

WABAUSKANG FIRST NATION
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LAC SEUL FIRST NATION
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June 7, 2024

Impact Assessment Agency of Canada, Ontario Region
55 York Street, Unit 600
Toronto, ON
M5J 1R7

Via email: GreatBear@iaac-aeic.gc.ca

Re: GREAT BEAR GOLD PROJECT: INDIGENOUS ENGAGEMENT AND PARTNERSHIP PLAN & TAILORED IMPACT STATEMENT GUIDELINES

Boozhoo:

We are writing in response to the Impact Assessment Agency of Canada's (IAAC) invitation to provide comments on the Indigenous Engagement & Partnership Plan (IEPP) and the Tailored Impact Statement Guidelines, respectively, in relation to Kinross Gold's ("Kinross") Great Bear Gold Project ("the Project") located in the traditional territories of Lac Seul and Wabauskang.

As IAAC is aware, our Nations are undertaking an Anishinaabe-Led Impact Assessment ("ALIA") grounded in, and driven by Anishinaabe Inaakonigewin (law), to facilitate our review of the Great Bear Gold Project and provide a basis by which our membership can decide whether to provide or withhold their free, prior and informed consent for the Project ("FPIC decision"), in accordance with Article 32(2) of the United Nations Declaration on the Rights of Indigenous Peoples ("the Declaration"). We are including a draft scoping document outlining the ALIA process for IAAC's review.

The Nations are working with Kinross to determine how the ALIA process will inform its work under the federal impact assessment (IA) process. Accordingly, the ALIA process should also inform IAAC's review of the Project and, critically, the Crown's approach to consultation and accommodation. The ALIA is fundamentally an exercise of sovereignty over our territories, lands, waters and resources. As such, it is imperative that we collaborate on the review of the Project to ensure that our rights to self-determination and self-government are respected, consistent with Canada's commitment to implement the Declaration. We believe that the ALIA can complement and strengthen the federal IA, while also giving effect to our inherent right to make decisions relating to our traditional territories, in accordance with Anishinaabe Inaakonigewin.

Rather than providing discrete comments on the TISG and IEPP, this letter considers each phase of the IA and identifies opportunities for cooperation and partnership. The existing IEPP reflects an antiquated paradigm of consultation as opposed to the vision of a “renewed, nation-to-nation, government-to-government relationship” laid out in the 10 Principles respecting the Government of Canada’s relationship with Indigenous peoples. To foster this vision, the federal IA process should promote shared decision-making. We believe it would be most efficient and effective to form a Joint Assessment Committee between representatives of Lac Seul, Wabauskang, and IAAC responsible for coordinating the joint review of the Project.

Phase 1: Planning

The TISG identifies the various valued components which Kinross must assess when preparing its Impact Assessment. While Lac Seul and Wabauskang intend to collaborate with Kinross in relation to their studies on waters, lands, air, and animals, IAAC should be aware the Nations are also conducting independent assessments in relation to the Project’s potential positive and adverse impacts on: community well-being; health (including food security); community benefits and infrastructure; elders, women, youth and two-spirited individuals; job opportunities and local economics; livelihoods; traditional practices; trust and relationships; language and language revitalization; and inherent rights. Lac Seul and Wabauskang may impose limitations on sharing of Indigenous Knowledge (IK), in accordance with the principles of ownership, control access and possession of said information, in the preparation of Kinross’ Impact Statement. Accordingly, the Nations will work with Kinross and IAAC to identify alternate means of conducting the Impact Statement that relies on IK. The Nations’ are also undertaking an independent cumulative effects assessment as part of the ALIA that includes valued components and spatial/temporal scales which may not be addressed by Kinross’ assessment. IAAC should ensure that Kinross adequately addresses the ALIA’s findings relating to all valued components and cumulative effects in its Impact Statement, as elaborated upon below.

Phase 2: Impact Statement

The Impact Statement should include a summary of the ALIA results, as prepared by Lac Seul and Wabauskang. Kinross should further integrate and address the findings of the ALIA studies into its Impact Statement, and IAAC should ensure that Kinross is adequately addressing any concerns that emerge from the ALIA in terms of proposed mitigation measures. Having a Joint Assessment Committee will increase the efficiency and effectiveness of this review process, as the parties can collaborate on developing Information Requests and evaluating the adequacy of the Proponent’s responses. The Crown, at this stage, should also contemplate potential accommodation measures to compensate for those impacts that cannot be adequately mitigated, in collaboration with our Nations.

One additional specific comment that is relevant to this Phase of the process is that Kinross should not be able to petition the Agency to change or remove any requirements in the TISG once it is issued, unless our Nations have been consulted on and consent to the change.

Phase 3: Impact Assessment

IAAC should consider and incorporate the ALIA results when assessing the potential impacts of the Project. Specifically, when assessing the Project's potential adverse effects, the IA Report should incorporate the findings of the ALIA in relation to project-specific effects and cumulative effects, including Anishinaabe legal perspectives on the "significance" of these effects. The findings of the ALIA and Anishinaabe legal perspectives should also be taken into consideration when assessing the adequacy of the proposed mitigation and accommodation measures. Again, a Joint Assessment Committee would increase the efficiency and effectiveness of this phase, as the parties can collaborate on drafting the IA report and co-developing proposed conditions should the Project proceed. Where possible, the parties can strive to arrive at joint conclusions or recommendations for inclusion in the draft IA report.

Phase 4: Decision

The IA Report should not be submitted to the Minister until the ALIA is completed and the Nations' have made their FPIC decision, so that the ALIA Report can be submitted to the Minister alongside the IA Report for their consideration. Notwithstanding this request, Lac Seul and Wabauskang are committed to ensuring that the ALIA does not delay statutory timelines or deadlines. This point demands an explicit adjustment to language currently found in the draft IEPP, which proposes a much more limited role for our Nations in the transition from Phase 3 to Phase 4.

The Minister's decision statement should respond to the ALIA Report, indicating the reasons for accepting, rejecting or modifying its recommendations. Further, the Minister's decision should align with the Nation's FPIC decision and should accept and impose all conditions on any project approval that are established by the ALIA.

Phase 5: Post-Decision

Finally, Canada, Ontario, Lac Seul, and Wabauskang should establish a Joint Monitoring Committee to evaluate the implementation of the relevant mitigation and accommodation measures, in the event the Project is approved.

With regard to funding, while Lac Seul and Wabauskang appreciate the grants available for "eligible activities" under discrete phases of the IA, these grants cannot cover the work being completed under the ALIA, work which is pivotal to Kinross and the Crown's ability to adequately assess the impacts of the Project on Indigenous rights and interests. As such, we are requesting adequate funding to facilitate the ALIA, in addition to the funding available for our participation in the federal IA process.

We are seeking IAAC's support in ensuring that the ALIA process and outcome is respected, and that Anishinaabe laws, governance, culture and practices are reflected and promoted in the federal IA. We are striving to align the ALIA's timelines for information gathering and evaluation with those of the federal IA, and are keen to explore the potential synergies between the ALIA and the federal IA. We would be pleased to meet at your earliest convenience to discuss how we may work together to conduct a joint assessment of the Project.

Ltr to the Impact Assessment Agency of Canada
June 7, 2024

Miligwech,

<Signature removed>

Chief William Petiquan
Wabauskang First Nation

<Signature removed>

 Chief Clifford Bull
Obishkokaang/Lac Seul
First Nation