 16 at p. 16.38

[17] IS, Chapter 16 at p. 16.41, *emphasis added.*

[18] IS, Chapter 16 at p. 16.38

If these communities are not identified and documented, then their loss as a result of project impacts on the landscape and waterscape will go unnoticed. This undocumented loss would not only be detrimental for the sake of ecosystem health and biodiversity richness, but it would create a shifting baseline for the vegetation communities in the watershed when it comes time to decommission the project site.

On a final note regarding the loss of Hardwood Swamps, while the IS claims that residual effects to potential rare vegetation communities are predicted to be reversible, the IS does not provide insight as to how the potential effects to Hardwood Swamps will be mitigated and restored.

RECOMMENDATION 5: The loss of approximately 8,474 ha of peat-containing wetlands is detrimental to the biodiversity richness within the Arctic Watershed, and will result in significant carbon emissions. The proponent must provide a mitigation strategy on par with the footprint of peatland loss in the LSA and also provide a restoration strategy.

RECOMMENDATION 6: There needs to be a study of the occurrence of rare communities like Hardwood Swamps within the PA and LSA, and they should be documented to provide a more fulsome understanding of these vegetation communities within the Arctic watershed.

RECOMMENDATION 7: CNC needs to provide further details on how the potential effects to Hardwood Swamp communities will be mitigated, and how these rare communities will be restored.

5. Impact Statement fails to consider impacts to nature in keeping with global commitments

a. Biodiversity

As a party signed on to the Kunming-Montreal Global Biodiversity Framework (GBF), Canada has made a commitment to set national targets to implement the GBF domestically as a means of halting and reversing biodiversity loss by 2030, and seeking to restore nature by 2050.[19] The GBF consists of four long-term goals for 2050, and 23 targets for 2030 that need to be initiated immediately.[20] With CNC projecting an operational timeline of approximately 41 years for the Crawford Nickel mine, Canada meeting the GBF's goals and targets by 2050 and 2030, respectively, requires a careful look at the potential effects, their mitigation measures, and remediation plans associated with this project.

Goal A within the GBF seeks to ensure "the integrity, connectivity and resilience of all ecosystems are maintained, enhanced, or restored, substantially increasing the area of natural ecosystems by 2050…"[21] and target 21 requires that signatories:

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[19] Canada, "Canada's 2030 Nature Strategy and the Nature Accountability Bill" 2024

[20] Convention on Biological Diversity, *Kunming-Montreal Global Biodiversity Framework*, 19 December 2022 [**Kunming-Montreal Global Biodiversity Framework**]

[21] Kunming-Montreal Global Biodiversity Framework

> Ensure that the best available data, information and knowledge are accessible to decision makers, practitioners and the public to guide effective and equitable governance, integrated and participatory management of biodiversity, and to strengthen communication, awareness-raising, education, monitoring, research and knowledge management and, also in this context, traditional knowledge, innovations, practices and technologies of indigenous peoples and local communities should only be accessed with their free, prior and informed consent, in accordance with national legislation [emphasis added].[22]

When reading through the IS, this project does not paint a picture that ensures the integrity, connectivity and resilience of the ecosystems in the region will be safeguarded. With the removal of 11,785 ha of wildlife habitat linked to this project, the impacts this project will have on biodiversity within the region is deeply concerning. Various wildlife classes are projected to lose substantial swathes of habitat. For example, amphibians and reptiles will "experience an overall loss of 21% of available habitat in the LSA. This includes 20% loss of upland forest, 22% loss of wetland, and 9% loss of water habitats"[23].

The sheer volume of habitat area that will be lost over the course of this project's operations will directly affect biodiversity in the area as different species–with different sensitivities to change–are displaced from their homes. Biodiversity also becomes threatened through the fragmentation of the remaining habitats in the region, limiting both native wildlife and vegetation species to move/grow freely across the landscape and waterscape. As previously mentioned, this project will heavily impact wetland ecosystems, and is even expected to destroy "rare vegetation communities" (e.g., Hardwood Swamps). Wetlands are rich in biodiversity and play a key role within watersheds to support other ecosystems through filtering water and maintaining water levels.

While the IS makes reference to the GBF when summarizing federal guidelines,[24] the IS does not elaborate on how CNC intends to consider or adhere to the goals and targets within the framework. As this submission indicates, there are many shortfalls and gaps in the data and information related to this project, i.e., lacking details in mitigation and remediation strategies. As a result, there is not sufficient information for the IAAC to find significant adverse effects have been mitigated and nor have international obligations, to which Canada is signatory, upheld (for instance, a lack of alignment with Target 21 set out above).

The threat of biodiversity loss is imminent, especially with climate change threatening the integrity of ecosystems in northern regions of Canada (including the region where this project is sited), and losing approximately 20% of habitats for different species of wildlife needs to be carefully assessed and monitored to prevent permanent damage to biodiversity in the region. Therefore, the IAAC must require

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[22] Kunming-Montreal Global Biodiversity Framework, *emphasis added*

[23] IS, Chapter 19 at p. 19.41

[24] IS, Chapter 19 at p. 19.3

the proponent clearly document and set out how it plans to incorporate the GBF into its mitigation and remediation efforts for this project.

RECOMMENDATION 8: CNC needs to elaborate on how the Kunming-Montreal Global Biodiversity Framework is being considered and incorporated into its mitigation and remediation plans for this project to ensure biodiversity in the region is protected and revitalized. The IAAC must require the proponent clearly document and set out how it plans to incorporate the GBF into its mitigation and remediation efforts for this project.

b. Species at Risk

One of the major concerns expressed by members of the public and/or other stakeholders – which we echo - relates to the project's impacts to species at risk and their habitats, and "...that some species are unlikely to be present in the PA and therefore may not require further study (Blanding's turtle)."[25] Both Mattagami First Nation and Métis Nation of Ontario–Region 3 have expressed concern for species at risk like Blanding's turtle, salamanders, and native pollinators in the PA.[26] These concerns about species at risk like the Blanding's turtle not being adequately protected are not alleviated by the data provided within the IS. The IS notes:

> There are historical records of Blanding's turtle in the LSA and suitable habitat present, <u>although this species was not observed during field studies or through eDNA sampling</u>. There are two community records within the LSA (east of the PA) and one in the RSA (west of the LSA). Habitat Suitability Index mapping shows suitable nesting, overwintering and functional habitat throughout the LSA.[27]

It is worth noting that the field studies for Blanding's turtle habitat assessment only occurred on August 16-17, 2023 (aerial) and August 19-20, 2023 (ground), while the eDNA sampling occurred on June 7-8, 2023 and June 15-16, 2023.[28] From these field studies and eDNA sampling, CNC claims that Blanding's turtle has not been recorded in the PA, and so area calculations were based on habitat within 2km of known records.[29]

With such brief windows of time for assessing the presence of Blanding's turtles in the PA and LSA, we are concerned that this species has not been thoroughly researched, and documented for the assessment of this project's impacts. Considering the size of the PA and the amount of wetland habitat that will be lost, it is surprisingly convenient that Blanding's turtles have not been documented with this area.

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[25] IS, Chapter 19 at p. 19.7
[26] IS, Chapter 19 at p. 19.7
[27] IS, Chapter 19 at p. 19.24, *emphasis added.*
[28] IS, Chapter 19 at p. 19.14
[29] IS, Chapter 19 at p. 19.40

According to the IS,

> Canada Nickel will consult with MECP and fulfill requirements under the ESA. This includes obtaining an Overall Benefit Permit, if required, for impacts to Blanding's turtle Category 2 and Category 3 habitat that extends into the PA. Any permit conditions, including compensation requirements, timing windows, and setbacks, will be integrated into the appropriate management plan (e.g., Construction Environmental Protection Plan and Wildlife Management Plan) [emphasis added].[30]

We are concerned that the mitigation measures for Blanding's turtles (and other species at risk) will not be sufficient to adequately protect these species due to incomplete sampling and data collection. There needs to be additional studies and monitoring for the presence of Blanding's turtles and other species at risk within the PA and the LSA to ensure that any permits issued to the proponent for this project, and any mitigation measures proposed, actually protect these species at risk from harm.

RECOMMENDATION 9: The IAAC ought to require additional data on species at risk in the area, especially with regard to Blanding's turtle populations. We also recommend additional baseline studies on this species be conducted to determine and verify nesting sites, migratory routes, hibernation and overwintering grounds.

c. Boreal Caribou

One particular species at risk has been deemed as culturally significant by all the Indigenous nations consulted for the IS: the boreal caribou (also referred to as woodland caribou). Woodland caribou are disturbance sensitive and require large swaths of unfragmented habitat.[31] Considering the highly disruptive nature that this project imposes on the landscape, with a direct loss of 11,504 ha of land, 8,667 ha of wetlands, and 26 ha of aquatic habitats predicted, there are concerns about the impact this project will have on boreal caribou.

Despite no recent records of boreal caribou within the southern limits of the Kesagami Range, this project is situated within range, meaning that the federal *Amended Recovery Strategy for the Woodland Caribou (Rangifer tarandus caribou), Boreal Population, in Canada,* applies to this project.[32]

Just as with the previous section discussing species at risk generally, there are concerns that boreal caribou are not being adequately protected through monitoring and mitigation strategies for this project, and that more studies are required to paint a more fulsome picture of boreal caribou interacting with the PA and LSA:

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[30] IS, Chapter 19 at p. 19.37, *emphasis added.*

[31] IS, Chapter 19 at p. 19.24

[32] IS, Chapter 19 at p. 19.7

> Apitipi Anicinapek Nation, Flying Post First Nation, Matachewan First Nation, Mattagami First Nation, Métis Nation of Ontario – Region 3, and Taykwa Tagamou Nation recommend additional baseline studies on species at risk, including recovery strategies, potential effects to species at risk from Project activities, recovery goals for the Kesagami caribou range and the need for mitigation measures.[33]

When reading the IS for the mitigation measures being implemented for boreal caribou, there is an absence of concrete plans and measures being proposed. As seen below, the language used is non-committal, with "consideration" and "if required" being used to describe what CNC will implement to address the effect the project will have on boreal caribou:

> Canada Nickel will incorporate the following mitigation measures as it relates to potential Project- related effects on boreal caribou:
>
> - The Wildlife Management Plan will take into consideration Ontario's best management practices for mineral exploration and development activities and Woodland Caribou in Ontario (MECP 2021b).
> - Consideration will be given to the creation of boreal caribou habitat onsite as part of the Mine Development Closure Plan (refer to Appendix F of the Impact Statement for the Conceptual Closure Plan), in conjunction with other priorities identified through engagement activities.
> - Obtain an Overall Benefit Permit under the ESA, if required, for impacts to Category 3 habitat within the PA. Any permit conditions, including compensation requirements, timing windows, and setbacks, will be integrated into the appropriate management plan (e.g., Construction Environmental Protection Plan and Wildlife Management Plan).[34]

LAND submits the lack of concrete plans for mitigating the effects to boreal caribou is concerning and lacks acceptable rigour, especially given the habitat fragmentation that will occur through the loss of tens of thousands of hectares of various habitats. We submit that the proponent must provide concrete mitigation measures related to potential project-related effects on boreal caribou–with these measures being made available for public comment.

RECOMMENDATION 10: The proponent must prepare and make available for public comment concrete mitigation measures related to potential project-related effects on boreal caribou, their habitat and health.

6. Gaps in scientific study erodes value of the project's cumulative effects assessment

[33] IS, Chapter 19 at p. 19.7

[34] IS, Chapter 19 at p. 19.7

Section 22(1)(a)(ii) of the *Impact Assessment Act* states that an impact assessment of a designated project must take into consideration: "any cumulative effects that are likely to result from the designated project in combination with other physical activities that have been or will be carried out…"[35] Having a thorough cumulative effects assessment is essential to providing a clearer picture of a project's likely impacts, namely the nature, intensity, and spatial and temporal distribution of the project's effects.

The *Impact Assessment Act* does not define "cumulative effects", which allows the IAAC to broadly consider the effectiveness of a cumulative effects assessment. To ensure a cumulative effects assessment is thorough and adequately encompasses the past, present and reasonably foreseeable future human activities on the region's environmental objectives,[36] we recommend that the IAAC assesses the Crawford Nickel Project's cumulative effects within the context of these expectations:

- assess synergetic, compensatory, and additive effects, across spatial and temporal boundaries (e.g., at the ecosystem and watershed level), of all relevant past, present, and reasonably foreseeable future anthropogenic activities and natural processes;
- determine their implications for project assessments; and,
- recommend steps to manage cumulative effects through decision making on project level impact assessments and other measures.[37]

Having a thorough cumulative effects assessment is crucial to assist the IAAC in understanding a project's environmental effects, and how to appropriately mitigate these effects to protect environmental, health, social rights and interests.

When reviewing the IS, there are shortfalls and gaps in the determinations provided by CNC for various predicted effects. These gaps include, but are not limited to:

- a yet to be approved *Fisheries Act* approval;
- a yet to be developed Fish Habitat Offsetting Plan;
- claims that industry-standard management practices or standard mitigation measures will be applied–without providing substantiating documentation or detail (as seen with boreal caribou "mitigation measures");
- multiple instances of proponent attempting to minimize the severity of effects, often referring to losses as only a "small proportion" of total habitats or species, for instance.[38]

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[35] *Impact Assessment Act,* s 22(1)(a)(ii)

[36] Canadian Council of Ministers of the Environment, Canada-wide Definitions and Principles for Cumulative Effects, PN 1541 (2014)

[37] *Adapted from* Canadian Environment Network, Submission to the IAAC regarding the Draft Policy Framework for Regional Assessment under the Impact Assessment Act (Feb 28 2023)

[38] *For example*, the IS downplays the loss of **rare vegetation communities**. *See* IS, Chapter 16 at p. 16.41

RECOMMENDATION 11: Any required authorizations and permits accompanying the mining project should have been completed and clearly communicated as part of the IS as they speak directly to predicted environmental impacts of the project and their mitigation. The proponent must prepare and provide all necessary measures and plans for public comment.

7. Carbon Capture and Storage

In support of carbon capture and storage ("CCS"), CNC states that it will use In-Process Tailings ("IPT") Carbonation technology to permanently fix carbon dioxide (CO2) in solid mineral form within the mine's tailings. CNC claims that

> The active carbonation Canada Nickel is undertaking through the In-Process Tailings Carbonation process is a groundbreaking method, as it is one of the only known methods to permanently sequester up to 1.3 million tonnes of carbon dioxide annually, transforming the Crawford Project into a large-scale carbon sink capable of producing net-zero metals.[39]

We do not support CNC's reliance on a novel, yet-to-be developed technology for CCS. If CCS is relied on rather than reducing pollution in the first place, there comes an open invitation to simply release climate emissions without a care for consequences to the emitter.

As it stands with the IS for this project, there is a predicted direct loss of approximately 8,474 ha of peat-containing wetlands within the Project Area.[40] The loss of these peatlands will result in a considerable amount of CO2 being released:

> Emissions from drained peatlands are estimated at 1.9 gigatonnes of CO2e annually. This is equivalent to 5% of global anthropogenic greenhouse gas emissions, a disproportionate amount considering damaged peatlands cover just 0.3% of landmass.[41]

By omitting a discussion surrounding the emissions surrounding the draining of peatlands in the PA and instead focusing on a lab-tested, novel technology to trap carbon released from mining operations, CNC is greenwashing its effects on climate change and downplaying the emissions associated with the project.

The IAAC must ensure a credible, accountable IA process. We submit that when assessing the impacts of a carbon and greenhouse gas emitter, the IAAC *must* prioritize environmental consequences being avoided (by not emitting CO2) rather than allowing emissions to occur and the CO2 being removed after the fact.

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[39] Impact Statement Summary at p. 69, *emphasis added*

[40] IS, Chapter 16 at p. 16.48

[41] IUCN Brief

RECOMMENDATION 12: The IAAC should not allow CNC to rely on a novel, yet-to-be developed technology for carbon capture and storage when there is an absence of scientific basis to justify outcomes and assess risks. The IAAC should focus on measures CNC is proposing to reduce CO2 emissions, especially with regard to the volume of peatlands being destroyed in the Project Area.

REQUEST TO THE IAAC

In closing, we submit there are serious deficiencies and gaps in the information provided within the Impact Statement for the Crawford Nickel Project that prohibit the IAAC from having a clear picture of the potential impacts associated with the project, and whether there are adequate mitigation measures being proposed.

Before this project can advance to the next phase of the impact assessment process, there are numerous topics that need additional studies, data, and/or commitments to ensure there is a clear and justified picture of the potential adverse effects associated with the project, and that CNC has adequate mitigation measures in place.

The IAAC requires additional information for the following issues:

- how CNC intends to uphold UNDRIP and its principles, including FPIC;
- the potential impacts to fish habitats, and wildlife habitats, and what mitigation measures are proposed to reduce adverse effects;
- details on the CNC's *Fisheries Act* authorization and other fish HADD-related permits;
- more detailed baseline studies on boreal caribou and disclosure of plans to protect the species and their habitat;
- how biodiversity will be protected, including measures CNC intends to implement to uphold Canada's biodiversity commitments set out in the Kunming-Montreal Global Biodiversity Framework; and
- how CNC intends to reduce CO2 and GHG emissions at all phases of the project, as carbon capture and storage is not a sufficient nor justifiable method to address the climate change impacts of this mining project.

By seeking additional information and clarification from CNC on these topics, the IAAC will be able to better assess the true impacts that may arise from this project measures and if measures exist to mitigate or prevent significant adverse effects from occurring.

We thank the IAAC for being responsive to our comments and concerns.

SIGNED BY:

Sara Libman, Legal Counsel

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