



## **Comments on the Initial Project Description (and Summary of the Initial Project Description) for the Strange Lake Rare Earth Mining Project**

**December 8, 2023**

**By the NunatuKavut Community Council**

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## I. Introduction

The NunatuKavut Community Council (“NCC”) has reviewed Torngat Metals’ *Initial Project Description* (“IPD”) of the Strange Lake Rare Earth Mining Project (“Project”), as well as the summary of the Initial Project Description and presents its preliminary comments on the project, and specifically on the IPD, in this submission to the Impact Assessment Agency of Canada (“IAAC”). In this introductory section, we present brief background on NunatuKavut and the NCC, which is especially important for the proponent to understand given the fact that it has omitted any consideration of potential impacts to NCC and the NunatuKavut Inuit members it represents. As such, the background on NCC and NunatuKavut Inuit described in the subsection below presents essential context for our comments, as well as important details that should be reflected in a corrected version of the IPD.

Following this essential background, we summarize NCC’s experiences engaging on various mineral exploration and mining projects in Labrador, as well as on provincial mining legislation.

### **Background on NCC and NunatuKavut Inuit**

NCC is the representative governing body for more than 6,000 Inuit primarily residing in south and central Labrador. Translated from Inuttitut, NunatuKavut means “Our Ancient Land” and refers to our territory. NunatuKavut Inuit are beneficiaries of the British-Inuit Treaty of 1765, entered into at Chateau Bay, Labrador in 1764-1765 between the southern Inuit and the British Crown.

Today, NunatuKavut encompasses more than 20 permanent communities, with the vast majority of members residing along Labrador’s south coast, south of Hamilton Inlet. As it was in times of old, and still today, we are deeply connected to the land, sea and ice that make up NunatuKavut, our home.

The rights of NunatuKavut Inuit are represented by NCC. NCC is led by a Governing Council elected by our membership. It is comprised of a President and Vice-President, Councillors representing each of the six areas in our territory, as well as an area that represents non-resident members, and an Elder and a Youth Councillor. The primary function of NCC is to ensure the land, ice and water rights as well as titles of our people are recognized and respected. We are also fully present at the grassroots level in our communities, providing a variety of programs and services to NunatuKavut Inuit – living within and outside Labrador.

In July 2018, Canada announced the start of talks with NCC on the Recognition of Indigenous Rights and Self-Determination (RIRSD).<sup>1</sup> In September 2019, NCC signed a Memorandum of

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<sup>1</sup> For a general explanation from the Government of Canada on the process known as Recognition of Indigenous Rights and Self-Determination, see <https://www.rcaanc-cirnac.gc.ca/eng/1511969222951/1529103469169>. See also NCC’s own explainer on the RIRSD process and how NCC is participating in that process here: <https://nunatukavut.ca/about/rights-recognition/>.

Understanding (MOU) with Canada, which outlines the general principles of discussion and sets the stage for next steps in the RIRSD process. This provides an opportunity to advance such matters as self-governance on our lands, waters, resources and programs and services. The MOU also serves to better define relationships and map a more robust way forward with our federal, provincial, and territorial partners.

As the traditional stewards and guardians of our territory, NunatuKavut Inuit are in the best position to provide relevant knowledge, make decisions, and monitor and enforce protections with respect to projects and policies affecting the natural resources on which we depend, and thus our rights in relation to those resources. NCC asserts its Inuit and Treaty rights to lands and resources within NunatuKavut, including the rights to hunt, trap, fish and gather.

### **Engagement of NCC on other mining projects in Labrador and on NL mining legislation**

From large iron ore mining projects in the western region of Labrador to exploration for rare Earth minerals along the southeastern coast, mineral exploration and mining has, and continues to have, potentially substantial social and environmental impacts on NunatuKavut Inuit and the communities in which they live. On behalf of NunatuKavut Inuit, NCC has engaged with proponents and the governments of Canada and NL on various mining projects in recent years, including the Joyce Lake Direct Shipping Ore project (iron mine) north of Schefferville (but in Labrador), the Iron Ore Company of Canada (IOC) iron mine in Labrador West, including the Carol Lake Mine and Wabush 3 expansion Project, the Kami Iron Ore Project (Champion Iron Ltd), the Howse Property Project (Tata Steel Minerals Canada), and the proposed Foxtrot Rare Earth Element Mine Project (Search Minerals) near St. Lewis, a key NCC coastal community. Furthermore, in December 2022, NCC provided the government of Newfoundland and Labrador (NL) with comments on the province's *Mineral Act* and *Mining Act*, as well as associated regulations, in the context of NL's review of its mineral exploration and mining regulatory regime.

## **II. Comments on the Initial Project Description**

### **A. No mention of potential impacts to NCC and our community members**

Neither the full IPD nor the summary make any mention of NCC or NunatuKavut Inuit whatsoever. Furthermore, all three of the Project "study areas" (Project, Local and Regional) completely exclude the path of the marine transport of ore along the Labrador coast from Vale's Port to port at Sept-Îles, Québec -- a path that runs directly through NCC commercial fishing areas and could also potentially impact migratory salmon, thus affecting a highly important species harvested by NunatuKavut Inuit through their Food, Social and Ceremonial fishery licence authorized under the Federal Aboriginal Fishing Strategy and managed by NCC. NCC finds these omissions to be wholly unacceptable. (Incidentally, it was this omission in the Summary IPD that led NCC to also review the full version of the IPD carefully, which required

additional time and expense for NCC staff and advisors).

**NCC asserts that it is imperative that potential impacts of the Project on NCC and NunatuKavut Inuit are considered in a thorough and comprehensive manner by the Proponent, and that NCC be included on the Crown consultation list for this Project. We outline the three primary reasons for these assertions below.<sup>2</sup>**

First, we do not understand why the proponent excluded NCC given that IAAC considers NCC to be an Indigenous group potentially affected by the Strange Lake Rare Earth Mining Project. In IAAC's June 12, 2023, letter to NCC President Todd Russell, IAAC states in the first paragraph: "According to the Agency, the Project could potentially impact NunatuKavut Inuit". In fact, the letter makes numerous references to considerations involving NunatuKavut Inuit. IAAC also states, on page 3 of the letter: "The Proponent should include a preliminary description of the potential adverse effects of the Project on Indigenous Nations in its initial project description." In excluding NCC and NunatuKavut Inuit, the Proponent clearly has not lived up to that expectation, and NCC requests that this omission be redressed, whether in a revised version of the IPD or in subsequent documents or communications from either the Agency or the Proponent.

Second, the potential impacts to the George River caribou herd, mentioned in various places in the IPD long version, are directly relevant to NCC because NunatuKavut Inuit have historically harvested caribou from this herd and would do so again if/when the herd's numbers recover, and the hunting ban is lifted. Furthermore, the George River herd holds fundamental cultural and – when before the hunting of this herd was banned – dietary significance for NunatuKavut Inuit, and this has been documented in academic studies. NCC recently documented the importance of the George River herd for its members in the context of NCC's comments on the Draft Environmental Impact Statement of the Joyce Lake Direct Shipping Iron Ore Project,<sup>3</sup> ("Joyce Lake Project") in Labrador. We have raised similar points in **section B**, below, discussing our concerns about omitting NCC and NunatuKavut Inuit from consideration of the impacts of the northern Project components, and particularly the mine, the access road, and airstrips. **It is important to note that NCC is being officially consulted on the Joyce Lake iron ore project north of Schefferville, for which our primary concern is potential impacts on the health and recovery of the George River caribou herd.**

Third, and as noted above, the path of the marine transport of ore along the Labrador coast from Vale's Port to port at Sept-Îles, is simply excluded from consideration in any of the "study areas" that the proponent identifies in relation to its plans to assess Project impacts. NCC finds this exclusion by the Proponent of its Project's marine transport component to be unjustifiable

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<sup>2</sup> NCC also, however, reserves the right to present additional details to support justification of including NCC among the groups to be consulted by the Crown on this Project.

<sup>3</sup> Government of Canada, Impact Assessment Agency of Canada, *Canadian Impact Assessment Registry*, <https://iaac-aeic.gc.ca/050/evaluations/proj/80015>.

because the shipping of its ore from Nain to Sept-Îles is undeniably a substantial piece of this project.

NCC notes the proponent's current proposal, as described in the IPD documents, is to ship ore product on container ships with a 30 kt payload per shipment (approximately 1,000 containers per shipment). The Proponent's proposed shipping route would result in large container ships passing relatively close to all the coastal communities in which NCC members reside, from Cartwright to L'Anse au Clair on the Straits of Belle Isle, near the border with Québec. Even apart from any direct impacts that these communities could perhaps experience due to an en route or in-port incident involving these shipments, which cannot be ruled out, the shipping activity on this path could bring negative impacts to both NCC's Food, Social and Ceremonial fishery if it affects migratory salmon, and NCC's communal commercial fisheries. More detail on our concerns about omitting consideration of the potential impacts of the substantial marine transport aspect of this project, and the concomitant omission of potential impacts to NCC fisheries, is presented in **section C**, below.

#### **B. Insufficient information on potential effects of Project mine and access road on George River caribou - a highly important species for NunatuKavut Inuit**

The proposed location of the Project's mine and access road are, in our opinion, uncomfortably close to potential movement and habitat areas for the George River caribou herd. We underscore that this is a migratory herd whose movements cannot be accurately confined to a circumscribed area within the Ungava Peninsula. Additionally, we note that the IPD information on the herd's most population numbers and decline are terribly outdated. Information in both the Summary and long version of the IPD documents mentions that the George River herd has declined from a population of 74,000 in 2010 to a population of 14,200 in 2014.<sup>4</sup> The most recent population information, from a biannual aerial survey conducted jointly by the governments of Newfoundland and Labrador and Québec, was gathered in July 2022, and estimates a herd size of estimate of 7,200 caribou.<sup>5</sup> The same report states that "The July 2020 [biannual aerial] survey was the first to demonstrate an increasing population trend of the GRH over the past 20 years, but in 2022 it declined again."<sup>6</sup> The report concludes that: "The herd remains in a precarious condition".<sup>7</sup>

The George River caribou herd has, for a long time, played an enormous role in NunatuKavut, not just as a source of country food but as something that supports community cohesion, transfer of knowledge and cultural identity. This is well-documented, not just within our own

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<sup>4</sup> Summary IPD at p. 69 and full IPD at p. 153.

<sup>5</sup> Department of Fisheries, Forestry and Agriculture of Newfoundland and Labrador in collaboration with the Direction de la gestion de la faune du Nord-du-Québec, Aerial survey of the GRCH – July 2022 (October 25, 2022). Not available online.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

NunatuKavut Inuit knowledge base, but also within the Ungava Peninsula Caribou Aboriginal Round Table (UPCART), formed by Indigenous groups in Labrador and Québec around concerns with the George River Caribou Herd. UPCART published an informative report in October 2017 that provides excellent background on the importance of caribou to Inuit populations, as well as Indigenous knowledge about the herd's major population fluctuations over many decades.<sup>8</sup> It should be noted that NunatuKavut Community Council has been a member of UPCART since its inception and NCC's President, Todd Russell has served as Co-Chair.

A 2013 report titled *An Inventory of Studies on Land and Sea Uses in NunatuKavut since 1979*,<sup>9</sup> prepared just prior to the ban placed on hunting George River caribou, provides the following information on historical travel routes used by NCC members hunting GRH caribou:

The George River herd is accessed by the Trans Labrador Highway for residents of Labrador West and Upper lake Melville. Many people from the south coast (Cartwright and further south) have travelled great distances from southern Labrador to obtain caribou in the George River herd. With the advent of snowmobiles (1960s) people could travel as far as Makkovik and Nain in the North and as far as the Churchill Falls Reservoir in the west. With the opening of the Trans Labrador Highway Phase III (2009) hunters from the south coast have relatively easy road access to this herd. In the past, generally speaking, groups of four to six snowmobiles with attendant *komatiks* would travel to the hunting grounds and in many cases making a round trip of 1,000 kilometers over several weeks. Caribou were killed and individual *komatiks* were loaded with as many as eight or ten caribou at a time. The meat was shared with the community upon return of the hunting party. (Underlining added).

NunatuKavut Inuit well-being, as well as the well-being of other Inuit in Labrador, is and always has been tied tightly to caribou. Recent academic studies and analyses concerned with Inuit-caribou connections have included NunatuKavut members.<sup>10</sup> One of the academic studies is connected to a documentary film ("Herd: Inuit Voices on Caribou", 2022)<sup>11</sup> on the importance of George River caribou to NunatuKavut Inuit (and other Indigenous groups) and the wide-ranging impacts of the ban on caribou hunting. The film includes excerpts of interviews with NCC members who explain the deep socio-cultural values the caribou hold for them. Information sources such as these are critical to understanding the relationship between the George River

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<sup>8</sup> Ungava Peninsula Caribou Aboriginal Round Table, *A Long Time Ago in the Future: Caribou and the People of Ungava, 2017–2117*, October 17, 2017. Signatory organizations to the report included: Nunatsiavut Government, NunatuKavut Community Council, Makivik Corporation, Innu Nation (Labrador), Naskapi Nation of Kawawachikamach, Nation Innue (Québec), Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government. <https://nunatukavut.ca/site/uploads/2019/05/upcart-strategy-2017-11-07-eng-signed-sm.pdf>.

<sup>9</sup> Gregory E. Mitchell, NunatuKavut Community Council, *An Inventory of Studies on Land and Sea Uses in NunatuKavut since 1979*, September 2013, Unpublished, p. 22.

<sup>10</sup> Borish, D., A. Cunsolo, J. Snook, I. Shiwak, M. Wood, A. Dale, C. Flowers, J. Goudie, A. Hudson, C. Kippenhuck, M. C. Purcell, G. Russell Jr., J. Townley, I. J. Mauro, C. E. Dewey, and S. L. Harper. 2022. "It's like a connection between all of us": Inuit social connections and caribou declines in Labrador, Canada. *Ecology and Society* 27(4):11. <https://doi.org/10.5751/ES-13237-270411>; Cunsolo, Ashlee, et al. ""You can never replace the caribou": Inuit Experiences of Ecological Grief from Caribou Declines." *American Imago*, vol. 77 no. 1, 2020, p. 31-59. *Project MUSE*, [doi:10.1353/aim.2020.0002](https://doi.org/10.1353/aim.2020.0002).

<sup>11</sup> "Herd: Inuit Voices on Caribou" (2022) available on CBC Gem, <https://gem.cbc.ca/media/absolutely-canadian/s22e22>.

caribou herd and NunatuKavut Inuit, and thus for understanding impacts on NunatuKavut Inuit well-being considering the potential effects of the Project on this herd.

One study, published in the journal *Ecology and Society* in 2022 used video interviews of Inuit from our NunatuKavut communities (as well as interviews with Nunatsiavut Inuit) to examine the issue of well-being *specifically* in relation to the George River caribou herd.<sup>12</sup> The authors found that declines in the herd's population, along with impacts from the 2013 hunting ban enacted by the Government of Newfoundland and Labrador, were associated with decreased social interaction, which in turn created challenges for Inuit identity, livelihoods, emotional well-being, cultural continuity and knowledge transfer. This is believed to be due mainly to the fact that "human-caribou relationships are core to Inuit socialization, inter-connection, and shared experience and memory regarding families, communities, and food and knowledge sharing across Labrador's landscape."<sup>13</sup> An earlier study in 2020 also chronicled Inuit experiences of ecological grief from declines in caribou populations, including George River herd caribou, through a multi-year, multi-media study "examining the relationships among caribou and Inuit in both the Nunatsiavut and NunatuKavut regions, and the ongoing effects of the declining populations and current hunting ban."<sup>14</sup> The following passage from the conclusion of this study is, in our view, very accurate on the point of NunatuKavut Inuit well-being and caribou:

Inuit in both the Nunatsiavut and NunatuKavut regions of Labrador maintain strong, deep, and enduring connections with caribou, stemming from thousands of years of reliance on and relationships with caribou, and they continue to actively lead research and adaptation programming that demonstrates Inuit leadership, is based on Inuit knowledge systems and sciences, and connects human health and caribou health, together. While traditional knowledge indicates that caribou herds have always cycled, this current rapid decline in caribou, coupled with the loss of access to hunting due to the moratorium, has created significant challenges for Inuit in Labrador.<sup>15</sup>

In addition to the information described above, the IPD also misses some important non-Indigenous sources that are essential for understanding the history and baseline condition of this herd and potential causes for its sharp population decline produced by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC),<sup>16</sup> and by federal agencies,<sup>17</sup> provincial

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<sup>12</sup> Borish, D., A. Cunsolo, J. Snook, I. Shiwak, M. Wood, A. Dale, C. Flowers, J. Goudie, A. Hudson, C. Kippenhuck, M. C. Purcell, G. Russell Jr., J. Townley, I. J. Mauro, C. E. Dewey, and S. L. Harper. 2022. "It's like a connection between all of us": Inuit social connections and caribou declines in Labrador, Canada. *Ecology and Society* 27(4):11. <https://doi.org/10.5751/ES-13237-270411>.

<sup>13</sup> Ibid., p. 1.

<sup>14</sup> Cunsolo, Ashlee, et al. "You can never replace the caribou": Inuit Experiences of Ecological Grief from Caribou Declines." *American Imago*, vol. 77 no. 1, 2020, p. 31-59. *Project MUSE*, [doi:10.1353/aim.2020.0002](https://doi.org/10.1353/aim.2020.0002), p. 37.

<sup>15</sup> Ibid., p. 57.

<sup>16</sup> COSEWIC. *COSEWIC Assessment and Status Report on the Caribou Rangifer tarandus, Eastern Migratory population and Torngat Mountains population, in Canada*. 2017. Ottawa. [https://wildlife-species.canada.ca/species-risk-registry/virtual\\_sara/files/cosewic/sr\\_Caribou%20Eastern%20Migratory%20Torngat%20Mountains%20population\\_s\\_2017\\_e.pdf](https://wildlife-species.canada.ca/species-risk-registry/virtual_sara/files/cosewic/sr_Caribou%20Eastern%20Migratory%20Torngat%20Mountains%20population_s_2017_e.pdf).

<sup>17</sup> E.g., CEAA, *Howse Property Iron Mine Project - Environmental Assessment Report*, April 2018, <https://iaac-aeic.gc.ca/050/documents/p80067/122131E.pdf>; Polar Knowledge Canada's report, "Caribou – heartbeat of the tundra: Synthesis review of Northern Migratory Caribou – Scientific and Indigenous Knowledge on Porcupine,

agencies,<sup>18</sup> universities<sup>19</sup> and other proponents.<sup>20</sup> For example, some relatively recent sources on the potential impact of mining on George River caribou herd migrations were not included.<sup>21</sup>

We note here that among the missing sources is the 2017 COSEWIC Assessment and Status Report for the Eastern Migratory population of Caribou, containing the most recent risk assessment for the George River Herd<sup>22</sup> and which states, incidentally, that *mining and hydroelectric development occurring within parts of the herd's range can "lead to changes in the amount of available structural habitat"*.<sup>23</sup> This COSEWIC report also assessed cumulative threats to Eastern migratory caribou, which includes the George River herd, stating: "An IUCN Threats Calculator exercise was conducted; the overall threat score for the Eastern Migratory population was 'Very High to High', based on an accumulation of threats but mainly from predicted impacts from mining activity, associated roads and increased access, hunting, increased fire events, and vegetation change associated with climate change."<sup>24</sup>

While there is an oblique reference in the IPD to the fact that COSEWIC is currently reviewing migratory caribou, including the George River herd, for addition to the *Species at Risk Act* ("SARA") schedule,<sup>25</sup> the text says nothing about the COSEWIC's assessment in 2017 of this herd as "endangered". COSEWIC applies the risk assessment term "endangered" to indicate a wildlife species that is facing imminent extirpation or extinction in Canada.<sup>26</sup> While NCC does not necessarily adhere to this particular language to characterize the status of the herd, it is a

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Bathurst, Qamanirjuaq, and George River caribou herds" [in *Aqhaliat Report*, Volume 4], by Bongelli, E., Orman, L., Adamczewski, J., Campbell, M., Cluff, H.D., Guile, A., Pellissey, J., Qaqqutaq, E., Ray, J., Russell, D., Schmelzer, I., Sutor, M. and Taillon, J. 2022, <https://www.canada.ca/content/dam/polar-polaire/documents/publications/aqhaliat/volume-4/aqhaliat-volume-4-english.pdf>.

<sup>18</sup> Vincent Brodeur, John Pisapio, Sara McCarthy, Stéphane Rivard & Joëlle Taillon. January 2022. *Aerial survey of the migratory George River Caribou Herd in July 2020*, ministère des Forêts, de la Faune et des Parcs, Québec, & Department of Fisheries, Forestry and Agriculture, Newfoundland and Labrador, [https://mffp.gouv.qc.ca/documents/faune/RA\\_inventaire\\_TRG\\_2020\\_ANG.pdf](https://mffp.gouv.qc.ca/documents/faune/RA_inventaire_TRG_2020_ANG.pdf).

<sup>19</sup> E.g., Northern Sustainable Development Research Chair and Caribou Ungava, Université Laval, [Interactive Story Map] "Mining Development, Migratory Caribou, and Land Use in Northern Québec". <https://ulaval.maps.arcgis.com/apps/MapJournal/index.html?appid=93ca02e5154f40c4a6c7e586582e9caa&locale=en>.

<sup>20</sup> E.g., Howse Minerals Ltd., *Howse Property Iron Mine Project – Environmental Impact Statement* [Submitted to CEAA], Volume 7, section 7.4.3, April 2016, <https://iaac-aeic.gc.ca/050/documents/p80067/113946E.pdf>. Note: The proponent who submitted this EIS, Howse Minerals Ltd., is a subsidiary of Tata Steel Minerals Canada.

<sup>21</sup> *Supra* note 16; CEAA, *Howse Property Iron Mine Project - Environmental Assessment Report*, April 2018, p. 37, <https://iaac-aeic.gc.ca/050/documents/p80067/122131E.pdf>. See also the very recent decision by the BC government to reject a coal mine proposal (the Sukunka coal mine) primarily due to its impacts on the endangered Quintette caribou herd. Ainslie Cruickshank, "B.C. rejects open-pit mine in caribou habitat. Is this a shift for endangered species?" January 10, 2023, *The Narwal*, <https://thenarwhal.ca/bc-sukunka-mine-rejected/>.

<sup>22</sup> *Supra* note 16.

<sup>23</sup> *Ibid.*, p. 14.

<sup>24</sup> *Ibid.*, p. 33.

<sup>25</sup> *Strange Lake Project IDA (full version)*, p. 153.

<sup>26</sup> *Full Joyce Lake Direct Shipping Project Draft Environmental Impact Statement*, Table 17.1, p. 17-5.



fact is that the George River Caribou herd (GRCH) in a fragile state after years of sharp population decline,<sup>27</sup> and some academic experts believe that mining exploration and development may have played some part in that decline.<sup>28</sup> As such, the IPD should have better explained the COSEWIC risk category, in order to underscore the precarious state of the GRCH population. In sum, the 2017 COSEWIC report should have been fully discussed in the IPD documents.

In addition to the above, NCC finds that the size of the study area that the proponent proposes to use in relation to assessment of impacts on caribou<sup>29</sup> is too small to be appropriate for a migratory herd such as the George River caribou herd. Ideally, the proponent would at least expand the geographic scope of its proposed Regional Study Area (“RSA”) to include the entire range of the George River herd, a species assessed as “endangered” by COSEWIC so that the study area covers the full historical and current range of the herd. This was essentially done by Tata Steel Minerals Canada in its EIS for the Howse Property Iron Ore Project.<sup>30</sup> In fact, the EIS for the Howse Property Iron Ore Project (Tata Steel Minerals Canada) identified the George River caribou herd as a VEC unto itself and delimited its RSA as the entire Québec-Labrador Peninsula<sup>31</sup> – the herd’s historic range.

### **C. Insufficient information on potential effects of marine transport aspect of Project on harvesting of marine species by NunatuKavut Inuit**

As we stated in section A, above, the potential impact of the marine transport of mining products along the Labrador coast from Vale’s Port near Nain to the port of Sept-Îles in Québec presents the other major concern for NCC. This is because increased marine shipping along the southern Labrador coast on the potential route displayed in Map 4-1 in the IPD Summary, may impact NCC fisheries, particularly its Food, Social, and Ceremonial fishery as well as its commercial fishery. Additionally, NCC is concerned that potential impacts from shipping accidents (e.g., due to extreme weather events, ship-ship, etc.) must be thoroughly studied by the proponent considering that the rare Earth ore products will be shipped in “super bags” containing 1-2 tonnes each and placed in containers, and the shipped products will apparently contain some incidental uranium and thorium, which of course have radioactive properties.

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<sup>27</sup> *Supra* notes 9, 12, 13, 14, 15 and 16.

<sup>28</sup> See e.g., Northern Sustainable Development Research Chair and Caribou Ungava, both at Université Laval, [Interactive Story Map] “Mining Development, Migratory Caribou, and Land Use in Northern Québec”. <https://ulaval.maps.arcgis.com/apps/MapJournal/index.html?appid=93ca02e5154f40c4a6c7e586582e9caa&locale=en>.

<sup>29</sup> Strange Lake IPD long version, p. 82. The text states: “This local study area will also be used for the caribou component as they travel long distances and it will cover historical calving sites.”

<sup>30</sup> Howse Minerals Ltd., *Howse Property Iron Mine Project – Environmental Impact Statement* [Submitted to CEAA], Volume 7, section 7.4.3.1 (p. 7-213), April 2016, <https://iaac-aeic.gc.ca/050/documents/p80067/113946E.pdf>.

<sup>31</sup> Howse Minerals Ltd., *Howse Property Iron Mine Project – Environmental Impact Statement* [Submitted to CEAA], Volume 7, section 7.4.3.1 (p. 7-213), April 2016, <https://iaac-aeic.gc.ca/050/documents/p80067/113946E.pdf>.

NCC's Food, Social and Ceremonial Fishery: The NCC holds a Food, Social, and Ceremonial (FSC) licence on the Southern Coast of Labrador from Fish Cove Point to Cape Charles for salmon, trout, Arctic char, Atlantic cod, rock cod, herring, scallop, whelk, smelt and seal. The NCC also holds a FSC licence on parts of the tidal waters of Upper Lake Melville, for salmon, trout, and Arctic char. The FSC licence, of course, is the product of NCC's continued collaboration with the federal Department of Fisheries and Oceans ("DFO") through the implementation of program run under the Federal Aboriginal Fishing Strategy, undertaken to accomplish mutual objectives while protecting and promoting our rights to harvest fish.

FSC licences, of course, are granted in connection with claimed Section 35 rights. As the Government of Canada notes, "The right to fish for food, social and ceremonial (FSC) purposes is protected under section 35 of the Constitution. It is a collective right, not an individual one. Designated Indigenous harvesters can catch what is needed for themselves and/or their community for FSC purposes."<sup>32</sup> The government also explains that "FSC communal licences are issued according to the *Aboriginal Communal Fishing Licences Regulations*. Under this type of licence, designated Indigenous harvesters can catch what is needed for themselves and/or their community for FSC purposes."<sup>33</sup> It should also be noted that NCC's Fisheries Stewards collect information that is used extensively by the Working Group of North Atlantic Salmon (WGNAS) to provide catch advice and information to the North Atlantic Salmon Conservation Organization (NASCO) on the characteristics of the fish harvested.

NunatuKavut Inuit have a deep cultural and economic connection to the fishery. Each year, NCC issues designations for salmon, trout, char, and cod. Members are strongly encouraged to return catch logs, which provides crucial information for the monitoring and analysis of designations, as well as fish stock variations.

NCC has been consulted on numerous offshore oil and gas exploration and development projects over the years due to potential impacts on NCC fisheries and NCC coastal communities (for our coastal community members, the sea or ice along is the main mode of transport between communities). The impacts examined in the context of those consultations included marine transport (e.g., supply ships, product carriers, etc.) that was ancillary to the drilling projects themselves. **As such, NCC asserts that just as it has been consulted on offshore oil and gas projects, with their ancillary marine transport components, it should be consulted on marine transport resulting shipping of ore from the Strange Lake Rare Earth Project southward along the Labrador coast.**

In the context of providing comments on those projects, NCC has repeatedly outlined why

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<sup>32</sup> Government of Canada, "Food, social and ceremonial fisheries" (undated), <https://www.dfo-mpo.gc.ca/fisheries-peches/aboriginal-autochtones/fsc-asr-eng.html>.

<sup>33</sup> Ibid.

offshore activities, including the marine transport that accompanies them, could possibly impact migratory fish species such as Atlantic salmon, which make up a highly important part of NCC's FSC fishery. As we pointed out in our comments (2020) on the Draft Environmental Assessment Reports and Potential conditions under the *Canadian Environmental Assessment Act, 2012* for the BHP Canada, Central Ridge, and West Flemish Pass Exploration Drilling Projects, the migratory behaviour of Atlantic salmon (Labrador subpopulation) is still under study and more information is needed before new projects that could affect salmon populations go ahead. As we also commented in our submission on those projects, a 2019 stock status update for Atlantic salmon<sup>34</sup> indicated concerning trends for the Labrador subpopulation (as well as other sub-populations), stating that: **“marine survival continues to be the major factor limiting the abundance of Atlantic Salmon in the NL Region.”**<sup>35</sup> Hence, the approach in the Strange Lake IPD, which appears to ignore potential impacts along the marine transportation route<sup>36</sup> is unwise. A precautionary approach is essential when evaluating potential effects of any projects increasing the movements of ships along the Labrador coast, particularly when environmental effects that can reach back to Indigenous communities, culture, well-being, and fundamental rights.

In the context of the project-based impact assessments just mentioned, the Impact Assessment Agency of Canada acknowledged uncertainties and information gaps with respect to Atlantic salmon migration, overwintering areas, and presence in the project areas. For example, the Draft Environmental Assessment Report for the BHP Canada project states: “The Agency notes that DFO reviewed available information and confirmed that there is uncertainty regarding the at-sea migration patterns and habitat use of Atlantic Salmon”.<sup>37</sup>

While uncertainty obviously exists, some existing information about salmon migration patterns points to the fact that young salmon leaving natal rivers on the coast of southern Labrador often follow the flow of currents heading south, en route to feeding and overwintering grounds (See **Figure 1**, below). In so doing, they pass along the Labrador coast on a path that likely overlaps and/or intersects with the marine transport route planned for shipments of Strange Lake Project ore products south from Nain to Sept-Îles. Information on smolt movements is referred to in the BHP Canada EIS and West Flemish EIS, along with this map. As noted in the EIS for the BHP Canada Project:

Atlantic salmon smolt are generally considered to be energy-deficient with low energy reserves for somatic growth upon leaving their natal river and during the early marine phase (Jonsson and Jonsson 2005). Post-smolt are therefore likely distributed according to prevailing surface currents either close to

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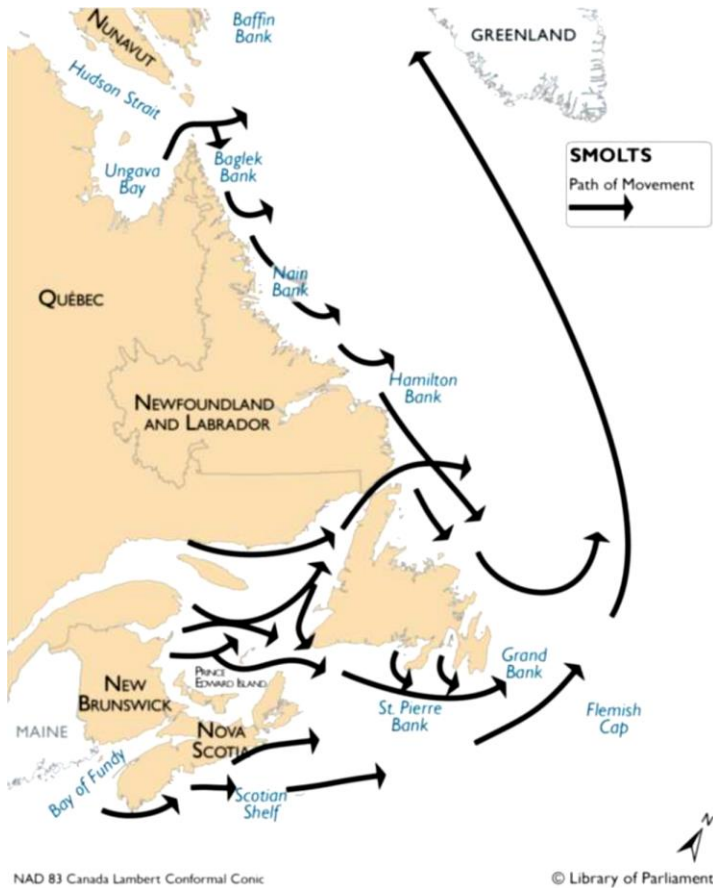
<sup>34</sup> DFO. 2020. *2019 Stock Status Update for Atlantic Salmon in Newfoundland and Labrador*. DFO Can. Sci. Advis. Sec. Sci. Resp. 2020/045, [https://dfo-mpo.gc.ca/csas-sccs/Publications/ScR-RS/2020/2020\\_045-eng.pdf](https://dfo-mpo.gc.ca/csas-sccs/Publications/ScR-RS/2020/2020_045-eng.pdf).

<sup>35</sup> Ibid., p. 5. The most recent stock status update also stresses the importance of marine survival: DFO. 2023. *2021 Stock Status Update for Atlantic Salmon in Newfoundland and Labrador*. DFO Can. Sci. Advis. Sec. Sci. Resp. 2023/036, [https://publications.gc.ca/collections/collection\\_2023/mpo-dfo/fs70-7/Fs70-7-2023-036-eng.pdf](https://publications.gc.ca/collections/collection_2023/mpo-dfo/fs70-7/Fs70-7-2023-036-eng.pdf).

<sup>36</sup> IPD long version, p. 155, section 14.2.7.1.

<sup>37</sup> Draft EA Report, BHP Canada, p. 16. <https://iaac-aeic.gc.ca/050/documents/p80174/136176E.pdf>.

shore or in open waters and that strong currents act as transportation vectors that facilitate migration to marine feeding areas (Jonsson et al. 1993) to reduce energy needs. Therefore, the migration routes of post-smolt may be determined by general ocean currents near its confluence with the ocean (Figure 6-23).<sup>38</sup>



**Figure 1: Movement of Atlantic salmon smolts.**

(Source: This map appears in the Environmental Impact Statement (“EIS”) documents of the West Flemish Pass and BHP Canada exploratory oil and gas drilling projects.)<sup>39</sup>

**Our concerns about potential impacts of the Project’s marine transport component on Atlantic salmon are heightened by the fact that the Atlantic salmon stocks, particularly the Labrador population that is central to NCC and its NunatuKavut Inuit members, is already showing troubling signs of stress.** In the 2019 Stock Status Update by the DFO Canadian Science Advisory Secretariat (CSAS) on Atlantic salmon stocks in NL,<sup>40</sup> CSAS states that: “Overall, multiple stock

<sup>38</sup> BHP Canada, EIS, Ch. 6, “Existing Biological Environment”, page 6-71, <https://iaac-aeic.gc.ca/050/documents/p80174/134089E.pdf>. Please note that “Figure 6-23” in the quoted passage refers to a 2-map image, in which one of the maps was the smolt pathways map reproduced in Figure 1 of these comments.

<sup>39</sup> For West Flemish Pass, see Chevron Canada Limited, EIS, Ch. 6, “Existing Biological Environment”, page 6-68, <https://iaac-aeic.gc.ca/050/documents/p80161/133877E.pdf> For BHP Canada, see BHP Canada, EIS, Ch. 6, “Existing Biological Environment”, page 6-51, <https://iaac-aeic.gc.ca/050/documents/p80174/134089E.pdf>.

<sup>40</sup> *Supra*, note 34.

indicators show negative trends for Atlantic Salmon in NL. DFO Science remains concerned about the status of these stocks.”<sup>41</sup>

Indeed, the situation is serious with respect to the Labrador salmon population. Four rivers in Labrador were monitored for the 2019 stock status update, with three of them located in southern Labrador near NunatuKavut coastal communities. Of the three rivers in NunatuKavut territory, two were in the “Critical Zone” for health of the salmon population, while the third was in the “Cautious Zone”. In the most 2021 update, the tally for Labrador was one in the critical zone and one in the cautious zone.<sup>42</sup>

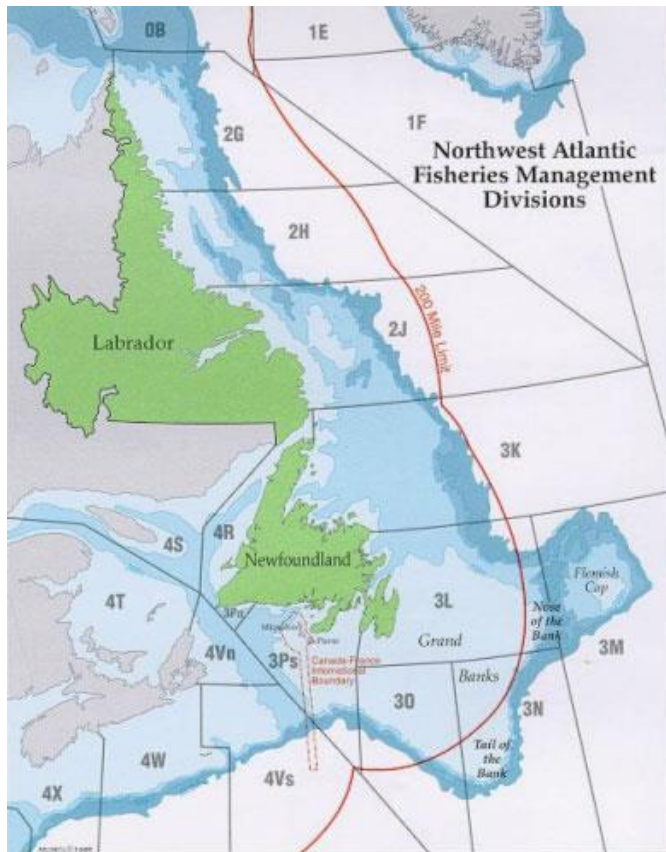
NCC’s Commercial Fishery: Through its economic development corporation, Nunacor, and its subsidiary, NDC Fisheries Limited, NCC holds several communal commercial fisheries licences for groundfish that given them access to all areas along the Labrador coast, i.e., Northwest Atlantic Fisheries Organization (“NAFO”) divisions 2G, 2H and 2J, collectively known as NAFO Subarea 2, and some have shrimp licences that give them access to Shrimp Fishing Areas (“SFAs”) 5 & 6 that spans the area from Hopedale Channel at approximately 56° 27 north down to 50° 30 north. The state of our communal commercial fisheries can clearly affect the socioeconomic conditions of NunatuKavut coastal communities, which are closely linked to those fisheries. As such, NCC is highly concerned about any increase in marine transport of ore by large container ships.

The map of NAFO divisions, below (Figure 2) and the map of Shrimp Fishery areas (Figure 3) make clear that the shipping route from near Nain to Sept-Îles, Québec, would – could potentially affect NCC’s commercial fishing operations for groundfish and shellfish offshore Labrador.

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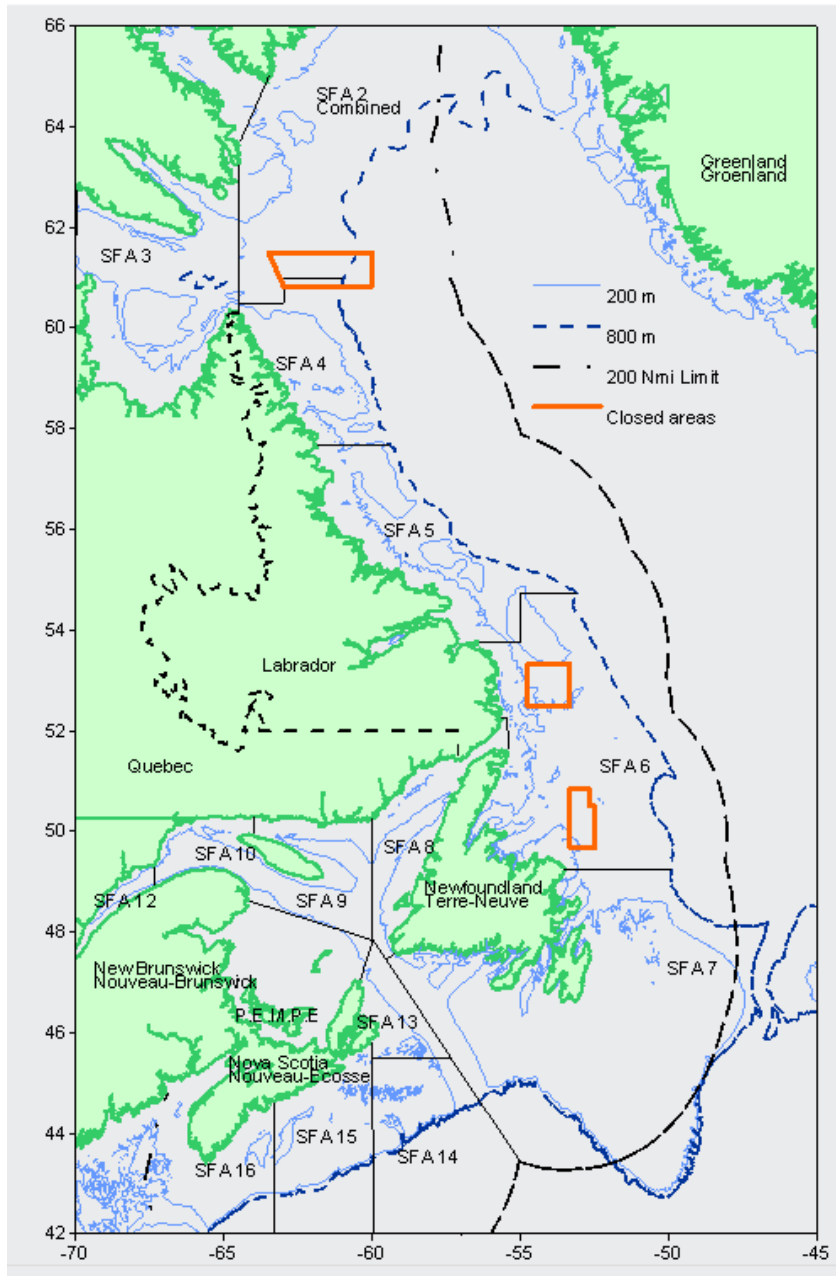
<sup>41</sup> Ibid. p. 5.

<sup>42</sup> Supra note 35, p. 8.



**Figure 2: Northwest Atlantic Fishery Organization (NAFO) Fisheries Management Divisions**

(Source: Government of Canada, "Groundfish Newfoundland and Labrador Region NAFO Subarea 2 + Divisions 3KLMNO", [https://www.dfo-mpo.gc.ca/fisheries-peches/ifmp-gmp/groundfish-poisson-fond/2020/groundfish-poisson-fond-2\\_3klmno-eng.htm](https://www.dfo-mpo.gc.ca/fisheries-peches/ifmp-gmp/groundfish-poisson-fond/2020/groundfish-poisson-fond-2_3klmno-eng.htm)).



**Figure 3: Shrimp Fishing Areas in Atlantic Canada.**

(Source: Government of Canada, Fisheries and Oceans Canada, “Shrimp”, <https://www.dfo-mpo.gc.ca/fisheries-peches/sustainable-durable/fisheries-peches/shrimp-crevette-eng.html>).

### III. Conclusion

As outlined in this submission, NCC’s preliminary review of the IPD documents (summary and long version) has revealed to us three fundamental shortcomings, all of which should be addressed by the Proponent and/or the Agency. First, the IPD documents make no mention of

potential impacts to NCC and our community members. In the present submission, we have attempted to make clear why this exclusion is unworkable. Second, the IPD documents contain outdated and insufficient information on potential effects of Project mine and access road on George River caribou - a highly important species for NunatuKavut Inuit. Third, the IPD documents present insufficient information on potential effects of marine transport aspect of Project on harvesting of marine species by NunatuKavut Inuit.

It should be noted that NCC is also concerned about potential impacts on migratory birds but was not able to provide details on that in the current discussion. NCC may transmit additional information on this topic and others to IAAC in the coming weeks and would be pleased to answer any questions the Agency may have in relation to the information in this submission.

Lastly, NCC respectfully requests that the Agency recommend that NCC be included among the Indigenous groups to receive Crown consultation during subsequent steps of this impact assessment. We thank the Agency for the opportunity to comment on the Strange Lake Project IPD documents and looks forward to continuing the conversation.