



February 25, 2022

Sent by email

Panel Secretariat
Impact Assessment Agency of Canada
marathonminereview-examenminemarathon@iaac-aeic.gc.ca

Re: Marathon Palladium Mine Project

Please find attached the written submission of the Crown Consultation Team (CCT), comprised of the Impact Assessment Agency of Canada (the Agency) Crown Consultation Operations Division (CCOD), Ontario's Ministry of Environment, Conservation and Parks (MECP) and Ministry of Northern Development, Mines, Natural Resources and Forestry (NDMNR) for the public hearings of the proposed Marathon Palladium Project.

In response to the Joint Review Panel's invitation of December 17, 2021 ([CIAR# 962](#)), the CCT's written submission contains a preliminary assessment of the potential impacts and environmental effects of the Project on the established or asserted Aboriginal or treaty rights as recognized and affirmed under section 35 of the *Constitution Act, 1982* (s. 35 rights) and related interests. As requested by the JRP, the CCT has reviewed information relevant to their mandates in:

- the proponent's EIS addendum ([CIAR #727](#)),
- responses to Information Requests ([CIAR #749](#), [CIAR #757](#), [CIAR #912](#), [CIAR #917](#), and [CIAR #950](#)), and
- responses to information that the Panel requested in the Notice of Sufficiency ([CIAR #955](#))

The CCT's written submission also includes:

- (1) Description and application of the CCT's [methodology for assessing potential impacts on established or asserted s. 35 rights](#);
- (2) CCT's preliminary assessment of potential impacts of the Project on established or asserted s. 35 rights;
- (3) Proposed solutions to concerns raised by Indigenous groups aimed at mitigating impacts identified in the preliminary assessment.
- (4) Proposed monitoring and follow-up programs as they relate to concerns raised from Indigenous groups and suggested additional measures and specificity aimed at mitigating or addressing impacts identified in the preliminary assessment, or proposed by Indigenous groups through consultation.

The CCT will continue to consult with relevant Indigenous groups. This will include, but not be limited to, collaborating on the drafting of the Crown Consultation and Accommodation Report. The dialogue will continue after the JRP submits its report and recommendations. The CCT will continue to respect the principles included in Agency's Practitioners Guide, entitled: [Policy Context: Assessment of Potential Impacts on the Rights of Indigenous Peoples](#) in a manner that fosters reconciliation with Indigenous peoples, meets constitutional obligations, and upholds the honour of the Crown.

Sincerely,

<Original signed by>

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Impact Assessment Agency of Canada

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SUBMISSION TO THE JOINT REVIEW PANEL MARATHON PALLADIUM MINE PROJECT

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List of Acronyms

BN: Biigtigong Nishnaabeg

CEAA, 2012: Canadian Environmental Assessment Act

CIAR: Canadian Impact Assessment Registry

CCT: Crown Consultation Team

DFO: Department of Fisheries and Oceans

ECCC: Environment and Climate Change Canada

ESDC: Employment and Social Development Canada

EIS: Environmental Impact Statement

GFN: Ginoogaming First Nation

HADD: harmful alteration, disruption or destruction

HC: Health Canada

IAA: Impact Assessment Act

IAAC: Impact Assessment Agency of Canada

ISC: Indigenous Services Canada

JMA: Jackfish Métis Association

JRP: Joint Review Panel

LSA: Local Study Area

MECP: Ontario Ministry of the Environment, Conservation and Parks

MNO: Métis Nation of Ontario

MFN: Michipicoten First Nation

NDMNRF: Ontario Ministry of Northern Development, Mines, Natural Resources and Forestry

NRCan: Natural Resources Canada

PPFN: Pays Plat First Nation

PMFN: Pic Moberg First Nation

RSMIN: Red Sky Métis Independent Nation

RSA: Regional Study Area

SARA: Species at Risk Act

TK: Traditional Knowledge

TK/TU: Traditional Knowledge/Traditional use

TLU: Traditional Land Use

TOR: Terms of Reference

VC: Valued Component

VEC: Valued Ecosystem Component

1.0 Introduction

The Crown Consultation Team (CCT) is comprised of the Impact Assessment Agency of Canada's (the Agency) Crown Consultation Operations Directorate's (CCOD), Ontario's Ministry of Environment, Conservation and Parks (MECP) and Ministry of Northern Development, Mines, Natural Resources and Forestry (NDMNRF). The CCT is submitting this document to the Joint Review Panel (JRP) for the proposed Marathon Palladium Project (the Project). The purpose of the document is to inform the JRP in carrying out its mandate as described in the amended Terms of Reference (TOR) in the Joint Review Panel Agreement. This submission contains a preliminary assessment of the potential impacts of the Project on the established or asserted Aboriginal or treaty rights as recognized and affirmed under section 35 of the *Constitution Act, 1982* (s. 35 rights) and related interests of Biigtigong Nishnaabeg, Ginoogaming First Nation, Métis Nation of Ontario, Michipicoten First Nation, Netmizaaggamig Nishnaabeg (Pic Mobert First Nation), Pays Plat First Nation, and Red Sky Métis Independent Nation. The submission also includes an assessment of the potential impacts on the interests and concerns of the Jackfish Métis Association.

This preliminary assessment applied the Agency's [*Guidance: Assessment of Potential Impacts on the Rights of Indigenous Peoples*](#). The submission was developed collaboratively between the CCT and the Indigenous groups consulted in the environmental assessment (EA) process. Details regarding opportunities offered to the Indigenous groups consulted, such as drafting their respective analysis in this document, are found in their respective subsections (see section 6.0). The analysis to support the preliminary assessment is informed by Indigenous groups' submissions to the JRP as well as meetings between the CCT and the Indigenous groups. Participant funding was offered and accepted by all Indigenous groups for various consultation and collaboration opportunities. Each Indigenous group consulted was offered the opportunity to draft its own sections of the submission. Each Indigenous group was also provided a draft version of this submission for review and input. Given that additional information may be presented during the course of the EA process, the outcomes of the assessment may change.

This submission is intended to:

- (1) describe and apply the CCT's methodology for assessing potential impacts on established or asserted s. 35 rights;
- (2) provide the CCT's preliminary assessment of potential impacts of the Project on established or asserted s. 35 rights;
- (3) recommend measures aimed at mitigating impacts identified in the preliminary assessment or proposed by Indigenous groups through consultation; and
- (4) provide information relevant to the JRP's mandate but is not intended to replace the JRP's independent consideration of all relevant submissions in the assessment that the JRP is required to undertake.

This submission is intended to inform the JRP, not replace the JRP's independent consideration of all relevant submissions made during the public hearing and posted to the registry.

The JRP's recommendations contained in its report (the Joint Review Panel Report) will further inform the Crown's final assessment of the severity of the Project's potential impacts on established or asserted s. 35 rights and any appropriate accommodation measures that may be considered by decision-makers regarding the Project.

In the course of consultations, the CCT has encouraged Indigenous groups to provide submissions directly to the JRP, as per its request. Indigenous groups will likely provide information to the JRP that speaks to their respective views of the Project. This submission is not intended to replace their respective submissions.

The CCT is of the view that consultation in the context of EA is not a rights determination process. As such, this submission does not contain, and is not intended to be used for, a determination of rights for any of the identified Indigenous groups or peoples.

As the EA process proceeds beyond the public hearing stage, the Crown will continue to provide consultation opportunities for the Indigenous groups that are involved in the EA and will finalize its assessment of the severity of potential impacts to established or asserted s. 35 rights in relation to each community. The CCT will continue to develop and finalize the suggested measures to address potential impacts using a whole-of-government approach, ensuring opportunities for community consultation continue to be offered. The Crown remains committed to considering additional information that may be shared by Indigenous groups regarding potential impacts to established or asserted s. 35 rights.

2.0 Mandate and Roles of the Impact Assessment Agency of Canada and Ontario Ministries

The Governments of Canada and Ontario take a "whole of government" approach to consultation to ensure that Indigenous groups are sufficiently consulted when the Crown contemplates action(s) that may adversely impact established or asserted s. 35 rights.

In August 2019, the *Impact Assessment Act* came into force and the Canadian Environmental Assessment Agency became the Impact Assessment Agency of Canada. However, given that the EA of the Project began under the *Canadian Environmental Assessment Act, 2012* (CEAA 2012), the assessment will continue following the requirements of CEAA 2012 as per subsection 183(1) of the *Impact Assessment Act*.

2.1 Mandate and Role of the Impact Assessment Agency

The Agency is a federal body accountable to the Minister of Environment and Climate Change (federal Minister). The duties, objects and responsibilities of the Agency are set out in the *Impact Assessment Act* (formerly CEAA 2012). In the context of EAs by review panels, the Agency's legislative responsibilities include, in particular: a) providing support to the JRP; and b)

advising and assisting the federal Minister in exercising the powers and performing the duties and functions conferred on the federal Minister by the CEAA 2012. In this latter role, the Agency contributes to informed decision making, and functions as the Crown Consultation Coordinator for designated projects undergoing a federal EA or IA.

In its capacity as the Crown Consultation Coordinator, the Agency supports and facilitates the integration of consultation activities into the EA process to the greatest extent possible. For this EA, this role requires that the Agency work jointly with the province of Ontario in the integration of consultation into the Joint Review Panel process to the extent possible, to ensure best use of the information provided to the JRP and an understanding of potential impacts of a designated project on established or asserted s. 35 rights. The Crown Consultation Coordinator functions to provide a whole of government approach to Indigenous consultation by coordinating the review of materials provided by Indigenous groups related to potential project effects and impacts, and assisting federal and provincial government authorities in the consideration of potential impacts on established or asserted s.35 rights in the context of their technical review related to environmental effects.

2.2 Mandate and Role of the Province of Ontario

On August 8, 2011, the Ontario Minister of the Environment (provincial Minister) issued a harmonization order under section 3.1 of Ontario's *Environmental Assessment Act* to harmonize CEAA 2012 and provincial EA requirements through this Joint Review Panel process. The provincial and federal Ministers also signed a Joint Review Panel Agreement to establish the JRP for the review and assessment of the Project, which was amended in January 2021, to resume the Joint Review Panel process for this Project.

2.2.1 Role of the Ministry of the Environment, Conservation and Parks

The Ministry of the Environment, Conservation and Parks (MECP) is responsible for administering Ontario's *Environmental Assessment Act*. MECP is the province's lead for coordinating the review of Generation PGM (the Proponent)'s Environmental Impact Statement (EIS), EIS Addendum, supporting materials, and the Panel Report. MECP is the provincial coordinator on most aspects of the JRP process except for Indigenous consultation for which NDMNRF is the lead.

Once the JRP issues the Panel Report, the provincial Minister, with the approval of the Lieutenant Governor in Council (LGIC), may decide whether to give approval to proceed with the Project with or without conditions, or may refuse to give approval to proceed. If approval to proceed is given, MECP will be responsible for permits and approvals that are required for the Project under the *Ontario Water Resources Act* and *Environmental Protection Act* (e.g. Permit to Take Water, Environmental Compliance Approval), as well as the *Endangered Species Act, 2007* (e.g. permits for activities that could impact an endangered or threatened species, like boreal caribou, or its habitat).

2.2.2 Role of the Ministry of Northern Development, Mines, Natural Resources and Forestry

The Ministry of Northern Development, Mines, Natural Resources and Forestry (NDMNRF) is responsible for providing input to the JRP on regulatory issues relating to mineral development under the *Mining Act*, as well as guidance around industry best practices and the socio-economic impact of the Project on both immediate communities and northwestern Ontario more broadly.

NDMNRF is the provincial Crown Consultation lead for Indigenous consultation for the life of the Project. If the provincial Minister, with the approval of the LGIC, gives approval to proceed with the Project under the *Environmental Assessment Act*, NDMNRF will be the provincial coordinator during the regulatory phase of the Project, which will involve coordination of consultation by provincial and federal ministries and agencies for post-EA permits and approvals. NDMNRF will also be responsible for the review of a certified Closure Plan per the requirements of O. Reg. 240/00 made under the *Mining Act*.

With respect to NDMNRF's mandated areas of responsibility for Natural Resources and Forestry, permits, authorizations and decisions are anticipated to be required for the Project, including, but not limited to, under the *Crown Forest Sustainability Act*, *Fish and Wildlife Conservation Act*, *Public Lands Act*, *Lakes and Rivers Improvement Act* and *Aggregate Resources Act*. NDMNRF participates in the Project's EA to provide input on its legislative and regulatory requirements. It relies, to the extent possible, on the EA process, Crown assessment of impacts on established or asserted s. 35 rights, Joint Panel Report and associated consultation record, to fulfill its consultation obligations to Indigenous communities. Should the subject of a required authorization and related information (e.g., off-set measures for fisheries, access upgrades, etc.) not be made available as part of the EA process, there may be a requirement for additional consultation with Indigenous communities whose established or asserted s. 35 rights may be adversely impacted at a later phase of the Project.

2.3 Crown Consultation Team

The CCT is coordinating consultation activities on behalf the whole-of-government, to the extent possible, to make best use of the EA process for the Project and in order to assist the Crown in fulfilling its duty to consult with Indigenous groups. In addition to the information received from Indigenous groups through consultation activities, the CCT will rely on the information collected by the JRP for the purpose of the EA in order to inform the Crown's assessment of potential impacts of the Project on established or asserted s. 35 rights. This assessment will be conducted in collaboration with the Indigenous groups consulted.

Many issues and concerns expressed by Indigenous groups extend beyond the mandate of any one single government department or ministry. Therefore, the governmental departments, agencies and ministries participating in the EA (government review team) are also subject matter experts during consultations. As such, this submission has been developed with input from the members of the government review team that have expertise or a regulatory

authority with respect to the Project. The Agency and MECP coordinate the review of materials and assists federal departments and provincial ministries in the consideration of potential impacts on established or asserted s. 35 rights in the context of their technical review related to environmental effects.

2.4 Mandate of the Government Review Team

The Government Review Team (GRT) provides support and information to the JRP by providing views and analysis, related to their mandate(s), regarding the Proponent's assessment of the potential environmental effects of the Project. The GRT consists of representatives from multiple provincial ministries and federal departments and who can contribute to the review of the environmental assessment.

The GRT also provides information to the Proponent related to their respective policies, guidelines and regulatory and legislative requirements related to the Project. The GRT can suggest modifications to the proposal to address environmental effects related to their respective mandates while ensuring consideration of the applicable legislation, regulations, and policies.

The GRT also assist the CCT by actively participating in consultation activities and in informing its assessment of the potential impacts of the Project on established or asserted s. 35 rights with its relevant expertise. The GRT was provided with an opportunity to review and provide input into this submission. Comments received have been integrated.

3.0 Mandate of the Joint Review Panel and Link to the Crown Consultation Team Submission

On December 17, 2021, the JRP sent a letter to the CCT, requesting that the Impact Assessment Agency of Canada (the Agency) participate in the public hearing in accordance with section 8.1 of the Amended Joint Review Panel Agreement and section 20 of the Canadian Environmental Assessment Act, 2012. On February 11, 2022, the CCT confirmed its intention to provide the JRP with a written submission by the prescribed deadline of February 25, 2022 and its intention to participate in the hearings.

The JRP is mandated to invite information from Indigenous groups related to the nature and scope of potential or established Aboriginal and Treaty rights in the area of the Project, as well as information on the potential adverse environmental effects that the Project may have on potential or established Aboriginal and Treaty rights. The JRP will use the information presented by participants in the EA process, such as Indigenous persons and the Government Review Team, which includes the CCT, to make recommendations, which relate to the manner in which the environmental effects of the Project may adversely impact potential or established Aboriginal and Treaty rights.

The federal Minister of Environment and Climate Change Canada will rely on the JRP's report, including its recommendations, when deciding if the Project is likely to cause significant adverse

environmental effects under subsection 52(1) of CEAA, 2012. The decision will take into account the implementation of any mitigation measures the Minister considers appropriate. The implementation of mitigation measures must be included as conditions in the federal Minister's decision statement, should the Project be allowed to proceed. With respect to Indigenous peoples, this includes measures related to an effect occurring in Canada of any change that may be caused to the environment on the health and socio-economic conditions, physical and cultural heritage, the current use of lands and resources for traditional purposes, or any structure, site or thing that is of historical, archaeological, paleontological or architectural significance as contemplated by paragraph 5(1) (c) of the CEAA, 2012. The Minister may find, in some cases, that mitigation measures for these environmental effects may also mitigate adverse impacts to potential or established Aboriginal and Treaty rights.

The provincial Minister of the Environment, Conservation and Parks (with approval of the Lieutenant Governor in Council) may give approval to proceed with the Project subject to conditions, or refuse to give approval to proceed with the Project. In making this decision, the provincial Minister must consider the purpose of Ontario's *Environmental Assessment Act*, the Panel Report, and other matters the Minister considers relevant to the decision.

The CCT's preliminary assessment of potential impacts from the Project on established or asserted s. 35 rights are based on the views shared by Indigenous groups. The CCT also sought the input from government review team members on potential impacts from the Project and the Proponent's proposed mitigation, enhancement and follow-up measures as it relates to established or asserted s. 35 rights in the preparation of this hearing submission. The information provided can further inform the JRP's rationale, conclusions and recommendations relating to the EA of the Project under CEAA 2012 to the decision-makers.

4.0 Indigenous Groups Involved in the Environmental Assessment

Eight (8) Indigenous groups have participated in the JRP process to date. This includes seven communities that Canada and Ontario have identified as having established or asserted s. 35 rights that could be adversely impacted by the Project. The following list is presented in alphabetic order:

- Biigtigong Nishnaabeg;
- Ginoogaming First Nation;
- Métis Nation of Ontario (Region 2);
- Michipicoten First Nation;
- Netmizaaggamig Nishnaabeg (Pic Mobert First Nation);
- Pays Plat First Nation; and
- Red Sky Métis Independent Nation.

The Jackfish Métis Association have also been an active participant in the process, sharing their views regarding the Project's potential impacts on their interests.

Eight (8) additional Indigenous groups have been provided with opportunities to participate in the EA process, but have either indicated that they did not wish to participate or have not responded to date. These include:

- Animbiigoo Zaagi'igan Anishinaabek First Nation;
- Bingwi Neyaashi Anishinaabek First Nation;
- Biinjitiwaabik Zaaging Anishinaabek First Nation;
- Fort William First Nation;
- Kiashke Zaaging Anishinaabek First Nation;
- Long Lake No. 58 First Nation;
- Red Rock Indian Band; and
- Whitesand First Nation.

The CCT continues to provide these eight groups with updates regarding EA milestones and opportunities to participate. The CCT remains open to receiving additional information from these groups and to conducting a preliminary assessment of impacts to established or asserted s. 35 rights, post-hearing.

5.0 Methodology for Assessing Impacts on Established or Asserted s. 35 Rights

An assessment of potential impacts on established or asserted s. 35 rights is a complex undertaking with considerable potential for variation. The methodology is intended to be flexible and to be adapted as needed, based on context. Each assessment of impacts on established or asserted s. 35 rights is unique, tailored to the particular Indigenous group and specific project. The consultation process aims to predict potential adverse impacts before they occur, and can identify potential positive outcomes, including measures that could improve the underlying baseline conditions supporting the exercise of a right. To be effective, the process requires ongoing information sharing and collaboration between the impact assessment practitioner and the Indigenous community. It is important to validate understanding and findings throughout the process. Within each step outlined below, there are sub-steps, and many of these sub-steps may need to be repeated.

The methodology has three main objectives:

- (1) collaborate with Indigenous groups to better understand how the Project may affect their established or asserted s. 35 rights, and share respective views with the JRP;
- (2) provide the JRP with an approach that it may consider in conducting its own assessment; and
- (3) to assist the Crown in upholding its legal obligation to consult and, where appropriate, accommodate potential adverse impacts of the Project on established or asserted s. 35 rights.

In collaboration with the Indigenous groups, the CCT applied Steps 1 through 4 of this methodology to conduct a preliminary assessment of potential impacts of the Project on the established or asserted s. 35 rights of Biigtigong Nishnaabeg, Ginoogaming First Nation, Métis Nation of Ontario (Region 2), Michipicoten First Nation, Netmizaaggamig Nishnaabeg (Pic Moberg First Nation), Pays Plat First Nation and Red Sky Métis Independent Nation. The application of the methodology is an iterative process, which involves re-visiting and validating information. The results of Steps 1 through 4 are provided in section 6.0. Steps 5-7, which includes the application of criteria to finalize the severity of impacts of the Project on established or asserted s. 35 rights will be informed the hearings and the release of the JRP's Report.

This exercise was also conducted to assess the potential impacts of the Project on the interests of the Jackfish Métis Association. The results of the analysis are provided in section 7.0.

The main steps of the methodology are summarized below:

Step 1: Identify and understand the established or asserted s. 35 rights of the Indigenous community

Identify and work together to understand the nature and content of the established or asserted s. 35 rights of the Indigenous group. Indigenous peoples are best placed to share their views regarding a project's impacts on their rights.

Step 2: Understand the context in which impacts on the established or asserted s. 35 rights would occur

Identify the environmental and socio-economic conditions that support the Indigenous group's meaningful exercise of established or asserted s. 35 rights.

Understand how historic, existing and reasonably foreseeable future activities have cumulatively affected or could affect the conditions that support or limit the Indigenous group's meaningful exercise of their rights.

Identify the importance of specific areas or locations that are important to the Indigenous group and may be impacted by the Project.

Step 3: Identify guiding values and topics (what to assess)

Indigenous groups may identify a set of priority values and topics associated with community well-being, cultural expression, and the preferred means of exercising their established or asserted s. 35 rights.

Step 4: Identify pathways of impact from the Project

Identify pathways from Project-related activities to the biophysical environment that supports the exercise of established or asserted s. 35 rights.

Identify other relationships between the Project and the conditions needed to exercise established or asserted s. 35 rights, such as access, quality, and quantity of resources, or the quality of experience of exercising those rights. Impacts to the exercise of those rights in preferred locations, at preferred times, and by preferred means should be assessed.

*Please notes Steps 5 through 7 will follow the hearings.

Step 5: Assess level of the impact

Establish clear criteria with consideration of input from the Indigenous group on what constitutes a low, moderate, or high level of impact.

Step 6: Dialogue on measures to address impacts

For impacts that are likely to occur, ensure that an iterative two-way dialogue takes place on measures proposed to address the impact.

Step 7: Validate and follow-up on assessment outcomes

As the EA process unfolds, these steps can be revisited and analysis can be revised based on new information and continued dialogue between all parties.

The CCT invited Biigtigong Nishnaabeg, Ginoogaming First Nation, Métis Nation of Ontario (Region 2), Michipicoten First Nation, Netmizaaggamig Nishnaabeg (Pic Moberg First Nation), Pays Plat First Nation and Red Sky Métis Independent Nation to discuss the appropriateness of applying this methodology. The CCT also invited Jackfish Métis Association to discuss the application of this methodology with respect to the interests and concerns of the community. To date, presentations from the CCT on the methodology have been delivered to all these Indigenous groups. The CCT will continue to discuss the appropriateness of the methodology in the context of the Project prior to the decisions required under CEAA 2012 and Ontario's *Environmental Assessment Act*.

Figure 1 shows an overview of the steps in the methodology.

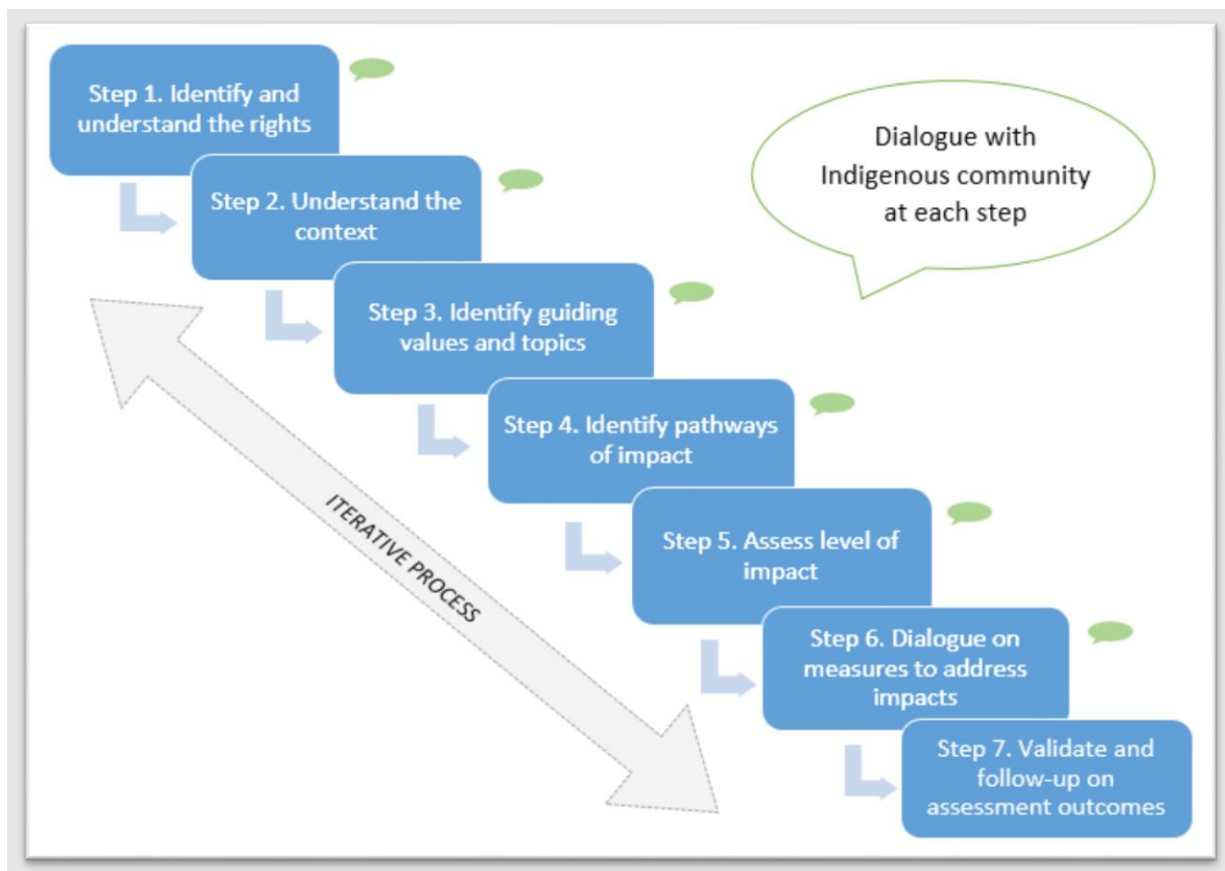


Figure 1: Overview of the Steps in the Methodology. Source: Guidance: Assessment of Potential Impacts on the Rights of Indigenous Peoples - Canada.ca

Source: [Guidance: Assessment of Potential Impacts on the Rights of Indigenous Peoples - Canada.ca](https://www24.international.gc.ca/indigenous-peoples-autochtones/indigenous-peoples-autochtones-eng.aspx)

The rights, values, and concerns addressed hereafter are integral to determine the proposed Projects potential impacts on communities established or asserted s. 35 rights or interests. The methodology of the consultation process has been applied for steps one though four, including the identification and understanding of rights, context pertinent to each right, guiding values and topics for each, and the pathways of impacts.

At the time of this report submission, the CCT is at step 5 of the methodology. The CCT has established a preliminary assessment of severity of the impacts as they pertain to each community. The criteria used to identify the level of impact includes input from federal departments, provincial departments and relevant Indigenous communities. The level of severity of impact for each impacted right/value could change as additional information is presented throughout the remaining steps of the Joint Review Panel hearings and continued engagement and consultation with Indigenous communities take place.

Once validated by relevant parties the final level of severity of impacted right/value is identified. The CCT will continue to develop and finalize the suggested measures to address impacts using a whole-of-government approach. Complementary measures, which could include actions of the Crown, may be suggested to address outstanding concerns which the Proponent cannot directly address. Final validation and follow-up on the assessment outcomes takes place in consultation with Indigenous communities prior to completing the evaluation and finalizing all conclusions about severity of impacts. The validation is intended to strengthen the analysis and improve the accuracy of conclusions and measures suggested.

6.0 Preliminary Assessment of Potential Impacts on Established or Asserted s. 35 Rights

Using the methodology described above, this section provides a preliminary assessment of the potential impacts of the Project on the established or asserted s. 35 rights of Biigtigong Nishnaabeg, Pays Plat First Nation, Netmizaaggamig Nishnaabeg (Pic Moberg First Nation), Métis Nation of Ontario, Red Sky Métis Independent Nation, Michipicoten First Nation and Ginoogaming First Nation.

The preliminary assessment is based on information provided by Indigenous groups to date through consultation activities, which articulate the communities' views regarding the Project's potential impacts to the exercise of rights. The CCT has worked together with all Indigenous groups consulted to identify and understand the nature and content of the established or asserted s. 35 rights and values of the communities as they are best placed to share their views regarding a project's impacts on rights or values.

Based on information provided and discussions with the Indigenous groups consulted, the Crown has identified the key rights and/or values that could be potentially impacted by the Project to be assessed. The preliminary assessment on these rights and/or values is included in this document. The preliminary assessment endeavored to identify pathways from Project-related activities to the biophysical environment and the conditions needed to exercise rights, such as access, quality, and quantity of resources, or the quality of experience that supports the exercise of rights.

The final assessment of the severity of impacts on rights will be informed by the information shared during the hearings, by the findings in the JRP's Report and through continued consultation activities with Indigenous groups up to the time of the EA Decision. The final assessment will apply the criteria for assessing the severity of these impacts. This will follow the JRP Report. The CCT will continue to work with Indigenous groups to further support the assessment of impacts.

The JRP may also wish to consider this information to the extent it applies to the context of, the environmental effects of a designated Project listed in Section 5 (1)(c) of CEAA 2012 which includes:

- a. with respect to aboriginal peoples, an effect occurring in Canada of any change that may be caused to the environment on
 - i. health and socio-economic conditions,
 - ii. physical and cultural heritage,
 - iii. the current use of lands and resources for traditional purposes, or
 - iv. any structure, site or thing that is of historical, archaeological, paleontological or architectural significance.

It must be noted that the Crown Consultation Team's Preliminary Assessment on Impacts to Rights and Interests, including the identification of key values to assess the seriousness of potential Project related impacts, is **based on the Crown's understanding as developed through consultation to date**. The Crown has sought and will continue to seek input from Indigenous groups to review and modify any characterization throughout this assessment to ensure it accurately portrays potential impacts, any additional impacts that may be identified, as well as the views of communities on these matters. **The Crown would like the final assessment of the severity of impacts on rights and interests to be collaborative in nature.**

6.1 Biigtigong Nishnaabeg First Nation

6.1.1 Introduction to Biigtigong Nishnaabeg First Nation

The information Biigtigong Nishnaabeg has submitted on the JRP record and shared with the Crown through consultation meetings regarding their established or asserted s. 35 rights and values potentially impacted by the Project form the basis of the Crown's understanding of the context in which impacts on Biigtigong Nishnaabeg's s. 35 rights would occur.

The CCT met with Biigtigong Nishnaabeg sixteen times between August 2020 and February 2022, three of those meetings were in person. The community submitted the following on the registry:

1. Regarding the Project [CIAR #714](#) on October 28, 2020;
2. Comments on the re-establishment of the JRP [CIAR #715](#) on October 30, 2020; and
3. Comments on the JRP hearing procedures [CIAR #945](#) on October 25, 2021.

This submission was shared with Biigtigong Nishnaabeg on February 11, 2022 for validation and comment. Biigtigong Nishnaabeg provided comments from February 18-19, which included re-drafting their sections that describe the community and its views. This new content has been included in full in this document; meaning it is represented below in their direct words. The content provided by Biigtigong Nishnaabeg does not necessarily reflect the views of Canada or Ontario.

6.1.1.1 Overview¹

Biigtigong Nishnaabeg is translated to “the place where the river erodes”. The term describes the unceded Aboriginal title lands on which the community is located.

Biigtigong Nishnaabeg is an “Indigenous governing body” as defined by section 2(1) of the *Impact Assessment Act, 2019*; an “aboriginal people” as that term is used in section 35(2) of the *Constitution Act, 1982*, and an “Indian Band” as defined by section 2 of the *Indian Act, RSC 1985*.

Biigtigong Nishnaabeg is a progressive and prosperous First Nation with a strategic vision that aims to preserve and continue its cultural traditions. Biigtigong Nishnaabeg honours the traditional values of its ancestors while seizing on opportunities for economic development and environmental stewardship.

As a progressive First Nation, Biigtigong Nishnaabeg has shown significant achievements in economic development and has capitalised upon opportunities within the renewable energy

¹ Please note that the text included in sections 6.1.3 to 6.1.5 has been provided directly by Biigtigong Nishnaabeg. Subsequent sections in this document that have been drafted by Biigtigong Nishnaabeg will be identified as follows: *This Represents the Views of Biigtigong Nishnaabeg*

sector. Members of Biigtigong Nishnaabeg are employed in sectors ranging from administration, health and social services, to energy, mining, construction, and forestry.

As a community with active mining and forestry interests, Biigtigong Nishnaabeg takes a proactive approach when dealing with resource development happening within its traditional territory. It has developed a *Consultation and Accommodation Law* (2008), and has built meaningful and mutually beneficial partnerships and relationships with Proponents in the mining industry.

6.1.1.2 Demography

Biigtigong Nishnaabeg is a vibrant and developing community with a growing population. Biigtigong Nishnaabeg has approximately 1,200 members. Of those members, approximately 822 are of working age between the ages of 18 and 65, providing significant workforce potential. Seventy-three percent (73%) of those members, or approximately 596 members, live off-reserve whereas 226 members live on-reserve.

As will be discussed later, the community's on-reserve population is expected to rapidly grow due to the return of off-reserve members to the community as a result of the Project.

6.1.1.3 Location

Biigtigong Nishnaabeg is located off the TransCanada Highway 11/17 on highway 627, along the northern shores of Gchi-gamig (Lake Superior). The reserve land is 332.7 hectares (822 acres or 1.28 square miles) in size.

The proposed Project falls directly within Biigtigong Nishnaabeg's Exclusive Title Area. Within this area, the community, and its members, assert Aboriginal rights and interests, including the rights that flow from the community's assertion of Aboriginal title. The Project is located adjacent to the Biigtig Zibi (Pic River), which Biigtigong Nishnaabeg regards as a sacred River. The Biigtig Zibi (Pic River) flows past the community's reserve.

The Project is also located within Biigtigong Nishnaabeg's community-held trapline (TR022), a trapline whose registration is connected through patrilineage, as recorded through genealogy, directly back through the heads of the Moses family, a prominent Biigtigong family.

Biigtigong Nishnaabeg is located approximately 9 kilometers from the Project site. The overwhelming majority of the Project's impacts are expected to fall within the Exclusive Title Area of Biigtigong Nishnaabeg.

6.1.2 Biigtigong Nishnaabeg Expectations about Consultation

6.1.2.1 Perspective on Section 35 Rights

6.1.2.1.1 Overview

Biigtigong Nishnaabeg is not a signatory to the Robinson Superior Treaty of 1850 and has filed a claim for Aboriginal title in the Ontario Superior Court of Justice.

Biigtigong Nishnaabeg first gave the Crown notice of its assertion of Aboriginal title in 1982; both it and the federal and Ontario Crowns have been in ongoing negotiations since 2016. On December 16th, 2020, Ontario informed the public that Canada and Ontario have commenced separate Aboriginal title claim settlement negotiations with Biigtigong Nishnaabeg and Netmizaaggamig Nishnaabeg. There have been no other announcements regarding Aboriginal Rights and Title settlement negotiations with other First Nations in the area.

Since December 2020, the Ontario Ministry of Northern Development, Mines, Natural Resources and Forestry has placed and kept a “notice of caution” on the Mining Lands Administration System. Through that notice of caution, prospectors are notified that there may be heightened Crown consultation and accommodation obligations for future exploration, development and related activities on certain lands claimed by Biigtigong Nishnaabeg, among other communities.

The Ministry has also begun the process of withdrawing lands located within the Biigtigong Nishnaabeg Aboriginal Title and Aboriginal Rights Area (or “ATARA”) from being available for registration of new mining claims.

[6.1.2.1.2 Standard of Required Consultation and Accommodation](#)

Biigtigong Nishnaabeg notes, citing the preamble of the *United Nations Declaration on the Rights of Indigenous Peoples Act*, that the *United Nations Declaration on the Rights of Indigenous Peoples* exists as a source for the interpretation of Canadian law.

Accordingly, Biigtigong Nishnaabeg has asserted its requirement for a consent-based standard of consultation in conformity with the *United Nations Declaration on the Rights of Indigenous Peoples* and judicial interpretations of section 35(1) of the *Constitution Act, 1982* particularly the decisions of the Supreme Court of Canada in *Haida Nation* and *Tsilhqot'in*.

[6.1.3 Biigtigong Nishnaabeg First Nation on the Definition of Environment](#)

Biigtigong Nishnaabeg has advocated for a holistic and purposive interpretation of environmental effects within a worldview that does not draw an artificial distinction between the natural environment and humanity’s role within it.

In its registration document ([CIAR #1048](#)), Biigtigong Nishnaabeg noted that the Project is undergoing a review pursuant to the *Canadian Environmental Assessment Act, 2012* (“CEAA 2012”).

Under CEAA 2012, “environment” is defined as follows:

environment means the components of the Earth, and includes

- land, water and air, including all layers of the atmosphere;
- all organic and inorganic matter and living organisms; and

- the interacting natural systems that include components referred to in paragraphs (a) and (b).

Additionally, Biigtigong Nishnaabeg notes that “environmental effects” referred to those effects in areas of federal jurisdiction as described in section 5 of CEEA 2012, including:

- effects on fish and fish habitat, shellfish and their habitat, crustaceans and their habitat, marine animals and their habitat, marine plants, and migratory birds;
- effects on federal lands;
- effects that cross provincial or international boundaries;
- effects of any changes to the environment that affect Aboriginal peoples, such as their use of lands and resources for traditional purposes; and
- changes to the environment that might result from federal decisions as well as any associated effects on health, socio-economic conditions, matters of historical, archaeological, paleontological or architectural interest, or other matters of physical or cultural heritage.

Finally, Biigtigong Nishnaabeg noted that the Amended and Restated Agreement to Re-establish a Joint Review Panel for the Marathon Palladium Project ([CIAR #730](#)) defined the “environment” as including:

- 1) air, land or water,
- 2) plant and animal life, including human life,
- 3) the social, economic and cultural conditions that influence the life of humans or a community,
- 4) any building, structure, machine or other device or thing made by humans,
- 5) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from human activities, or
- 6) any part or combination of the foregoing and the interrelationships between any two or more of them.

While the above definitions consider “all organic and inorganic matter and living organisms”, as well as the “associated effects on health [and] socio-economic conditions”, and “the social, economic and cultural conditions that influence the life of humans or a community”, Biigtigong Nishnaabeg asserts that the impact assessment process, and consultation process, has to-date followed an unduly narrow understanding of the environment which has limited the consideration of environmental effects to the purely scientific rather than holistic. Biigtigong Nishnaabeg asserts a profound relationship with its lands and waters is rooted in respect for the spiritual value of the Earth and the gifts of the Creator. Biigtigong Nishnaabeg desires to preserve and maintain this relationship.

As an unduly limited interpretation of CEAA 2012 could impact Biigtigong Nishnaabeg's Aboriginal rights, including its Aboriginal title rights, Biigtigong Nishnaabeg encourages the Crown to adopt a holistic interpretation of the term "environment" that considers the entire context, scheme, and object of relevant statutes.

So doing, Biigtigong Nishnaabeg holds, would also allow the Crown to act in conformity with the requirements of the Supreme Court of Canada's as described in *Nowegijick*. In that decision, the Court noted that "... statutes relating to Indians should be liberally construed and doubtful expressions resolved in favour of the Indians." As described by the *Mitchell* decision, another case decided by the Supreme Court of Canada, "Underlying *Nowegijick* is an appreciation of societal responsibility and a concern with remedying disadvantage, if only in the somewhat marginal context of treaty and statutory interpretation." A broad reading of "environment" and "environmental effects", Biigtigong Nishnaabeg holds, would not only better allow the Crown to fulfill its assessment on rights, but also fulfill the interpretative requirements described by the Supreme Court of Canada.

Biigtigong Nishnaabeg accordingly expects the Crown to adopt a holistic and living consideration of the environment as inclusive of not only natural environmental elements but also of past, present, and future humans and human activities. This broader view, Biigtigong Nishnaabeg holds, will allow the Crown to better understand, and consequently, meaningfully address the potential impacts of the Project on its unceded Aboriginal title rights.

6.1.4 Biigtigong Nishnaabeg Views on the Relationship of the Proponent and Crown Consultation Team

6.1.4.1 *Biigtigong Nishnaabeg and the Proponent*

Biigtigong Nishnaabeg believes that GenPGM is committed to mitigating the Project's impacts.

Biigtigong Nishnaabeg also believes that the Project could benefit Biigtigong Nishnaabeg by providing it with jobs and economic opportunities.

In a joint letter, to the panel sent in September of 2021, GenPGM recognized that Biigtigong Nishnaabeg is not a signatory to the Robinson Superior Treaty of 1850 and that Biigtigong Nishnaabeg has filed a claim for Aboriginal title in the Ontario Superior Court of Justice. GenPGM also recognized that the Project fell within the area of Biigtigong Nishnaabeg's exclusive Aboriginal title jurisdiction. GenPGM also acknowledged that Biigtigong Nishnaabeg is committed to working with industry and third parties within its territory to meaningfully address their interests.

Biigtigong Nishnaabeg and GenPGM have signed several documents, including an Agreement-in-Principle and a Memorandum-of-Agreement. They are currently negotiating a Community Benefits Agreement, or CBA. The provisions of the CBA are expected to address some issues of environmental management and mitigation measures.

However, neither GenPGM nor Biigtigong Nishnaabeg believe it is GenPGM's sole responsibility to remedy the cumulative socio-economic impacts that the Project have on Biigtigong Nishnaabeg's community or Aboriginal title territory. As noted in their joint public letter, neither Biigtigong Nishnaabeg nor GenPGM feel that Crown should delegate exclusive responsibility for pre-existing issues and concerns which are under the Crown's jurisdiction to GenPGM.

To this, Biigtigong Nishnaabeg notes that it is not for the Proponent to offset all of the environmental effects of the Project.

6.1.4.2 Biigtigong Nishnaabeg and the Crown Consultation Team (CCT)

As described above, Biigtigong Nishnaabeg expects the Crown to conduct consultation and accommodation to a "consent-based" standard regarding activities occurring within, or that will have the potential to adversely affect, the exercise of Biigtigong Nishnaabeg's Aboriginal title rights within its territory.

As applied to the Project, Biigtigong Nishnaabeg believes that policies of systemic racism that the Crown has, through years of action including Indian Residential Schools, the *Indian Act*, and other colonial policies and legislation, aided and encouraged will exacerbate most, if not all, of the socio-economic impacts of the Project.

Accordingly, Biigtigong Nishnaabeg expects the Crown, in discharging its obligations of consultation and accommodation, to honour the content and spirit of the Prime Minister's December 16th 2021 Mandate Letters, addressed to Ministers, and which have as their goal the rectification of the impacts of the Crown's historically racist and colonial policies against First Nations. Among these letters and within the context of the impacts to the Projects discussed in more depth below, Biigtigong Nishnaabeg expects Crown agencies to:

- "implement the *United Nations Declaration on the Rights of Indigenous Peoples* and to work in partnership with Indigenous Peoples to advance their rights."
- "expedite investments in Indigenous housing and infrastructure.
- recognise the importance role of the "right to a healthy environment", and to meaningfully engage, and address, of the link between race, socio-economic status and exposure to environmental risk, and to chart collaborative strategies in conjunction with Indigenous communities; and
- make immediate and long-term investments to support ongoing work to close the infrastructure gap between indigenous and non-indigenous communities.

While these are federal mandate letters, Biigtigong Nishnaabeg calls on, and expects, the Provincial Crown to support the spirit and intent of these mandates.

6.1.5 Biigtigong Nishnaabeg Perspective on Impacts

The location of the Project within Biigtigong Nishnaabeg's Exclusive Aboriginal Title Area and its proximity to Biigtigong Nishnaabeg's reserve means that the Project will adversely impact the continued exercise of Biigtigong Nishnaabeg's Aboriginal title rights and interests.

The ancestral territory and lands of Biigtigong Nishnaabeg, which overlap entirely with the Project's footprint, are rich in water resources, including the Biigtig Zibi (Pic River), which flows towards and through the community's reserve. The community continues to rely on these water resources for traditional and current uses. The health of community members and the environment, and the community's economic prosperity, depends on them.

Members of Biigtigong Nishnaabeg have exercised, and continue to exercise, the community's Aboriginal title rights near the Project area through trapping, harvesting, gathering, fishing and ceremony. To do so, they use historic and family-based travel and access routes, and hunt camps. Members of Biigtigong Nishnaabeg share cultural knowledge and practices through community teaching and knowledge transmission activities. Historically, mining exploration and projects have fundamentally reduced Biigtigong Nishnaabeg's access and ability to exercise its Aboriginal Title rights and interests across both its Exclusive and Shared Title Areas. Biigtigong Nishnaabeg predicts that the Project will further compound these issues.

6.1.6 Preliminary Assessment of Potential Impacts to Biigtigong Nishnaabeg Established or Asserted s. 35 Rights Associated with the Aquatic Environment

6.1.6.1 Potential Impacts to Biigtigong Nishnaabeg Established or Asserted s. 35 Rights Associated with the Aquatic Environment- This Represents the Views of Biigtigong Nishnaabeg

After careful consideration and analysis of the information presented to-date regarding the Project, it is Biigtigong Nishnaabeg's assessment that changes to the aquatic environment resulting from the Project will have a **HIGH impact** on the ability of Biigtigong Nishnaabeg to exercise their Aboriginal Title rights and interests.

6.1.6.1.1 Aquatic Environmental Values

The Project is immediately adjacent to the Biigtig Zibi (Pic River), a key natural resource for Biigtigong Nishnaabeg members, and only a short distance upstream of Biigtigong Nishnaabeg's reserve lands and community. As such Biigtigong Nishnaabeg members will be particularly impacted by any contaminant discharges or other environmental impacts from the Project. Throughout the assessment of this Project, Biigtigong Nishnaabeg has presented to both the Proponent and the Crown substantial information regarding their interests and concerns regarding effects to the aquatic environment, including specific waterbodies and fish and fish habitat. Waterbodies of specific concern to Biigtigong include the Biigtig Zibi (Pic River), Hare Lake, Bamooos Lake, Angler Creek, and Lake Superior. Biigtigong Nishnaabeg has also identified species of concern to the community including Lake Trout, Cisco, Splake, Walleye, Yellow Perch, Northern Pike, and Lake Sturgeon.

The deep importance of water and specifically the Biigtig Zibi (Pic River) to the community is well understood. As Biigtigong Nishnaabeg advised the CCT on February 25, 2021:

“Historically, that river has always been a part of us. One elder that passed, used to tell us it’s our highway. We still use for fishing and hunting, canoe trips to talk to high school students about history. It is still a big part of us. Trying to get a new water source is very hard to find should [Pic River] become contaminated. There are stories that come from the river. Decades ago, our water came from Black River, but we had to move to bottled water when tailings impoundment from other mining project failed, as wells had not been dug yet.

From a woman’s and Indigenous perspective, women are keepers and protectors of the water. Water is gold to us and significant to our way of life. An Elder referred to Lake Superior as the heart of Turtle Island, the tributaries are the veins, and the land is the body of Mother Earth. [Water] is a source of powerful teachings, brings true to the heart of who we are, and we have to protect major rivers, not just Pic River. The land claim is trying to protect those rivers, which are so critical to Biigtigong Nishnaabeg. No one else seems to see that because the province has minimal withdrawals and forestry cut close to rivers. Biigtigong Nishnaabeg wants to see cuts at least 1 kilometer from the river instead.”

The proceeding provides examples of the aquatic environmental values and interests of Biigtigong Nishnaabeg, but the values identified here are by no means a complete or exhaustive representation of the breadth and depth of Biigtigong’s connection to or interaction with the aquatic environment. As noted in the subsequent section on the terrestrial environment, it must be recognized that the traumas of past governmental policies and practices, including the Residential School System, severed or fractured Biigtigong’s relationship with the land and waters. Biigtigong Nishnaabeg, like so many Indigenous Nations across this land, is in the process of healing from these traumas and is embarking on efforts to mend that broken relationship and re-establish its cultural values and connections to the land and waters.

6.1.6.1.2 Aquatic Environmental Impacts

Biigtigong Nishnaabeg relies on the aquatic environment, including waterbodies and water resources and fish and fish habitat, for the exercise of their Aboriginal Title rights and interests and to transmit cultural knowledge to younger generations. The community relies on water resources for cultural and spiritual connectivity and for the harvesting of fish, and as habitat for important species like Lake Sturgeon and Muskellunge. Stream 6 (Angler Creek) is a culturally important river for community members. The river is actively harvested for fish from the mouth near Lake Superior and its waters near Sturdee Cove. A reduction in flow and impacts to salmonid productivity in this river because of the Project would be unacceptable to Biigtigong

Nishnaabeg, as this would impact their ability to harvest fish within such close proximity to their community, within their asserted title area.

Biigtigong Nishnaabeg has raised several technical concerns regarding the Proponent's information presented to-date, several of the proposed Project processes, and potential Project effects. Of primary concern is any effects or changes to the Biigtig Zibi (Pic River) due to its cultural significance and its significance for the exercise of rights. Specifically, the community has commented on the current design for passive water management post-closure, including the central pit lake discharging water to the north pit. The north pit will discharge passively to the Biigtig Zibi (Pic River), with the discharged water flowing through and underneath the Mine Rock Storage Area and into stream 103 before reaching the Biigtig Zibi (Pic River). Biigtigong Nishnaabeg has continually stated that any discharge to the Biigtig Zibi (Pic River) is considered unacceptable to the community and would result in significant impacts to their Aboriginal title rights and interests.

Additionally, the Nation has concerns that baseline data is outdated or absent and feels that updated data is required to fully assess impacts. For example, the Proponent has indicated that no water quality sampling events have occurred on Bamoos Lake since 2010 and Hare Lake since 2013. Biigtigong Nishnaabeg is similarly concerned with the outdated pre-disturbance fisheries data for impacted sub watersheds of the Biigtig Zibi (Pic River), specifically sub watersheds 101, 102, and 103. The Proponent states that intensive fish surveys were completed up until 2011; however, no further fisheries surveys have been conducted. Considering that Bamoos Lake is culturally important to Biigtigong Nishnaabeg and is considered by community members to be one of the more pristine lake trout lakes in the area, and that Hare Lake is the proposed receiver of the Process Solids Management Facility effluent, and that areas of sub watersheds 101, 102 and 103 will be overprinted by mine infrastructure, the gap in water quality and fish and fish habitat data presents a concern in being able to assess Project induced effects on these water bodies and associated impacts to Biigtigong Nishnaabeg's Aboriginal Title rights and interests.

Biigtigong has noted as well that the Proponent's effects assessment for fish and fish habitat omitted several effects and measurable parameters that are commonly used to assess impacts from mining developments. The community is concerned that effects to fish and fish habitat may arise through sub-lethal effects to fish resulting from contaminants of potential concern, changes to water quality parameters that influence fish habitat, alterations to stream morphology and riparian habitat, and changes to the primary productivity of waterbodies.

Mercury and methylmercury are major concerns for Biigtigong Nishnaabeg. Biigtigong Nishnaabeg is concerned that Project-related effects (e.g., effluent discharge to Hare Lake stimulating the growth of iron-reducing and sulphur-reducing bacteria, changes to the trophic relationships of aquatic communities increasing biomagnification rates, eutrophication, etc.) may contribute to the concentration of mercury in fish tissue, particularly in Hare Lake, Stream 6 (Angler Creek), and the Biigtig Zibi (Pic River). These three waterbodies are important to the

community and represent areas where community members currently harvest fish, though this does not imply that other waterbodies impacted by the Project are not of importance to the community. Biigtigong Nishnaabeg has zero tolerance for the Project to increase the rate of mercury methylation in any Project-affected waterbodies beyond the already high concentrations observed in baseline studies. Ecological impacts and human health implications from consuming contaminated fish and local country foods, is incredibly concerning to Biigtigong Nishnaabeg and could have profound impacts on the community's wellbeing and the ability to exercise their rights.

The issues of mercury and methylmercury and contamination of fish and local country foods could result in psychosocial impacts to Biigtigong, as fear of consumption of contaminants could result in community members refraining from fishing or consuming fish or other traditional food sources. This would result in economic impacts, as more community members turn instead to purchased foodstuffs from grocery stores. Health and dietary impacts would be experienced if community members replaced local country foods with non-traditional and potentially highly processed or unhealthy foods. Cultural, mental, and emotional impacts would also result from community members avoiding traditional fishing practices due to perceived health risks.

Biigtigong Nishnaabeg remains concerned about the potential long-term effects of using poorly studied flotation reagents in the processing facility, and the unknown risk that these reagents pose to fish and other wildlife consumed in their Title Area.

The Proponent plans to place a soil and vegetative cover over the Process Solids Management Facility as part of site closure measures. Runoff from the facility will be directed to Angler Creek. Biigtigong members use Angler Creek for fishing and recreational purposes. Biigtigong recognizes that the Proponent will design the facility to minimize the risk of contaminant remobilization, but the Nation has concerns that the Process Solids Management Facility will be a permanent feature of Biigtigong Nishnaabeg's Exclusive Title Area in perpetuity, along with the associated long-term environmental risks from the facility. Biigtigong Nishnaabeg are not willing to consent to this facility being constructed in their Title Area without a high level of certainty that the Proponent will design the facility to be stable for the long term, and that the contaminants contained within the facility will not be remobilized through surface or groundwater. This important cultural area must be protected and usable for future generations without risk.

Biigtigong also notes that the Proponent will be constructing the Process Solids Management Facility within 5 kilometers of Lake Superior. Any catastrophic dam failures on the western and southern sides of the Process Solids Management Facility could result in a process solids release into Lake Superior. Dam breaches on the southeast side of the Process Solids Management Facility could overwhelm the water management pond, stormwater management pond and result in process solids being released into the Biigtig Zibi (Pic River). Any dam failure during construction, operations, closure, or post-closure resulting in process solids being released to

Lake Superior or the Biigtig Zibi (Pic River) would be an immense and profound tragedy with severe impacts on rights and interests that Biigtigong Nishnaabeg insist the Proponent cut no corners to prevent.

Regarding cumulative effects on the aquatic environment and on Biigtigong Nishnaabeg’s ability to continue to exercise their rights now and in the future, Biigtigong Nishnaabeg notes that the Proponent has not included the GECO mine or the Hemlo gold mine camp as activities with potential to cause cumulative effects. Both mines are within the Black River watershed, which meets the Biigtig Zibi (Pic River) in Biigtigong Nishnaabeg’s reserve lands. Both mines have the potential to cause downstream effects that could have cumulative effects from anticipated or unforeseen discharges from the Project to the Biigtig Zibi (Pic River). These cumulative effects could come from uncontrolled discharge of contaminants from either mine, as has previously occurred with cyanide spills from Hemlo. The Project may also have cumulative impacts to water quality and quantity and fish and fish habitat related to future mineral exploration activities and the Peninsula Harbour Remediation Project, which the Proponent has not included.

Biigtigong Nishnaabeg continues to experience pressure from ongoing mineral exploration in their Exclusive Title Area, including exploration work in the immediate proximity of the Biigtig Zibi (Pic River) within the Local and Regional Study areas. The Peninsula Harbour Remediation Project, which has been implemented but is still in recovery, is downstream of the mine site and cannot be considered in isolation from the mine.

The CCT notes that several of the technical concerns that have been raised by Biigtigong Nishnaabeg have been echoed by DFO, ECCC, HC, NDMNRF, and MECP throughout the impact assessment process.

[6.1.6.1.3 Mitigation and Accommodation for Aquatic Environmental Impacts](#)

Biigtigong Nishnaabeg notes the impacts to the aquatic environment, water resources, and fish and fish habitat must be mitigated and impacts to Biigtigong’s rights should be accommodated appropriately. The below tables identify a few examples of the critical measures that Biigtigong Nishnaabeg feels must be undertaken by the Proponent and the Crown, as appropriate, to ensure impacts are lessened, so that Biigtigong Nishnaabeg can continue to exercise their rights over the long-term.

Table 6.1

Biigtigong Nishnaabeg’s List of Required Proponent Mitigations Associated with Aquatic Environmental Impacts	
Issue	Mitigation

<p>Concern about potential reduction in flow and impacts to salmonid productivity in Stream 6 (Angler Creek).</p>	<p>Supplement flow to Stream 6 until the Process Solids Management Facility is reclaimed and baseline flows restored.</p>
<p>Concern about plans for the north pit to discharge passively to the Biigtig Zibi (Pic River), with the discharged water flowing through and underneath the Mine Rock Storage Area and into stream 103 before reaching the Biigtig Zibi (Pic River).</p>	<p>All Pit Lake discharges (and any other Project-related discharges) must be directed away from the Biigtig Zibi (Pic River).</p>
<p>Concerns regarding outdated or absent baseline data for water quality and fish and fish habitat, in particular outdated pre-disturbance fisheries data for impacted sub watersheds of the Biigtig Zibi (Pic River), specifically sub watersheds 101, 102, and 103 and lack of additional intensive fish surveys.</p>	<p>Additional up-to-date data be collected to adequately characterize impacts to water quality, water resources and fish and fish habitat, specifically for the Biigtig Zibi (Pic River), specifically sub watersheds 101, 102, and 103.</p>
<p>Concerns around omission of several effects and measurable parameters that are commonly used to assess impacts from mining developments to fish and fish habitat such as potential sub-lethal effects to fish resulting from contaminants of potential concern, changes to water quality parameters that influence fish habitat, alterations to stream morphology and riparian habitat, and changes to the primary productivity of waterbodies.</p> <p>Concerns around mercury and methylmercury.</p> <p>Concerns about the potential long-term effects of using poorly studied flotation reagents in the processing facility, and the unknown risk that these reagents pose to fish and other wildlife consumed in their Title Area.</p>	<p>Efforts must be undertaken to heighten the water quality treatment parameters, including mercury and methylmercury. Biigtigong Nishnaabeg must be engaged in water quality and aquatic monitoring throughout the life of the mine and through closure, including the development of adaptive management measures and associated triggers.</p> <p>The community must be engaged in community programs for fish and fish habitat offsetting as part of the Fish and Fish Habitat Offsetting and Compensation Plan.</p>
<p>Concern over the Process Solids Management Facility, and that the contaminants contained within the facility will not be remobilized through surface or groundwater.</p>	<p>Enhanced water management processes are required for the Process Solids Management Facility, including commitments for closed loops systems.</p>

Concerns regarding potential catastrophic dam failures on the western and southern sides of the Process Solids Management Facility.	Establishment of an Independent Tailings Review Board and that the community be engaged in this effort. Proponent should commit to sharing their third-party Dam Breach Assessment with the Nation.
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Please note that Biigtigong Nishnaabeg’s list of proposed Crown Accommodations or mitigation measures associated with Aquatic Environmental Impacts is included *Table 6.2* which can be found in the CCT views section.

6.1.6.1.4 Summary of the Proponent’s Assessment on Aquatic Environmental Impacts

The Proponent acknowledges in Section 6.12 of the EIS that through several meetings and discussions (see Record of Consultation ([Appendix C of this EIS Addendum \[Vol 2\]](#))), Biigtigong Nishnaabeg specifically pointed to alienation of their traditional land, what they assert as their exclusive traditional territory, and recognizes the effects of various past and present projects and activities has occurred, and will likely continue to occur in the future, independent of (i.e., with or without) the Project.

The Proponent acknowledged that Biigtigong Nishnaabeg are the most proximate Indigenous community to the Project location, with their community located down river of the Project site on the bank of Pic River. The Proponent noted that water and waterways are spiritually and culturally important and play a vital role in the health and cultural identity of Biigtigong Nishnaabeg.

The Pic River flows along Site Study Area (SSA) to the reserve base of Biigtigong Nishnaabeg and has played a critical role for travel, fishing and supply of drinking water and is culturally and spiritually significant to the community and its overall health.

The Proponent noted that Biigtigong Nishnaabeg provided comments regarding groundwater wells and surface water quality, use of water for human consumption from Pic River at the outlet at Lake Superior, Angler Creek and Hare Creek. The Proponent also noted that Biigtigong Nishnaabeg requested to be included in a fish tissue sampling in the monitoring programs for human and ecological health consumption limits, with mention of Pic River and Hare Creek. The Proponent provided a consideration of Project related effects to fish tissue concentrations and human consumption in Section 6.2.10 of this EIS Addendum (Vol 2).

In the assessment presented in [Section 6.2.12](#) of the EIS, the Proponent indicated no Indigenous, recreational, or commercial fishery has been identified in the SSA. The primary adverse residual effect resulting from direct physical HADD (harmful alteration, disruption or destruction) is through direct overprinting of fish habitat by mine infrastructure within SSA. However, no direct Project effect is predicted in areas used for fishing by Indigenous peoples, as such activities are largely focused on locations outside of the SSA (i.e., Bamooos Lake, Hare Lake,

and the lower reaches of its outlet creek, as well as Lake Superior (near shore area) including the lower reaches of Stream 6 (Angler Creek) and the Pic River. Indirect effects to water quality and quantity are predicted to remain below criteria for the protection of aquatic biota (see [Section 6.2.3 of this EIS Addendum \[Vol 2\]](#)).

The primary means of mitigation will be through avoidance and management of water quality. The secondary means is through the implementation of fish habitat offsetting in consultation with DFO and other interested parties. As the Proponent updated fish offsetting plan, it has been determined that 12.33 ha of fish habitat will be impacted by the Project, which is the minimum area of offset that will be required. [Section 6.2.4.6 of this EIS Addendum \(Vol 2\)](#) includes an assessment of Project residual effects on fish and fish habitat, which are applicable to assessing a change to traditional fish harvesting.

The access road will require the installation of three crossings of tributaries of subwatershed 101. In addition, a road and pipeline crossing will be necessary at subwatershed 106 immediately west of the Process Solids Management Facility (PSMF) for the Hare Lake discharge pipeline / maintenance road to Hare Lake (See Figure 1.5.1 of the EIS Addendum (Vol 1)) ([CIAR #727](#)). An additional yet small area associated with the overall fish habitat loss area will be associated with the Hare Lake Discharge pipeline and outfall, at its direct outlet to Hare Lake.

The design of these elements will be consistent with applicable best practices and standard codes as associated with works below the high-water mark and Projects near water. Bamoos Lake, which is known to support a local Lake Trout and Brook Trout recreational fishery, was avoided as part of the conceptual mine design included in the original EIS (2012) based on input received from Indigenous communities and the public at that time. The avoidance of Bamoos Lake within the footprint of the Project and as a receiver of mine discharge has continued as part of the updated Project design. As such, direct and indirect effects on Bamoos Lake and its fish and fish habitat are not anticipated.

The loss of habitat will be realized through the construction and early operation phases dependant on the schedule of the construction and implementation of mine site water balance and associated infrastructure. Additional effects are not expected during the remainder of operation or closure phases. Implementation of offsetting measures are likely to occur prior to or concurrent with the loss of habitat during the construction and early operation phases.

During the phased approach of closure when the PSMF will be reclaimed, and surface water features will be created to restore the natural drainage patterns in Stream 6 (106 subwatershed). The restoration of natural drainage patterns in Stream 6 are further discussed in [Section 6.2.4.6.3](#) of this EIS Addendum (Vol 2). Portions of the Mine Rock Storage Area (MRSA) will be reclaimed and surfaces re-graded as necessary to improve drainage during this period and the natural surface water drainages for Streams 2 and 3 will be restored.

During site preparation and construction, changes to surface water quality as a result of Project-related activities (e.g., vegetation clearing and grading) primarily relate to the mobilization of suspended materials into natural surface water features. These effects are mitigatable through the adoption of standard erosion and sediment control methods including soil stabilization practices (IR [5-7](#)).

During operations, discharge of excess water is considered to be the primary potential water quality effect. This discharge would be from the site water management system to Hare Lake. Effluent discharged to Hare Lake is expected to meet benchmarks, within 150 m (or less) of the discharge point, for the protection of aquatic biota and therefore will be protective of fish and fish habitat.

Following the cessation of mining operations, the discharge to Hare Lake will cease. Once acceptable water quality has been confirmed, it is expected that natural surface water drainages will be restored. No exceedances of water quality benchmarks in the Pic River as the result of closure scenario drainages are predicted.

The Proponent has shared the following mitigation measures, considerations and views with respect to effects to fisheries:

- The primary means of mitigation will be through avoidance and management of water quality. The secondary means is through the implementation of fish habitat offsetting in consultation with DFO and other interested parties. It has been determined that a HADD of 12.33 ha will be created by the Project, which is the minimum area of offset that will be required. Section 6.2.4.6 of this EIS Addendum (Vol 2) includes an assessment of Project residual effects on fish and fish habitat, which are applicable to assessing a change to traditional fish harvesting.
- The access road will require the installation of three crossings of tributaries of subwatershed 101. In addition, a road and pipeline crossing will be necessary at subwatershed 106 immediately west of the PSMF for the Hare Lake discharge pipeline / maintenance road to Hare Lake (See Figure 1.5.1 of the EIS Addendum (Vol 1)) ([CIAR #727](#)). An additional yet small area associated with the overall fish habitat loss area will be associated with the Hare Lake Discharge pipeline and outfall, at its direct outlet to Hare Lake.
- The design of these elements will be consistent with applicable best practices and standard codes as associated with works below the high-water mark and Projects near water. Bamooos Lake, which is known to support a local Lake Trout and Brook Trout recreational fishery, was avoided as part of the conceptual mine design included in the original EIS (2012) based on input received from Indigenous communities and the public at that time. The avoidance of Bamooos Lake within the footprint of the Project and as a receiver of mine discharge has continued as part of the updated Project design. As such,

direct and indirect effects on Bamooos Lake and its fish and fish habitat are not anticipated.

- The loss of habitat will be realized through the construction and early operation phases dependant on the schedule of the construction and implementation of mine site water balance and associated infrastructure. Additional effects are not expected during the remainder of operation or closure phases. Construction / implementation of offsetting measures are likely to occur during the phased approach of closure when the PSMF will be reclaimed and surface water features will be created to restore the natural drainage patterns in Stream 6 (106 subwatershed). The restoration of natural drainage patterns in Stream 6 are further discussed in Section 6.2.4.6.3 of this EIS Addendum (Vol 2). Portions of the MRSA will be reclaimed and surfaces re-graded as necessary to improve drainage during this period and the natural surface water drainages for Streams 2 and 3 will be restored.
- During site preparation and construction, changes to surface water quality as a result of Project-related activities (e.g., vegetation clearing and grading) primarily relate to the mobilization of suspended materials into natural surface water features. These effects are mitigatable through the adoption of standard erosion and sediment control methods including soil stabilization practices.
- During operations, discharge of excess water is considered to be the primary potential water quality effect. This discharge would be from the site water management system to Hare Lake. Effluent discharged to Hare Lake is expected to meet benchmarks, within 150 m (or less) of the discharge point, for the protection of aquatic biota and therefore will be protective of fish and fish habitat.
- Following the cessation of mining operations, the discharge to Hare Lake will cease. Once acceptable water quality has been confirmed, it is expected that natural surface water drainages will be restored. No exceedances of water quality benchmarks in the Pic River as the result of closure scenario drainages are predicted.
- Develop and implement focused monitoring programs on waterbodies such as the Pic River extending downstream of the SSA to the mouth of Lake Superior, the outlet of Hare Creek at Port Munro and Stream 6 (Angler Creek) and the outlet at Sturdee Cove that have significance to Indigenous communities.

The Proponent noted that a key mitigation measure was redesigning the Project and implementing mitigation measures to avoid or reduce potential effects of the Project on areas and corresponding uses considered to be of interest and priority to Indigenous communities (i.e., revising the Project to avoid discharges to Bamooos Lake and to reduce encroachment upon the Pic River) and was directly related to comments received from Indigenous communities.

In summary, the Proponent assessment indicates that the Project is not predicted to have residual effects on water quality, quantity and fish and fish habitat.

In [Section 6.6.6.4 \(Cumulative effects\)](#) the Proponent provides the following summary regarding the Project's residual effects on fish and fish habitat. The Proponent stated "Project residual effects on fish and fish habitat are primarily related to the loss of habitat through direct (overprinting) and indirect (loss of flow) means, and through changes in benthic invertebrate communities. Such effects will be addressed through offsetting where avoidance and mitigation cannot be accommodated; nevertheless, a conservative interpretation of Project interactions resulted in carrying forward the Project-residual effect to the cumulative effects assessment."

The Proponent predicted that overall, the consideration of the characterization of the cumulative residual effect on fish habitat, the cumulative residual effect is predicted to be not significant. Any incremental contribution of the Project to the cumulative effects on fish habitat is predicted to be negligible.

The Proponent responded to a number of information requests submitted by the JRP, which were informed by sufficiency comments on the EIS. The responses relevant to impacts on fishing are summarized below.

With respect to potential Project-related effects to the Pic River, [IR 5-9 \(CIAR #950\)](#) indicates that no direct effects (i.e., physical effects or overprinting of aquatic habitats) will result from the implementation of any of the phases of the Project. The Proponent notes that water quality effects on the aquatic environment are not expected. Water management practices will divert potentially site-influenced water away from the Pic River during construction and operations and no discharge from the site to the Pic River will occur. During closure, drainage from the MRSA and overflow from the open pit directed to the Pic River is also predicted to result in only small, incremental changes in constituent concentrations, with no concentrations exceeding relevant water quality thresholds.

The Proponent's response to [IR 5-14](#) on Potential Effects to Fish, more specifically

, states that blasting will have no residual effects on the area.

The Proponent's response to [IR 5-15](#) Fish and Fish Habitat Offsetting Plan indicates that the "Development of the Project's Fish Habitat Compensation and Offsetting Plan (FHCOP) is ongoing and includes Indigenous, Provincial (MNDMNR), Federal (DFO/ECCC) and public engagement to identify suitable candidate compensation and offsetting opportunities." On January 14, 2022, the Proponent submitted his response to the IR on [Fisheries Offset and Water Quality Modelling Information](#)

In [IR 6-33 \(CIAR #950\)](#), the Proponent indicates that the updated human health risk assessment (HHRA) ([Ecometrix, 2021, Appendix D10 of the EIS Addendum \[CIAR #727\]](#)) concluded that air and water emissions from the Project are not expected to adversely affect the environment (including country foods) or human health based on a screening approach applied to predicted air and water quality.

6.1.6.1.5 Summary of the Crown Consultation Team's Views on Aquatic Environmental Impacts

The CCT acknowledges the considerable volume of technical concerns brought forward by Biigtigong Nishnaabeg regarding the Project's potential effects on aquatic environment, inclusive of water quantity, quality and fish and fish habitat. A number of these concerns have been echoed by DFO and NDMNR through the EA process. The CCT notes that these concerns extend to the Project's potential impacts on Biigtigong Nishnaabeg's ability to exercise its established or asserted s. 35 rights to fish. The CCT also acknowledges Biigtigong Nishnaabeg's views about the cumulative impacts on fish and fish habitat from a history of previous development in what Biigtigong Nishnaabeg describes as its traditional territory.

The CCT understands that the species of concern to Biigtigong Nishnaabeg includes; Lake Trout, Cisco, Splake, Walleye, Yellow Perch, Northern Pike and Lake Sturgeon. The CCT also acknowledges that these aforementioned species are either currently or were historically harvested by Biigtigong Nishnaabeg. DFO notes that of the species listed, only walleye and northern pike are anticipated to be impacted by the Project, based on a pathways of effects approach, as it relates to structural changes in habitat. DFO noted that the other listed species are largely found in Hare Lake. Effects to these species are primarily expected to occur due to changes in water quality.

MECP also indicated that, at the present time, based on the information and rationale provided by the Proponent, that there will be no significant Project effects on Lake Sturgeon in the Pic River. However, to avoid impacts to Lake Sturgeon, MECP recommends that the Proponent continue to monitor for impacts to Lake Sturgeon or their habitat in the Pic River during the course of site development and mine operations to verify the prediction of no significant environmental effects identified EIS Addendum.

Regarding the technical concerns raised by Biigtigong Nishnaabeg, some have also been identified by experts with DFO. DFO acknowledged that through the information requests and a site visit (September 2021) some outstanding issues related to fish presence/absence have

been resolved from their perspective. The Proponent has determined that 12.33 ha of fish habitat will be impacted by the Project, which is the minimum area of offset that will be required. As a result of the remaining uncertainties surrounding the quantification of Project effects, this amount has not been confirmed by DFO.

Some of the other issues identified by DFO through the EA process, include, but are not limited to, the need for more information regarding sampling methods and data, information on all waterbodies/courses that will be impacted using a pathways of effects methodology, detailed maps, a detailed quantification of effects to fish and fish habitat related to changes in flow using the referenced DFO guideline and a monitoring plan that can effectively verify environmental assessment effects predictions, assumptions, effectiveness of mitigation measures.

DFO noted that notwithstanding effective avoidance and mitigation measures, the Project will have residual impacts to fish and fish habitat. The Proponent calculates that 3.43 ha of fish-frequented lake habitat and 4.65 ha of fish-frequented stream habitat will be destroyed, in addition to 4.26 ha of fish-frequented stream habitat that will be harmfully altered as a result of decreases in flow. DFO stated that additional work is needed to confirm that these impacts are adequately accounted for.

An updated offsetting and compensation plan was submitted by the Proponent on January 14th, 2022 ([CIAR #983](#)). In its assessment, DFO specifically recommends that further development of the offsetting plan should be done in collaboration with Indigenous communities. Furthermore, DFO notes that although the updated offsetting plan represents substantial progress towards adequacy, there is still a lot of work required to determine the viability and appropriateness of the proposed offsetting measures.

For a detailed summary of DFO's assessment of the Project's potential effects on fish and fish habitat, please refer to DFO's hearing submissions.

Regarding Biigtigong Nishnaabeg's concerns related to mercury, MECP notes that the Proponent has committed to additional baseline sampling, and is in the process of collecting additional baseline data. The MECP indicates that the additional baseline sampling should include surface water sampling of the Pic River using low-level mercury concentrations. The Proponent also proposes to carry out additional geochemical testing of waste rock and source material to assess the potential for mercury releases in the effluent and from site drainage. ECCC notes that background mercury at PR1 and PR2 in the Pic River were both listed as having a concentration of 0.0001 mg/L which exceeds CCME guidelines.

For a detailed summary of ECCC's assessment of the Project's potential effects on water quality and quantity, please refer to ECCC's hearing submissions.

Additionally, HC noted that potential accumulation of Project contaminants in country foods (eg: fish) and the associated health risks are not sufficiently considered by the proponent. HC

noted that it is unclear how COPCs in mining and metal processing effluents will be monitored and how results will inform adaptive management during mine operation (Hare Lake) and post-closure (Pic River) phases. To adequately address uncertainties associated with the predicted Project impacts on human health via consumption of contaminated water, the proposed surface water monitoring program should include contaminants that were screened using inadequate methods.

HC noted that Indigenous peoples (e.g., BN) expressed concerns over potential impacts of Project effluents on water quality and the health of fish in receiving waterbodies. Although these waterbodies are not likely to be used as drinking water sources, exposure to contaminants may still occur via incidental ingestion of surface water during traditional land use and recreational activities (e.g., fishing, boating, swimming). However, the EIS addendum does not provide the predicted concentrations in receiving waterbodies (e.g., Hare Lake) of i) mining by-products of palladium and other platinum group metals (PGM)¹^[1] and ii) the chemicals that will be used for on-site processing of PGM²^[2] during operations (Appendix D11, CIAR 727). As such, treated effluent quality for these substances was not compared against drinking water quality standards, where available, and they were not considered as Contaminants of Potential Concern (CoPCs) in the HHRA.

For more information regarding this potential effect, please refer to Section 3 of HC's written submission to the Panel. HC noted that it is hard to assess potential effects to human health when they have not presented those results appropriately.

Furthermore, MECP commented that the fish sample size was too small to establish statistically significant baseline data for fish tissue concentrations. The Proponent has collected additional fish tissues from Hare Lake and the Pic River in 2021 and additional collections are expected to include other species and locations during the open water period of 2022. MECP stated that this data will need to be compiled, statistically analyzed and included to define baseline fish tissue concentrations. MECP recommends additional baseline fish tissue collection and analysis in order to properly characterize baseline, while ongoing fish tissue sampling should occur during the life of the mine.

The CCT appreciates that the Project is located in the heart of Biigtigong Nishnaabeg's asserted traditional territory and the area is currently under active title claim negotiations. The CCT acknowledges the deep cultural meaning that water has to Biigtigong Nishnaabeg, noting Biigtigong Nishnaabeg comments that "*water is gold to us and significant to our way of life*" and that "*the Pic River itself is regarded as cultural entity*". The CCT recognizes Biigtigong Nishnaabeg members concerns regarding the Project's potential impacts on its most important resource, water.

^[1] For example, platinum, ruthenium, rhodium, osmium, and iridium.

^[2] For example, potassium amyl xanthate (PAX), methyl isobutyl carbinol (MIBC), AEROfroth, carboxymethyl cellulose (CMC), Drewfloc 2279 polymer, lime (calcium hydrated).

With its community located under 9km downstream of the Project and based on Biigtigong Nishnaabeg's views regarding cumulative effects on water from previous developments, namely the negative effects from the previous cyanide spills from Hemlo mine, the CCT understands Biigtigong Nishnaabeg's serious concerns regarding the potential additive cumulative effects from the Project. The CCT notes Biigtigong Nishnaabeg's concerns that the Project could alter the community's relationship to the water, in a way that is incompatible with aspects of its asserted title claim.

The CCT acknowledges that the Project may compromise access to areas where Biigtigong Nishnaabeg members practice rights associated with fishing, such as Bamooos Lake and a boat launch used to access the Pic River. Despite the upgrades to Camp 19 road which would continue to facilitate Biigtigong Nishnaabeg's access to the boat launch (as illustrated in figure 2) north of the community on the Pic River, Biigtigong Nishnaabeg members' use of the area will be negatively impacted. Project infrastructure and mine traffic will negatively affect Biigtigong Nishnaabeg members' abilities or comfort in accessing the launch.

The following map (Figure 2), provided the Proponent, illustrates the Project footprint in relation to access.

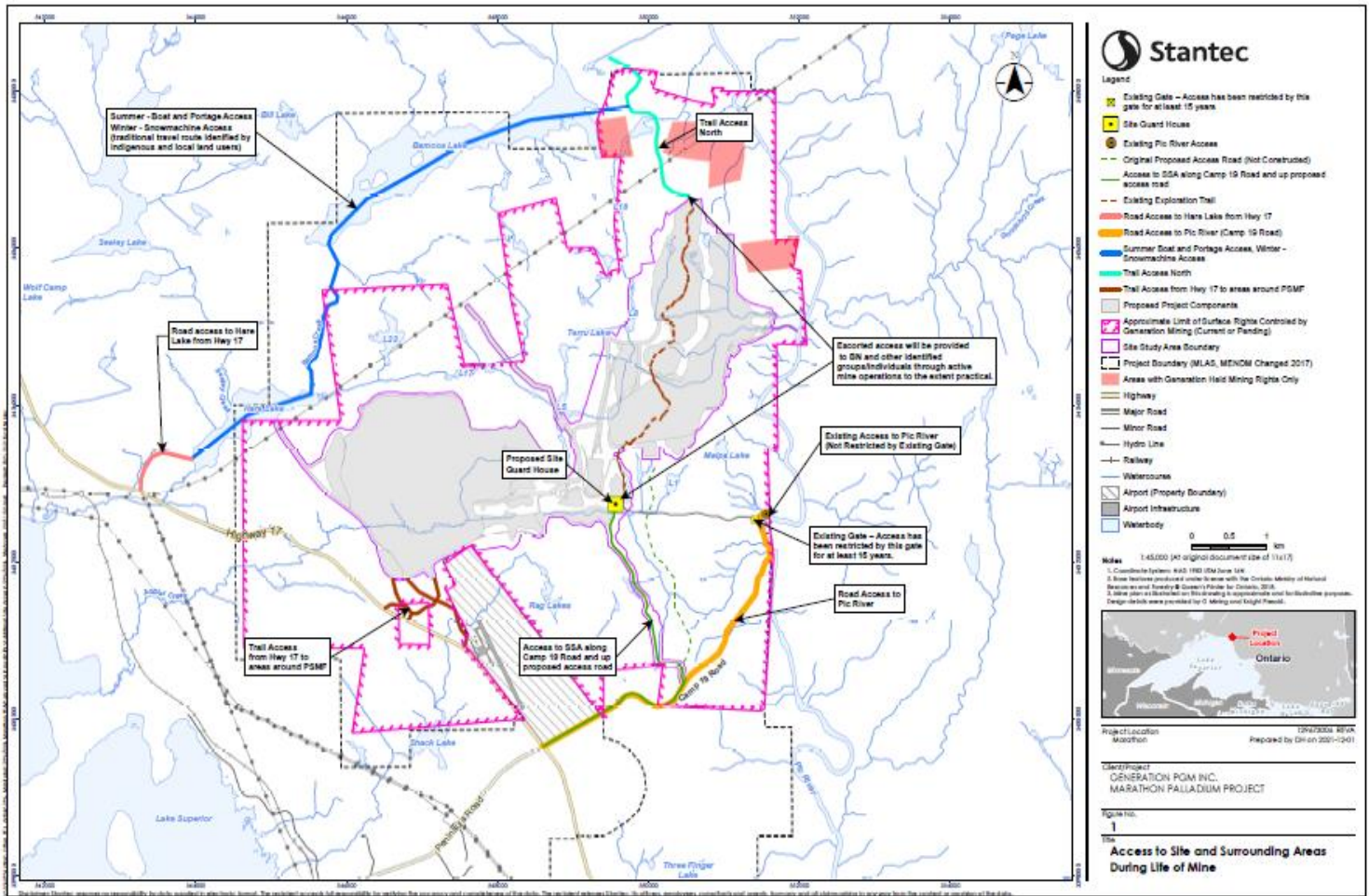


Figure 2: The map provided the Proponent illustrate the Project footprint in relation to access.

Additionally, the CCT has committed to working with Biigtigong Nishnaabeg to identify potential solutions and options. *Table 6.2* provides an overview of Biigtigong Nishnaabeg’s issues and proposed accommodations or mitigation measures with the actions taken to date by the CCT in response. The CCT notes that some of Biigtigong Nishnaabeg’s proposed accommodations or mitigation measures are not directly associated with potential impacts of the Project. The CCT also notes that the need for appropriate accommodation measures will be determined once the Project’s potential residual effects are determined following the Joint Review Panel Report.

Table 6.1

Aquatic Environment: Biigtigong Nishnaabeg List of Proposed Crown Accommodations or Mitigation Measures with Crown Consultation Team Actions Taken to Date		
Issue	Proposed Accommodation	CCT Action
<p>Despite best efforts and high regulatory standards, there will be impacts to water and fish. Water is a cultural resource for the community, not just a biological resource.</p>	<p>Establish new Indigenous Waterways as Indigenous Protected Areas (IUCN Category II Parks).</p>	<p>Parks Canada Agency (PCA) have confirmed their availability to support efforts led by Biigtigong Nishnaabeg for establishment of a new Indigenous led Protected Area.</p>
	<p>Dedicated micro-hatchery learning facility.</p>	<p>NDMNRF has been working with Biigtigong Nishnaabeg since 2018 for the provision of 10 000 brook trout eggs annually from a hatchery in Dorion, ON in support of its outdoor education curriculum, which provides the students with the opportunity to learn about and observe the growth/development. NDMNRF would like to work directly with Biigtigong Nishnaabeg to better understand the request and explore potential opportunities as appropriate.</p>
	<p>Support needed for Biigtigong water quality monitoring program (before mine, construction, operation, closure, post-closure).</p>	<p>ECCC and IAAC identified Biigtigong Nishnaabeg as a candidate for the Swim Drink Fish Great Lakes Communities Recreational Waters Monitoring Initiative in the summer of 2021. In November 2021, Biigtigong Nishnaabeg signed an MOU and received support to set up a new monitoring hub under the program, including lab equipment and materials, salary for a full-time monitoring coordinator, community outreach and communications, and training. Current funding is through March 2022.</p> <p>IAAC worked with Biigtigong Nishnaabeg on an application for the Agency’s Indigenous Capacity Support Program - Stream 3. On Dec 23,</p>

2021 Biigtigong Nishnaabeg were informed that their application was successful and received \$50,974.00 from the IAAC to assist with collecting community input and recommendations regarding the development of a long-term community led water quality, fish tissue and aquatic monitoring program.

IAAC shared a Draft Discussion Paper for Principles Based Monitoring with Biigtigong Nishnaabeg on June 4, 2021. IAAC has offered to continue the dialogue with Biigtigong Nishnaabeg to identify if this will address Biigtigong Nishnaabeg’s stated desire for long-term monitoring.

The CCT and ISC contacted Biigtigong Nishnaabeg in February of 2022 to update a proposal for funding available under the First Nations Baseline Assessment Program on Health and the Environment (approx. \$250,000 over 3 years). ISC and Biigtigong Nishnaabeg are working together to update a previous proposal.

Over 60% of the Title area has been licensed, leased or developed by 3rd parties. Cumulative impacts are having a real impact on the use and cultural connections to the land. The mine will be additive to these stressors.

Support discussions of a Lake Superior Anishnaabeg Management Authority for meaningful engagements in Lake Superior conservation, monitoring, quotas, policing, and decision making.

NDMNR, indicated their Upper Great Lakes Management Unit (UGLMU) supports the concept of a “Management Authority” to facilitate meaningful engagement on LS activities and decisions with local First Nation communities. It aligns with early thinking on collaborative approaches to fisheries management on the Great Lakes.

ECCC has highlighted the opportunity to participate in the Lake Superior Partnership, which consists of multiple groups who participate in Lakewide Action and Management Plans (LAMPs) under the Canada-U.S. Great Lakes Water Quality Agreement.

PCA is supportive of discussions related to a management authority for Biigtigong’s meaningful engagement in the conservation activities of Lake Superior.

The CCT maintains that future opportunities exist to potentially address a number of the concerns raised by Biigtigong Nishnaabeg. These opportunities include DFO's commitment to consult Biigtigong Nishnaabeg through the regulatory process, should the Project proceed. NDMNRF has also committed to continue working with Biigtigong Nishnaabeg through the mine Closure Plan and will be directing the Proponent to consult with Biigtigong Nishnaabeg on the Closure Plan prior to submission for filing.

The CCT notes that the Proponent's efforts to re-design the Project to avoid Bamoos Lake and the Pic River serves as a considerable mitigation measure to reduce the Project's potential effects on fish and fish habitat and Biigtigong Nishnaabeg's established or asserted s.35 rights to fish in those waterbodies. The CCT also recognizes the Proponent's continued efforts to address issues identified by Biigtigong Nishnaabeg via their Environmental Committee and through ongoing negotiations on their Community Benefit Agreement (CBA). The CCT also understands that in January of 2022, Biigtigong Nishnaabeg and the Proponent signed an Agreement in Principle. The CCT also notes that the Proponent will be required by the *Fisheries Act*, through DFO and ECCC, to develop, implement, and monitor a fish habitat offsetting plan. It is expected that this offsetting plan, established with recommendations from Indigenous groups, will compensate for fish and fish habitat losses as a result of the Project.

[6.1.6.1.6 Preliminary Assessment of Potential Impacts to Biigtigong Nishnaabeg's Established or Asserted s.35 Rights Associated with the Aquatic Environment](#)

Based on their community's proximity downstream from the Project and ample information provided by Biigtigong Nishnaabeg, the CCT believes that there is a potential for MODERATE to HIGH negative impact on Biigtigong Nishnaabeg's established or asserted s. 35 rights, including the right to fish and Aboriginal title, associated with Project impacts on the Aquatic Environment.

[6.1.6.1.7 Potential Measures to Address Concerns associated with the Aquatic Environment](#)

In an effort to minimize impacts on Biigtigong Nishnaabeg's established or asserted s. 35 rights associated with the Aquatic Environment, and in addition to the mitigation measures proposed by the Proponent (and/or DFO), the CCT suggests that the JRP consider making the following recommendations in its report:

- The Proponent provide a more developed fish habitat offsetting and monitoring plan using appropriate methodology for the quantification of impacts, particularly surrounding the assessment the Project's impacts on hydrology. This information is required for a fulsome assessment of the Project's potential impacts on Biigtigong Nishnaabeg's rights to fish.
- The Proponent consult Biigtigong Nishnaabeg in the development of mitigation measures, which incorporates traditional knowledge, to protect fish and fish habitat.
- The Proponent consult Biigtigong Nishnaabeg and include traditional knowledge in the development and implementation an offsetting plan in relation to fish and fish habitat.

- The Proponent involve Biigtigong Nishnaabeg in the development and implementation of monitoring and follow-up programs related to water quality in the Project area, specifically in the Pic River and the effluent discharge location at Hare Lake.
- As per DFO's recommendation, the Proponent is to continue working directly with DFO, provincial regulators and Indigenous communities to provide a final version of an offsetting plan that adequately balances fish habitat losses caused by Project activities.
- HC stated a need to develop and implement a comprehensive surface water quality monitoring program that includes i) monitoring of the mining by-products of palladium and (PGM) and metal processing chemicals in Hare Lake during operations, and ii) monitoring of Pic River water quality for the complete list of surface water contaminants used in the EIS addendum before and after water overflow from the open pits.
- NDMNRF, UGLMU and Biigtigong Nishnaabeg engage each other directly in further discussions with respect to Biigtigong Nishnaabeg's request for a dedicated Micro-hatchery project and examine the applicability of CORDA or other sources of funding.
- The CCT to continue exploring the potential need with Biigtigong Nishnaabeg for a Principles Based Monitoring Committee to address potential impacts on their asserted or established s. 35 rights concerns that cannot be addressed by the Proponents proposed monitoring committees. The Principles Based Monitoring Committee would be distinct from the requirement for monitoring led by the Proponent as part of a follow-up program. Should the need be confirmed, the committee may include the participation of other Indigenous groups.

6.1.7 Preliminary Assessment of Potential Impacts to Biigtigong Nishnaabeg Established or Asserted s. 35 Rights Associated with the Terrestrial Environment

6.1.7.1 Potential Impacts to Biigtigong Nishnaabeg Established or Asserted s. 35 Rights Associated with the Terrestrial Environment- This Represents the Views of Biigtigong Nishnaabeg

After careful consideration and analysis of the information presented to-date regarding the Project, it is Biigtigong Nishnaabeg's assessment that changes to the terrestrial environment resulting from the Project will have a **HIGH impact** on the ability of Biigtigong Nishnaabeg to exercise their Aboriginal Title rights and interests.

6.1.7.1.1 Terrestrial Environmental Values

Biigtigong Nishnaabeg relies on the terrestrial environment, including plant and wildlife species, for the exercise of their Aboriginal Title rights and interests and to transmit cultural knowledge to younger generations. Throughout the impact assessment process Biigtigong Nishnaabeg has provided substantial information to both the Proponent and the Crown regarding the exercise of Aboriginal Title rights and interests throughout the territory including the community's history of trapping and harvesting within the proposed Project Area. Trapping and traplines represent so much more than a means of commercial or economic gain; representing instead significant social structures and systems that are

vital for cultural connectivity and continuity. There are five registered traplines associated with Biigtigong Nishnaabeg that fall within a 10-kilometer radius of the Project footprint. The Registered Trapline Area (TR022) that encompasses the proposed Project is Biigtigong Nishnaabeg's sole community trapline. Biigtigong Nishnaabeg members harvest and consume a large amount and variety of country foods, including moose, which are anticipated to be impacted by Project activities. Plant species of interest identified by Biigtigong Nishnaabeg include Bear Root, Choke Cherry, Dandelion, Gooseberries, Hazelnut, Highbush Cranberries, Labrador Tea, Moss, Mountain Ash, Poplar, Raspberries, Red Osier Dogwood, Red Willow, Rosehip, Sage, Saskatoon Berries, Speckled Alder, Sweetgrass, Tamarac, White Ash, Wild Strawberries, and Willow. Other species include Birch, Black Ash, Bunch Berries, Cedar, and White and Black Spruce. Identified wildlife species that are harvested by Biigtigong Nishnaabeg members include marten, beaver, mink, otter, fisher, lynx, weasel, coloured fox, muskrat, red squirrel, timber wolf, and coyote. Caribou and moose have also been identified as important cultural resources for the community with moose being an important food source as well.

The proceeding provides examples of the terrestrial environmental values and interests of Biigtigong Nishnaabeg, but the values identified here are by no means a complete or exhaustive representation of the breadth and depth of Biigtigong's connection to or interaction with the terrestrial environment. It is important to note that the traumas of past governmental policies and practices, including the Residential School System, severed or fractured Biigtigong's relationship with the land and waters. Biigtigong Nishnaabeg, like so many Indigenous Nations across this land, is in the process of healing from these traumas and is embarking on efforts to mend that broken relationship and re-establish its cultural values and connections to the land and waters.

6.1.7.1.2 Terrestrial Environmental Impacts

Biigtigong Nishnaabeg has raised several technical concerns regarding the Proponent's information presented to-date, several of the proposed Project processes, and potential Project effects. Of significant concern to the Nation is the fact that an immediate footprint of approximately 1,200 hectares, directly within Biigtigong Nishnaabeg's community trapline (TR022), will be taken up by the mine development and render the area incompatible for commercial furbearer harvest and other communal, cultural, and training activities that have been practiced for generations. The community is concerned that furbearer populations are likely to move away from an active mine site, negatively impacting commercial and cultural harvesting activities.

Biigtigong Nishnaabeg anticipates the Project will add new barriers to access their territory. For example, they note that many of their harvesters are unlikely to use the Camp 19 Road while the mine is in operation, regardless of any mitigation measures that may be put in place. The area of the mine will be seen as a busy area being used by someone else, and Biigtigong Nishnaabeg members will be required to go elsewhere. This will result in

increased pressure on other areas used by Biigtigong Nishnaabeg harvesters, such as the Deadhorse Road area. Moving from a preferred and established area of traditional land and resource use to an alternate area creates new challenges including increased competition for resources, pressure on furbearer and wildlife populations, increased costs associated with travel times, and reduced harvests.

Access to areas outside of the immediate footprint of the mine may also be significantly restricted or limited, making it difficult for the community trapline to serve its intended purpose. The Project will remove one of three existing roads that provide Biigtigong Nishnaabeg members with access to northern portions of their traditional territory. The loss of this road (Camp 19 Road) will result in more use and increased pressures on resources in the Deadhorse area, which is an area of high cultural and traditional significance to the community. Additionally, a trail used by the community which is accessible via Camp 19 Road and extends approximately 26 kilometers north of the Project site, will also be severed by the Project. This trail facilitates access to the north end of the territory.

Biigtigong Nishnaabeg continues to experience the cumulative impact of past and present development on the terrestrial environment and its associated impacts on the exercise of rights. Mineral exploration, forest harvesting, patenting of private lands, alienations of lands through parks, municipalities and protected areas, hydro corridors, rail lines, roads, aggregate pits, and Crown dispositions such as easements, licenses of occupation and land use permits all combine to result in significant impacts to the terrestrial environment and the exercise of Biigtigong Nishnaabeg's rights. In Biigtigong Nishnaabeg's view, consideration of these cumulative impacts should also include impacts from Crown policies, such as wildlife management regimes (Ontario) and the lack of community infrastructure and services support (Canada), which also exacerbate the seriousness and magnitude of these impacts. These impacts combine to challenge the community's resiliency in being able to adapt to and accommodate increasing external pressures.

Biigtigong Nishnaabeg remains concerned that the Proponent has not properly assessed impacts to the plant and wildlife species of interest to the community and important for the exercise of their rights. While all the wildlife of importance to Biigtigong Nishnaabeg were included in the 2012 valued ecosystem components list, Biigtigong Nishnaabeg is of the view that indication by the Proponent of the potential presence of these species in the Project study area is incomplete. Without this assessment it is impossible to determine further impacts that may result to Biigtigong Nishnaabeg's ability to exercise their Aboriginal Title rights and interests.

Biigtigong Nishnaabeg also remains concerned that the assessment of impacts to human health is lacking. The Nation has indicated that the follow-up monitoring that the Proponent has identified for human health does not include the soils and terrain, vegetation, wildlife or fish and fish habitat monitoring programs as considerations for the

potential impacts of the Project on human health. Understanding pathways of impacts on human health requires consideration of all data sets which have implications for human health, especially considering the fact that Biigtigong Nishnaabeg members consume a large amount and variety of country foods that may be impacted by Project activities. Given the high concentrations of natural contaminants (e.g., copper) in environmental media and the potential risks associated with seepage and discharge from the Project, Biigtigong Nishnaabeg continues to reiterate the critical need to establish rigorous baselines for metal concentrations in foods and medicines of importance to their community.

Biigtigong Nishnaabeg notes that the Project will have direct impacts on both caribou and moose habitat. Both species are of critical cultural importance to the community with moose also representing a significant proportion of country foods harvested by Biigtigong Nishnaabeg community members near the proposed Project. Information provided by the Proponent states that historical moose populations have been relatively stable near the Project, with recent surveys reporting approximately 3,539 moose currently in Wildlife Management Unit (WMU) 21A. It is not clear where the Proponent sourced this data from, but Biigtigong Nishnaabeg assumes this is the Ministry of Natural Resources and Forestry's (MNRF's) 2015 population estimates as outlined in the 2021-2031 Forest Management Plan for the Pic Forest (NFMC, 2021).

Biigtigong Nishnaabeg notes that the 2021 moose population estimate for WMU 21A is 2,346, per MNRF (2021). Compared with the 2015 population estimate that the Proponent uses in the EIS Addendum, this represents an alarming short-term regional population decline within Biigtigong Nishnaabeg's Exclusive Title Area. In addition to this, there is little discussion of key threats that have the potential to adversely affect moose populations, including climate change, predation, disease and parasites, and moose harvest management and tag allocation systems. Noting the significance of moose as a country food for Biigtigong Nishnaabeg members, the potential for an under-evaluation of regional moose population stability within the Project's effects assessment leaves Biigtigong Nishnaabeg significantly concerned that potential consequences to the community's rights and interests are being overlooked. Moose population decline would have significant impacts on Biigtigong. Loss of moose as a traditional food source for the community would result in economic impacts, as more community members would be forced to purchase meats and other foodstuffs from grocery stores. Health and dietary impacts would be experienced as community members would have to turn to non-traditional and potentially highly processed or unhealthy foods as alternatives. Cultural, mental, and emotional impacts would also result from the inability to continue traditional moose hunting practices and the lack of access to this traditional source of sustenance.

6.1.7.1.3 Mitigation and Accommodation for Terrestrial Environmental Impacts

The impacts to the terrestrial environment must be mitigated and impacts to Biigtigong’s rights should be accommodated appropriately. The below tables identify a few examples of the critical measures that Biigtigong Nishnaabeg feels must be undertaken by the Proponent and the Crown, as appropriate, to ensure impacts are lessened, so that Biigtigong Nishnaabeg can continue to exercise their rights over the long-term.

Table 6.3

Biigtigong Nishnaabeg’s List of Required Proponent Mitigations Associated with Terrestrial Environmental Impacts	
Issue	Mitigation
Concerns regarding assessed impacts to the plant and wildlife species of interest to Biigtigong Nishnaabeg.	Proponent should commit to ongoing monitoring and mitigation for potential effects to species to species of high importance to the Nation.
Concerns about current assessment of impacts to human health.	Proponent should include the soils and terrain, vegetation, wildlife or fish and fish habitat monitoring programs as considerations for the potential impacts of the Project on human health and establish rigorous baselines for metal concentrations in foods and medicines of importance to Biigtigong.

Please note that Biigtigong Nishnaabeg list of proposed Crown Accommodations or Mitigation Measures associated with Terrestrial Environmental Impacts is included in *Table 6.4* which can be found in the CCT views section.

6.1.7.1.4 Summary of the Proponents Assessment on Terrestrial Environmental Impacts

The Proponent has stated that the entire footprint of the SSA and areas of the LSA are within Biigtigong Nishnaabeg’s Community Trapline, and that a portion of the Community Trapline in the SSA will be removed with the commencement of site preparation and construction of the Project. Due to the exclusive right of Biigtigong Nishnaabeg to use the Community Trapline for commercial trapping, the Project is not predicted to affect other Indigenous people or communities’ commercial trapping interests.

As described by the Proponent in Section 6.2.12.6.1 of the EIS Addendum, the total area of direct and indirect effects is 2,416 ha, which represents 15.5% of the total land area of Biigtigong Nishnaabeg’s community Trapline. This includes the direct loss attributed to the SSA

(1,116 ha) and the indirect loss of approximately 1,300 ha because of potential sensory disturbances during construction and operations. The Proponent indicated that these losses are considered temporary as trapping will be able to resume upon the ceasing of operations once the site has been reclaimed. The Proponent noted that continued access to the LSA will not be affected by the Project for animal, plant, fish, and timber harvesting purposes. Following completion of mining activities and restoration of the areas disturbed by the Project, many of the mammal/furbearers are expected to return to the SSA.

As described by the Proponent in section 4 and 6.2.12 of the EIS Addendum, within the WMU 21A and 21B, a variety of furbearing species are available for trapping, including beaver, otter, bobcat and lynx, mink, muskrat, fisher and marten, racoon, fox, skunk, red squirrel, weasel, black bear, wolf, and coyote. Most furbearers will be displaced from the SSA through site development and construction. Some species that are more tolerant of human disturbance (e.g., red fox) may become accustomed to human activity and move back to the periphery of the site, particularly portions of the SSA where at least some vegetation remains.

The Project will result in a direct loss of 1,116 hectares of area where traditional wildlife harvesting activities could occur. However, the use and quality of this habitat varies by the species and extensive areas exist outside of the SSA where traditional wildlife harvesting is currently practiced that will continue to be available to Indigenous communities. Biigtigong Nishnaabeg's traditional territory, including exclusive and shared territories, encompasses over 2,000,000 ha, and the Biigtigong Nishnaabeg trapline is 15,000 ha, the loss of potential traditional harvesting in the SSA is only a fraction of the available areas and is anticipated to be only temporary. With remediation at closure, at least some of this loss will be mitigated.

The Proponent has acknowledged that the Biigtigong Nishnaabeg Community Trapline is highly valued by the community for non-commercial trapping and harvesting and that it is integral to the community for subsistence, livelihood and spirituality, sense of community and culture. The Community Trapline holds cultural, societal, and economic values for Biigtigong Nishnaabeg members who hunt, trap, fish and harvest foods on and in the vicinity of the Project. The Proponent has proposed mitigation measures to avoid or reduce Project-related effects, both direct and indirect, to traditional land and resource use within the SSA and LSA, including:

- Provide limited access to areas of the SSA that are outside of the primary areas of mining activity for Indigenous communities, to the extent possible
- As stated in the response to *IR 7-5 Loss of Access to Biigtigong Nishnaabeg Community Trapline*, compensation for the loss of access, economic benefits of trapping, and use of a portion of Biigtigong Nishnaabeg Community Trapline associated with both commercial and non-commercial trapping within the SSA through the establishment of a Harvester Training Fund (which is a component of the Community Benefit Agreement).

Regarding potential impacts of the Project on moose, the Proponent stated that forestry will fragment wildlife habitat along the boundary of the SSA. The following mammal species that potentially occur at the Project site are considered area-sensitive by MNRF (2000): northern

flying squirrel, marten, fisher, lynx, and moose. However, the Proponent noted that with appropriate timing, mortality of furbearers and larger mammals from site clearing is expected to be negligible. Residual effects from vehicle collisions may be higher for species that use roadways more frequently for foraging or travel (e.g., red fox, gray wolf) but are not expected to have effects on wildlife populations beyond the LSA. Relatively few moose use the LSA and appropriate mitigation should reduce the risk of collisions and residual effects. Total daily traffic to site will be less than 200 vehicles compared to more than 2,100 average annual daily traffic along Highway 17 near the Project (EIS Addendum, Vol 1) (CIAR #727). Additionally, in their response to IR 7-3, the Proponent states that a communications protocol will be developed prior to Project commencement with Biigtigong Nishnaabeg (road corridor within community trapline) for reporting of any road mortality of large mammals (e.g., moose, white-tailed deer, black bear) along the access road and Camp 19 Road between Highway 17 and the SSA so that meat and/or hides can be salvaged, if possible.

Please note the Proponent Summary of the Project's potential impacts on Country Foods has been included in Section 6.1.8 entitled Health, Safety and Social Services.

The Proponent also announced in January of 2022 that an Agreement in Principle (AIP) with Biigtigong Nishnaabeg had been signed. The Proponent also noted they are still in the process of establishing a Community Benefit Agreement (CBA) to address potential Project impacts to Biigtigong Nishnaabeg. While confidential, the Proponent indicated that benefits from these potential agreements include training, jobs, business opportunities and financial participation which, among other things addresses impacts to TRLU, loss of access, financial benefits, and Biigtigong Nishnaabeg's Community Trapline.

[6.1.7.1.5 Summary of the Crown Consultation Team's Views on the Terrestrial Environmental Impacts](#)

The CCT acknowledges Biigtigong Nishnaabeg's views that the cultural, spiritual, and physical connection to the land and its resources is integral to the culture and way of life of Biigtigong Nishnaabeg. Biigtigong Nishnaabeg has provided a large amount of information both to the JRP and the CCT to demonstrate the significant impact that Project would have on the community trapline and members of the community. Given that the Project is located almost entirely within Biigtigong Nishnaabeg's community-held trapline, it is expected that the Project would all but eliminate the usability of the trapline, and any commercial and non-commercial trapping and harvesting activities that the CCT understands members have been practicing for generations. The CCT acknowledges that the Project would remove access to Biigtigong Nishnaabeg's already fragmented asserted traditional territory.

The CCT also notes that Biigtigong Nishnaabeg has significant documentation with respect to community use and occupancy within a 5km radius of the proposed Project site. This suggests that it is possible that impacts to Biigtigong Nishnaabeg harvesting could extend beyond Biigtigong Nishnaabeg's community trapline and into some of the adjacent traplines held by individual members, specifically TR021 and TR023. The footprint of the SSA includes a portion of the trapline referred to as TR023 (see Figure 3). The CCT notes that the potential Project

impacts extend to Biigtigong Nishnaabeg’s access to the community trapline which serves as communal training grounds for cultural and technical purposes.

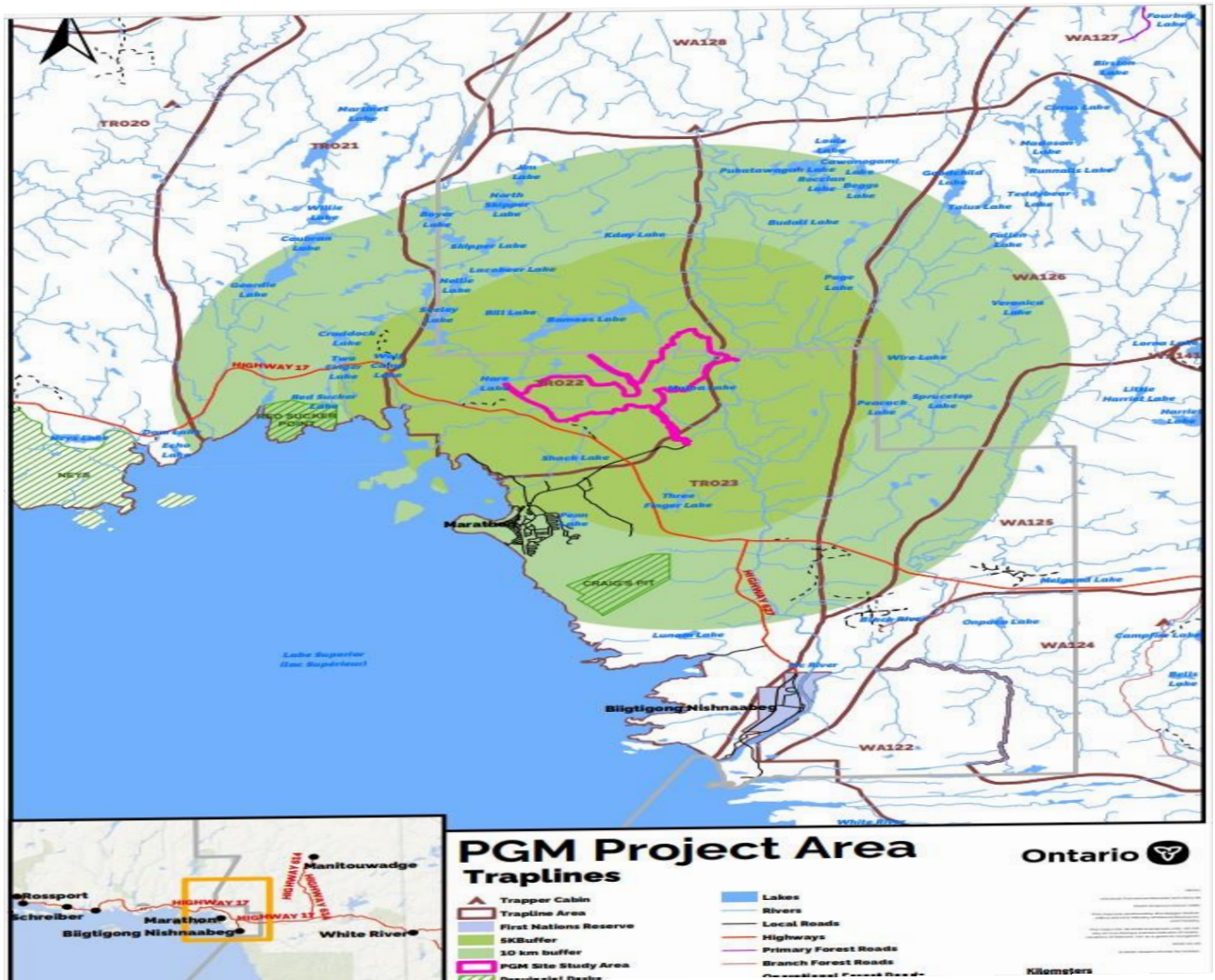


Figure 3: NDMNRF map illustrating registered traplines in the Project Area.

Based on the information provided by the Proponent, and despite efforts to reduce disturbance to traditional land and resource use through Project design and planning, avoidance of the Community Trapline and associated impacts is impossible. These impacts would remain for the duration of construction and operations. The CCT acknowledges that the Proponent has attempted to address the loss of the community trapline through the proposed Harvester Training Fund.

Despite the CCT’s effort to obtain additional information regarding the fund through the IR process, the CCT does not have enough information to assess the effectiveness of the Harvester Training Fund as a proposed mitigation measure. Furthermore, Biigtigong Nishnaabeg has told the CCT that the Harvester Training Fund would not fully compensate for the loss of the

community trapline. Biigtigong Nishnaabeg has indicated that, although this mitigation measure has been proposed by the Proponent, the Proponent has not discussed the Harvester Training Fund in any detail, and no specific commitments have been made.

The CCT further notes that while the compensation proposed by the Proponent may be intended to address the economic losses resulting from the Project, it may not address or mitigate the associated cultural, social, and spiritual impacts that are inextricably linked to commercial and non-commercial trapping and harvesting activities occurring in the Project area. The CCT requires more information on the Harvester Training Fund and how/what it intends to address in relation to Biigtigong Nishnaabeg's commercial and non-commercial trapping and harvesting activities within the SSA.

The CCT is of the view that the Proponent's Harvester Training Fund should, at minimum, fully compensate Biigtigong Nishnaabeg for the economic value lost from the community trapline and provide additional compensation for cost incurred from the displacement of Biigtigong Nishnaabeg and its members from the Project area. The CCT is also of the view that the Harvester Training Fund should also incorporate financial compensation/support for the costs associated with Biigtigong Nishnaabeg harvesters re-establishing their cultural trapping and harvesting activities elsewhere.

The CCT acknowledges that the Project will likely necessitate Biigtigong Nishnaabeg travelling greater distances to exercise rights associated with hunting and harvesting elsewhere. This will result in an increased level of effort for Biigtigong Nishnaabeg in undertaking harvesting activities and a potential decrease in harvesting success. The CCT notes that this will present challenges for the community in undertaking these activities.

Through the EIS Addendum, the Proponent describes the amount of moose habitat predicted to be destroyed within the Project footprint as being relatively small based on Wildlife Management Unit (WMU) size and density, and the site being able to support less than one animal. While the NDMNRF requested further survey efforts be carried out to determine abundance of ungulate populations (e.g., white-tailed deer and moose) through repeatable methods to improve impact analysis beyond more than a high level area comparison, given the moose density variability that can occur within a WMU (NDMNRF IR T-4; CIAR# 302). The Proponent responded with a reduced version of the NDMNRF Standards and Guidelines for Moose Population Inventory in Ontario (SSI Technical Report #121) method to estimate moose numbers in the Project site and adjacent area, the findings of which were included in response to IR 23.2 ([CIAR# 489](#)). The population estimate produced is significantly lower than that estimated by the NDMNRF at the Wildlife Management Unit (WMU) level but is considered acceptable given the general understanding the NDMNRF has of the lower moose density characteristic of the eastern portion of WMU 21A.

The CCT understands that moose populations within the SSA will be impacted by the Project (e.g., area sensitive species including moose are likely to leave the disturbed area/SSA), but that populations within the LSA and RSA are unlikely to be significantly impacted by the Project. The

CCT notes information provided by NDMNRF that, although the Proponent has shown the total amount of cleared area planned, it also needs to describe the proportion to be restored to future habitat types, including forecasted ecosites and/or vegetation community types. This is important to better understand moose habitat availability post-closure. While the CCT notes that impacts to moose in the SSA are expected to be minimal, the CCT acknowledges that access to areas where Biigtigong Nishnaabeg members conduct moose harvesting activities will be negatively impacted by the proposed Project.

The CCT is committed to work with Biigtigong Nishnaabeg to identify potential solutions and options. *Table 6.4* provides an overview of Biigtigong Nishnaabeg's issues and proposed accommodations or mitigation measures with the actions taken to date by the CCT in response. The CCT notes that some of Biigtigong Nishnaabeg's proposed accommodations or mitigation measures are not directly associated with potential impacts of the Project. The CCT also notes that the Crown will decide on appropriate accommodation measures once the Project's potential residual effects are determined following its review of the JRP Report.

Please note the CCT's views regarding the Project's potential impacts on Country Foods has been included in Section 6.1.8 entitled Health, Safety and Social Services.

Table 6.4

Terrestrial Environment: Biigtigong Nishnaabeg List of Proposed Crown Accommodations or Mitigation Measures and Crown Consultation Team Actions Taken to Date		
Issue	Proposed Accommodation or Mitigation Measures	CCT Actions
<p>The community trapline (TR022) will become off-limits for harvesting with access restrictions.</p>	<p>Funding and support for community Trapline replacement.</p>	<p>The NDMNRF met with Biigtigong Nishnaabeg on December 3, 2021, to discuss the allocation of an alternate community trapline. The NDMNRF proposed several potential candidate traplines, which have been identified by Biigtigong Nishnaabeg as not suitable candidates for a community trapline at this time. The NDMNRF has considered the information shared by Biigtigong Nishnaabeg during this discussion and is continuing to work internally to identify how the impact associated with the Project may be addressed. The CCT notes that Biigtigong Nishnaabeg has already begun to reach out to third parties to discuss its interests in the acquisition of an alternate trapline. The NDMNRF will continue to work directly with Biigtigong Nishnaabeg towards the identification and allocation of a suitable alternate line.</p>
<p>Camp 19 Road will essentially be closed for community cultural use. Additional pressure will be placed on the already-stressed Deadhorse road and watershed.</p>	<p>Create a bypass road (Gaffhook Lake Access), with access controlled by Biigtigong.</p>	<p>The NDMNRF has engaged in preliminary internal discussions related to this request. The NDMNRF is interested in discussing this in more detail and working directly with Biigtigong Nishnaabeg to explore potential available options.</p>
<p>Despite best efforts and high regulatory standards, the Project will have direct impacts on</p>	<p>Support the peer reviewed, detailed mapping of caribou habitat suitability in Biigtigong Nishnaabeg's</p>	<p>Ontario is committed to receiving input related to Indigenous Traditional Knowledge (ITK) regarding caribou recovery and meeting any constitutional duty to consult obligations that may exist with respect to potential adverse impacts to established or asserted s. 35 rights.</p>

<p>both caribou and moose habitat. Both species are important cultural resources for the community. Moose are an important food source as well.</p>	<p>traditional Territory. Evaluate existing recovery zones and options for new configurations to link caribou within the discontinuous range.</p>	<p>Continue discussions IAAC initiated with ECCC regarding potential programs that may align with the concerns expressed by Biigtigong Nishnaabeg and solution inquires, such as:</p> <ul style="list-style-type: none"> • Stewardship Program for Species at Risk • Aboriginal Fund for Species at Risk • Nature Smart Climate Solutions Fund - Canada.ca • Canada Nature Fund - Canada.ca
<p>Transfer full control of wildlife management programs to Biigtigong within Biigtigong's Title area (e.g., setting of moose tags and quotas for Wildlife Management Area 21A (Deadhorse Area) and the management of caribou recovery strategies).</p>	<p>Initial requests submitted by Biigtigong Nishnaabeg identified a need for meaningful engagement in the setting of moose tag quotas for WMU 21A as well as on caribou recovery strategies. These requests have been shared with the appropriate government groups for further discussion. The NDMNRF will continue to dialogue with Biigtigong Nishnaabeg on WMU 21A moose management, specifically in the Deadhorse Road area, and look for ways to address Biigtigong Nishnaabeg's interests and expressed concerns. The updated request for the transfer of full control over such wildlife management programs has not been discussed (as it has only just been shared with the CCT) and as such, will require additional time for the Ministry to consider.</p>	
<p>Endowment for training and hiring of a Biigtigong Nishnaabeg Conservation/Wildlife Safety Officer.</p>	<p>No updates to provide as of February 2022.</p>	

6.1.7.1.6 Preliminary Assessment of Potential Impacts to Biigtigong Nishnaabeg's Established or Asserted s.35 Rights from Potential Project Changes to the Terrestrial Environment

Based on the information provided by Biigtigong Nishnaabeg and the Proponent analysis, the CCT is of the view that the Project is likely to have a HIGH impact on Biigtigong Nishnaabeg's established or asserted s. 35 rights associated with hunting, trapping, harvesting, and Aboriginal title rights.

6.1.7.1.7 Potential Measures to Address Concerns Associated with the Terrestrial Environment

To mitigate the Project's potential impacts on Biigtigong Nishnaabeg's established or asserted s. 35 rights associated with the terrestrial environment, the CCT suggests that the JRP consider making the following recommendations:

- The Proponent work with Biigtigong Nishnaabeg to collaboratively develop and implement a Harvester Training Fund that mitigates impacts to Biigtigong Nishnaabeg trapping, harvesting and the cultural connection to the land base. This fund would provide, in part, means for Biigtigong Nishnaabeg to pivot to suitable areas where the community can continue to undertake these activities
 - The CCT understands that Biigtigong Nishnaabeg is actively seeking to work with interested third parties to acquire an alternate community trapline, including the potential purchase of improvements on a suitable trapline, should one become available to the community. It is strongly encouraged that discussions continue between the Proponent and Biigtigong Nishnaabeg, through the Harvester Training Fund or otherwise, to identify potential solutions.
- The Proponent collaborate with Biigtigong Nishnaabeg to examine other supports for land-based cultural, social and knowledge transmission that can offset the cultural, social, and spiritual impacts resulting from the Project footprint on the community trapline.
- Where appropriate, details of the above arrangements should be made known to the Panel and the Crown to contribute to thorough assessment of the potential residual impacts to the Biigtigong Nishnaabeg community trapline and identification of associated mitigation measures.
- The NDMNRF to continue to work directly with Biigtigong Nishnaabeg to identify a suitable alternate community trapline and support Biigtigong Nishnaabeg through the allocation process.
- The NDMNRF to continue working with Biigtigong Nishnaabeg to better understand the request for a new access road and work together to identify/explore potential options.
- The NDMNRF to continue to engage with Biigtigong Nishnaabeg on WMU 21A moose management and continue to look for ways to address Biigtigong Nishnaabeg's interests and concerns.
- The CCT to continue to explore existing government funding programs that may serve as compensation for the cultural impacts associated with the loss of the community trapline, such as the *Canada Ontario Resource Development Agreement (CORDA)* program.

- The Proponent consult Biigtigong Nishnaabeg in the development of the environmental management, monitoring and follow-up programs related to the terrestrial impacts.
- The Proponent consult Biigtigong Nishnaabeg in the development of on-site and off-site restoration and monitoring activities related to caribou.
- The Proponent consult Biigtigong Nishnaabeg in the development of monitoring and follow-programs related to Project effects on caribou.
- The Proponent consult Biigtigong Nishnaabeg in the development of the mine closure plan.

6.1.8 Preliminary Assessment of Potential Impacts to Biigtigong Nishnaabeg Established or Asserted s. 35 Rights Associated with Socio-Economic Values and Conditions

6.1.8.1 Potential Impacts to Biigtigong Nishnaabeg Established or Asserted s. 35 Rights Associated with Socio-Economic Values and Conditions

6.1.8.1.1 Summary of Biigtigong’s Views – This Represents the Views of Biigtigong Nishnaabeg

After careful consideration and analysis of the information presented to-date regarding the Project, it is Biigtigong Nishnaabeg’s assessment that additive pressures from the Project will result **HIGH impacts Socio-Economic Values and Conditions**. The significance of these impacts could be reduced pending Crown commitments for mitigation and accommodation.

Biigtigong Nishnaabeg has shared their view that they are “stewards and guardians of their asserted Exclusive Title area and have stated their interest and responsibility to govern the health of their lands, waters, wildlife and laws and to uphold commitments to its members to support health and well-being in the community, and their asserted rights and title for generations to come”. Biigtigong Nishnaabeg has shared information regarding the potential impacts of the Project on its socio-economic environment, including housing, water, sewage, education, health, safety, family and social services in a way that is grounded in their cultural context.

In a February 25, 2021 meeting with the CCT, Biigtigong Nishnaabeg indicated that the focus of the socio-economic, cultural and human health sections of the EIS Addendum were unbalanced. Biigtigong Nishnaabeg stated that the Proponent’s assessment of the Project socio-economic effects were focused on the positive impacts for the Town of Marathon. As such, Biigtigong Nishnaabeg is of the view that the Proponent’s overall conclusions regarding the Project impacts on the socio-economic environment did not fully consider risks to Biigtigong Nishnaabeg and were skewed with positive conclusions. In particular, there was a lack of baseline data and understanding of the socio-economic, cultural and human health context specific to Biigtigong Nishnaabeg’s context. For example, effects to housing, school enrolment and the health services were considered positive, which is not consistent with Biigtigong Nishnaabeg views.

This section of the report will break socio-economic values and conditions down into three sections:

1. Health, safety and social services;
2. Housing and infrastructure; and
3. Education

Each of these three sections will present the values of concern to Biigtigong Nishnaabeg, and then will look at how the project pathways will likely impact these values, along with measures of sufficiency. Each section will conclude with mitigation strategies and gaps required that Biigtigong Nishnaabeg propose be filled through new commitments by the Crowns and the Proponent.

Please note that the page numbers identified in the following section correlate with Biigtigong Nishnaabeg's Biigtigong Nishnaabeg's 2012 VEC report.

6.1.8.1.1.1 Health, Safety and Social Services

6.1.8.1.1.1.1 Values Associated with Health, Safety and Social Services

In Biigtigong Nishnaabeg's 2012 VEC report, the community noted several VECs relating to community well-being, health, safety and social services. These were selected as VECs as any changes in employment, population and income resulting directly from the project will result in greater demands being placed on community health and safety services. These VECs were developed based on interviews with over 180 community members, including service providers and community members who work or have worked at the Barrick Mine and have experienced first-hand impacts from how a mine contributes to both community well-being and community challenges / pressures. Community well-being VECs included: physical and mental health services; child care; Elder care; drug treatment centres; healing centres; and the community trapline. Health VECs included: family violence rates; women's health; children's health; consumption of country food; alcohol, drug and other substance abuse; racism; social services. Safety issues included police; fire; ambulance services; and emergency response.

The baseline for almost all community health and social services is at capacity or currently under stress. Biigtigong Nishnaabeg has commented that COVID-19 has added to these stresses given the additional demands for physical and mental health services and programs. It is not known if this heightened stress level is the new baseline, but the community has noted that the current condition needs to be fully weighed into any assessments of future needs and impacts.

Biigtigong Nishnaabeg has routinely flagged the need to consider at all stages of the project the safety and health of its women and children. There is clear evidence in the literature for how resource extraction projects that attract a large population of "out-of-town" men have contributed to increases in violence, assaults, racism, unplanned pregnancies, drug use, and safety concerns for women and children in Indigenous communities. This was well documented in the *National Inquiry into Missing and Murdered Indigenous Women and Girls*². In particular,

² <https://www.mmiwg-ffada.ca/final-report/>

the Final Report noted the “substantial evidence of a serious problem demonstrated in the correlation between resource extraction and violence against Indigenous women, girls, and 2SLGBTQQIA people. Work camps, or “man camps,” associated with the resource extraction industry are implicated in higher rates of violence against Indigenous women at the camps and in the neighbouring communities.” Biigtigong Nishnaabeg has stressed that the issues of violence and the influx of a large, non-indigenous population with high salaries and little to no stake in the host Indigenous community cannot be addressed as an after-thought once the project is approved. It must instead be addressed at outset.

The trapline and access to country foods is an important value identified by Biigtigong Nishnaabeg. As noted in their Harvest Study (Driben, 2012), 63 harvesters use the area within 5km of the project footprint, collecting on average \$7,645 per harvester, per year, of cash-equivalent resources. This is an important value to the community from a variety of measures, including food security, high-quality food products, reduction in grocery bills and the transfer of knowledge between generations of harvesters contributing to cultural connections, ceremony and social customs. Combined, these activities contribute to the economic, physical, mental and cultural well-being of the community and the Nation. These values related to the trapline are discussed in the Terrestrial Impacts section of the report. Relating to health, however, is the concern about the decline in country foods available for consumption and the quality of these foods to be harvested with confidence that they are uncontaminated by the project.

Regarding safety and emergency response, the community police and fire services are also at capacity and will be unlikely to address any potential additional strains caused by unforeseen project impacts. Given the community’s proximity to the mine, directly downstream on the Biigtig Zibi (Pic River) and the community’s reliance on open-road access to Marathon for medical services, Biigtigong Nishnaabeg has must be engaged in all stages of emergency planning regarding the project.

Biigtigong Nishnaabeg has noted that the existing baseline for all services and programs is at a point of critical stress. While this is not an issue that is the Proponent’s responsibility, it is an issue that the Project will continue to exacerbate. However, any new development pressures would be additive to these pre-existing stressors and that, similar to cumulative impact assessments, need to be considered in the evaluation of future impacts and the design of meaningful mitigation strategies.

6.1.8.1.1.2 Impacts Associated with Health, Safety, and Social Services

Given the anticipated increases in population, labour and income, it is reasonable to chart a clear pathway from the project to increase demands for community health, safety and social services. The baseline reports confirm this, noting that the project will result in an increase in demand on infrastructure and services, including health and emergency services and education (p.6.417). Biigtigong Nishnaabeg believes, however, that these reports fail to address related issues arising from changes and pressures in their community from this project, including drugs, addiction, women’s safety, impacts on family health and mental health issues. As reported in

interviews with Biigtigong Nishnaabeg health care providers, residential mental health and addiction treatment is not available on-Reserve and Biigtigong Nishnaabeg members must travel out of community to access these services. Biigtigong Nishnaabeg noted that the hiring of health care providers and retention of staff has been challenging, and existing staff suffer from burn-out from existing work-loads. These issues have been exacerbated by other large resource-based projects in the area, including the Barrick mine, which have placed additional demands on health centre staff for support and care. The new health care centre in Biigtigong is already at capacity.

Biigtigong Nishnaabeg raised the concern that the baseline reports do not address the safety and health of women and children. Biigtigong Nishnaabeg women specifically have raised concerns about other resource development Project's in its asserted traditional territory. Biigtigong Nishnaabeg stated that safety related issues with the expected influx of 800 to 1000 male workers with high salary and with little to no stake in Biigtigong Nishnaabeg's area is a major concern. Biigtigong Nishnaabeg shared their troubled history with resource development in their traditional territory, including a number of issues referenced in the Final Report of Canada's National Inquiry into Missing and Murdered Indigenous Women and Girls (NIMMIW). Biigtigong Nishnaabeg indicated these reports were clear about the link between resource extraction and spikes in violence against Indigenous women, girls and two-spirit people. Biigtigong Nishnaabeg noted that these reports called for industry to consider the safety of Indigenous women in project planning to mitigate risks.

The baseline EA reports note that GenPGM will co-ordinate its Emergency Preparedness and Response Plan (EPRP) with the Town of Marathon emergency services department (p. 6.429). The report does not indicate that GenPGM will coordinate with Biigtigong Nishnaabeg. Biigtigong Nishnaabeg has stated that they need to be included in any EPRP work as their community will likely be directly impacted by any emergency related to the mine, without the Town of Marathon's ability to draw on commensurate resources.

Project residual effects associated with Biigtigong Nishnaabeg Trapline are addressed in Section 6.2.12.6.1 of the EIS Addendum which does recognize and respect the cultural, societal, and economic value of the Biigtigong Nishnaabeg Trapline and how it contributes to the health, spirituality, sense of community, Traditional Knowledge, and Biigtigong Nishnaabeg's ability to live of the land. Although substantial effort has been made to design and plan the site with community input and minimize disturbance, ultimately the deposit location and supporting infrastructure will have an impact on the Biigtigong Nishnaabeg Community Trapline.

The updated Human Health Risk Assessment (HHRA) (Appendix D10 of this EIS Addendum [Vol 2]) illustrates that there are minimal predicted Project increases on CoPC concentrations in the environment and therefore on human health. As a result the Proponent concludes that adverse effects on human health from country foods consumption are not expected from Project-related air and water emissions. The Proponent also notes that is consistent with the conclusion in the original EIS (2012) that the Project will have limited effects on CoPC concentrations in the

environment. Nonetheless, the Proponent acknowledges that Indigenous communities have stated they are concerned with background levels of CoPCs and potential pathways in country foods that can influence human health. Indigenous communities have indicated they fish and consume fish from Hare Lake, Hare Creek, Bamooos Lake, Stream 6 (Angler Creek) and Pic River, and want to ensure the safety of human consumption of fish from those waterbodies.

Biigtigong Nishnaabeg does not agree with the HHRA determination of significance related to health, and social services. As mentioned previously, the HHRA concludes that, “the residual adverse effect of the Project on infrastructure and services is predicted to be not significant because it will not result in an exceedance of available capacity of infrastructure and services, or a substantial decrease in their quality, on a persistent and ongoing basis, which cannot be mitigated with future or anticipated government programs, policies, or proposed mitigation and enhancement measures (p. 6.435)”. Without having these mitigation measures identified and committed to prior to permitting, Biigtigong Nishnaabeg has to conclude the residual impacts on health and social services will be significant.

The Proponent’s background reports recognizes the gaps that need to be filled through additional dialogue and coordination of effort between the Proponent, Biigtigong Nishnaabeg and the Crowns. The HHRA notes that the implementation of additional measures to address existing community services capacity constraints would require further and on-going discussions between Biigtigong Nishnaabeg and ISC. Such efforts would facilitate Biigtigong Nishnaabeg’s ability to address existing concerns and challenges in this regard and would support the possible return of off-reserve members into the community, whose return may be facilitated through employment opportunities associated with this Project (p. 6.435).

6.1.8.1.1.1.3 Mitigation and Accommodation to Address Concerns Associated with Health, Safety and Social Services

To address gaps in capacity relating to health and social services, the baseline report notes that, “Project employees may access health services provided at the Accommodations Complex and within nearby RSA communities (i.e., Town of Marathon) (p. 6.432)”. Biigtigong Nishnaabeg believes that this is not a meaningful mitigation strategy to offset such significant and predictable impacts. Biigtigong Nishnaabeg has flagged this as a huge gap in the EA. Biigtigong Nishnaabeg has asked for direct engagement from the Proponent, Ontario and Canada on these issues to help develop a comprehensive strategy for how existing programs and services can be supported, and new programs added, to meet the anticipated demands for health services in their community.

Biigtigong Nishnaabeg has made a number of requests to the Crown in an effort to address several of the identified gaps in mitigation. An update on these discussions and the CCT’s action is included in Table 6.5 in the CCT’s views section.

6.1.8.1.1.2 Housing and Infrastructure

6.1.8.1.1.2.1 Values Associated with Housing and Infrastructure

In 2012, Biigtigong Nishnaabeg identified the “availability of housing” as a valued ecosystem component that needs to be considered by the project. The Socio-Economic Report prepared for the Proponent (Volume 2 of 2, section 6.2.9) in April 2021 accurately depicted the current state of housing in the community, which is that none of the 168 houses on the Reserve were vacant, and that all were at, or beyond, capacity. The report noted that there were wait lists, but didn’t report on the numbers as shared by Biigtigong Nishnaabeg during their interviews. According to Biigtigong Nishnaabeg, there are currently 40 or more people or families on various wait lists, including single or two-bedroom units for Elders, families requiring multiple bedroom homes and families who have outgrown their existing homes and need more space.

According to Biigtigong Nishnaabeg, there are three main barriers that are limiting them in constructing new homes: (1) insufficient potable water infrastructure to supply water to new housing; (2) not enough dry land on the existing Reserve to build new foundations and functioning septic systems; and (3) access to funding and support to plan, prepare and construct new homes. This was accurately reflected in the baseline reports, noting that, “housing constraints within the community limit their [Biigtigong Nishnaabeg] ability to move into the community proper, and capacity constraints on existing infrastructure limit Biigtigong Nishnaabeg’s ability to establish additional housing on reserve (p.6.429)”.

Water and sewage facilities were identified as important VECs in their 2012 report, along with the funding needed to maintain existing levels of community services. Canada has not legislated the right to water, but in 2010, it recognized the UN declaration on human right to safe drinking water and basic sanitation³. This is a value that has been continuously raised by the community at each stage of the EA process. The community infrastructure has not kept pace with the growth of the community, resulting in water and sanitation services significantly below any municipal standards in Canada. Biigtigong Nishnaabeg has noted that the existing baseline is at a point of critical stress – an issue that is not the Proponent’s responsibility. However, any new development pressures would be additive to these pre-existing stressors and that, similar to cumulative impact assessments, need to be considered in the evaluation of future impacts and the design of meaningful mitigation strategies.

6.1.8.1.1.2.2 Impacts Associated with Housing and Infrastructure

After careful consideration and analysis of the information presented to-date regarding the Project, it is Biigtigong Nishnaabeg’s assessment that additive pressures to housing and infrastructure resulting from the Project will result in significant residual impacts. The significance of these impacts could be mitigated if the Crown commits to appropriate mitigation and accommodation measures.

³ https://www.un.org/waterforlifedecade/human_right_to_water.shtml

It is accepted that the project has clear and measurable pathways to that will further impact and stress existing stressors on housing and infrastructure (6.2.9-1 of the EIS Addendum). More specifically, the effects pathway was noted that the results of the project demand for labour that will exceed the current and projected availability of skilled labour in the Regional Study Area during construction as well as operations (6.422). This was partially quantified through a rapid appraisal survey (2021) conducted by Biigtigong Nishnaabeg that showed that 13.6% of its off-reserve respondents would move back to the community should employment be secured. Of these, 18.2% intended to apply for housing on Reserve and would bring 2 or more family members with them. These would be *additive* to the existing housing waiting list in the community.

The EIS Addendum recognizes that there is concern that community infrastructure and services in Biigtigong Nishnaabeg, particularly water and sewage, are not adequate to support an increase in demand should off-reserve members return to live in the community as a result of Project employment (6.431). The community is on routine boil-water advisories and the water supply is at capacity, with no ability to support new development. The magnitude of residual adverse effects has been characterized as high due to the additional demands that may be placed on community infrastructure and services in the Biigtigong Nishnaabeg community (p.6.434). Biigtigong Nishnaabeg has noted several times about their personal experiences with water shortages and water quality issues in the community and their concerns regarding how water is a limiting variable in their ability to grow. Biigtigong Nishnaabeg expects that the Crown will expedite and fully support the community's attempt at improving access to clean drinking water infrastructure.

In [IR 7-10 \(CIAR #950\)](#), the Proponent indicates that in the EIS Addendum ([CIAR #727](#)), the socio-economic environment includes economy and employment, infrastructure and services, and land and resource use. The vulnerable and diverse sub-groups within Indigenous communities who are most likely to experience disproportionate effects of the Project with respect to socio-economic environment are members of low-income households, women, and youth. This determination is based on feedback from engagement, a literature review on socio-community impacts from mining and linear resource projects, and on the professional experience and knowledge of the socioeconomic technical team.

6.1.8.1.1.2.3 Mitigation and Accommodation to Address Concerns Associated with Housing and Infrastructure

To address housing issues, the Proponent's primary mitigation measure was to propose an Accommodation Complex in or near Marathon. Biigtigong Nishnaabeg has indicated that the Proponent's proposed solution of creating an Accommodations Complex was never discussed with them and is unacceptable. Biigtigong Nishnaabeg shared fears regarding the likelihood of incidents of racism and safety issues associated with the complex, which would house 100 workers in individual modular units, with shared bathrooms, shared kitchen and shower facilities. The majority of respondents in Biigtigong Nishnaabeg's recent survey indicated they

would not use the Accommodation Complex. As a result, and considering that existing Biigtigong Nishnaabeg housing is already over capacity, Biigtigong Nishnaabeg questions where these individuals and their families will live in order to secure employment opportunities associated with the Project.

Biigtigong Nishnaabeg notes a discrepancy and describes as systemic racism the difference between Biigtigong Nishnaabeg's addressing of housing shortages, and how housing shortages are expected to be addressed in Marathon. In Marathon, the Proponent has committed to "engage with municipal authorities to coordinate planning of infrastructure development or upgrades that may be needed to ensure that they do not negatively affect the local communities (p. 6.428)". No such commitments have been made to work with Biigtigong Nishnaabeg. Systemic racism is found when institutions create or maintains racial inequity. Biigtigong Nishnaabeg believes it there is racial inequity between the First Nation and neighbouring municipalities, since the two entities- Biigtigong Nishnaabeg and Marathon – are not able to access and benefit from the project in equal measures.

For infrastructure and services, a significant adverse residual effect is defined as, "an effect that results in an exceedance of available capacity, or a substantial decrease in the quality of a service provided, on a persistent and ongoing basis, which cannot be mitigated or managed with current or anticipated programs, policies, plans, or other mitigation measures" (6.412). Although the Proponent notes that there will be additional pressures placed on Biigtigong Nishnaabeg housing needs because of the project, there "won't be an exceedance of available capacity" in housing for Biigtigong Nishnaabeg because these impacts can "be mitigated with future or anticipated government programs, policies or proposed mitigation and enhancement measures" (p. 6.435). Biigtigong Nishnaabeg feels as though the EA was flawed in its analysis of impacts. The community wasn't part of any discussion with the Crown on how these impacts were going to be mitigated, nor were any mitigation options discussed with them or the Proponent. Without meaningful commitments in place for how housing issues will be mitigated by "government programs", the EA should have concluded that the residual effects of the project on housing is significant, *pending Crown commitments*.

Biigtigong Nishnaabeg noted their frustration with the evaluation of other community infrastructure needs, including water and sewage. The Proponent recognized the residual effects were high, but not significant because of "further on-going discussions between Biigtigong Nishnaabeg and ISC" (p. 6.435). Biigtigong Nishnaabeg notes that at the time of the EA, there had been no discussion between Biigtigong Nishnaabeg and ISC on mitigation and accommodation options, and as such, the EA should have concluded the residual effects of the project on infrastructure to be significant, *pending Crown commitments*.

While the community is working to address capacity constraints, with many plans in place to improve community services and infrastructure, funding to implement such solutions remains uncertain. It was described by Biigtigong Nishnaabeg that the funding and the process currently established through government agencies to address community services and infrastructure-

related issues is unduly convoluted and requires lengthy, onerous, and convoluted steps when compared to the steps local municipalities can take to resolve similar issues in their communities. Many funding programs are already being used by other services in the community, and the outcomes from funding requests are not guaranteed.

Since the filing of the EA, Biigtigong Nishnaabeg has engaged with Ontario and Canada in several discussions regarding specific needs to have gaps in housing and infrastructure mitigated and accommodated. An update on these discussions and the CCT's action is included in Table 6.5 in the CCT's views section.

Of special note, Biigtigong Nishnaabeg has presented to Ontario and Canada the specific challenge in finding dry areas of the Reserve to build new houses. Being within the Pic River low-lying fluvial zone, much of the Reserve is comprised of wetlands. Even the most creative community plans will fail if the issue of *where* to build new houses can be addressed. The community's planning is currently on pause while this issue is looked at in more detail. The request for funding and support for geotech studies is an outcome of this need. Associated with this predicament is the status of septic beds which are inundated with water, thereby reducing both their efficacy to filter waste and limiting their life expectancy. This is further exacerbated by overcrowding in homes which adds additional pressures to existing sanitation systems.

6.1.8.1.1.3 Education

In terms of education, Biigtigong Nishnaabeg indicated that the Proponent accurately represented the challenges faced by the community in relation to their school. The school is operating beyond its capacity and there are challenges in recruiting qualified teachers and early childhood educators. Biigtigong Nishnaabeg raised concerns that returning members and their families who may wish to work at the mine will place additional demands on the already strained education and daycare services. Biigtigong Nishnaabeg has clearly stated that their need to oversee, accommodate and teach their own children is a cultural imperative, a Nishnaabe right and a value that needs to be meaningfully considered within the EA. In light of the colonial and genocidal history of residential schools, Biigtigong Nishnaabeg ascribes a particularly high importance to its role as a safeguard of appropriate educational mechanisms. The right of Biigtigong Nishnaabeg, as a First Nation, to education in a "manner appropriate to [its] cultural methods of teaching and learning" is also included in Article 14 of the United Nations Declaration on the Rights of Indigenous Peoples⁴. The article reads:

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

⁴ https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

6.1.8.1.1.3.1 Values Associated with Education

Education is a foundational value for Biigtigong Nishnaabeg. Education happens not only in the classroom and at home, but on the land as well. Teaching happens not only with teachers, but with family, community members, leaders and Elders as well. Biigtigong Nishnaabeg believes strongly in the importance of experiential learning, whereby teaching happens through experience and practice. Multi-generational learning through experiences on the land with family and Elders, with the transmission of knowledge through language and practice, contributes significantly to community well-being and the health of the culture.

The baseline report correctly characterises the challenges faced by Biigtigong Nishnaabeg community relating to their school. Their elementary school is operating beyond its capacity with only four classrooms and other areas of the school performing dual functions. Recruitment of qualified teachers and early childhood educations is also a challenge and daycare services are limited in the community. Any returning members with families will place additional demands on education and daycare services.

Annual moose camps and the community trapline have been important outdoor classrooms for Biigtigong Nishnaabeg children. The trapline needs to be evaluated based not only on commercial goods derived from the land, but as an outdoor classroom and a place to learn from direct experience on the land. Access to outdoor classrooms within close proximity to the community, in an area unfettered by third-party use, it's a value of high importance to Biigtigong Nishnaabeg. The loss of the trapline is described in more detail in Section 6.3.1 Terrestrial Impacts.

It's important to note that the community has been working on getting a commitment from Canada for the construction of a new school since the early 1990's – for over thirty years. While these negotiations have taken place, two generations of Biigtigong children have graduated from a school that would not have passed basic municipal standards for fire safety, mould and over-crowding.

6.1.8.1.1.3.2 Impacts Associated with Education

After careful consideration and analysis of the information presented to-date regarding the Project, it is Biigtigong Nishnaabeg's assessment that additive pressures to education resulting from the Project will result in significant residual impacts. The significance of these impacts could be reduced pending Crown commitments for mitigation and accommodation.

The Proponent acknowledges the direct pathways and impacts that the mine will have on local and regional services. The pathway is connected through additional workers and Biigtigong Nishnaabeg members coming back to the reserve to take up employment with the time. The increase in population and workers will result in additional demands for services such as education and childcare. As noted previously, the school and childcare programs and services are beyond capacity already. Biigtigong Nishnaabeg does not consider school and childcare programs as the responsibility of the Proponent. It does indicate that baseline stressors need to be considered when evaluating the additive nature of a project that will directly impact local population levels, especially regarding schools.

Educational programs in Biigtigong Nishnaabeg are not comparable to education programs in Marathon. Biigtigong Nishnaabeg believes the EA should recognize the discrepancies in funding per child between the Ontario public education system and the Federal educational system. Biigtigong Nishnaabeg notes that the average funding allocation per child on Reserve is about \$7,000, while a child in Marathon is allocated roughly \$10,000. According to a report by former TD Bank economist Don Drummond, every dollar the province spends for education, the First Nations schools only get 70 cents⁵. This makes it difficult for Biigtigong Nishnaabeg to pay for educational materials, teachers, and support for children with special needs. A teacher will be paid more and have greater benefits if they work within the provincial education system in Marathon. This is part of the systemic racism that disadvantages Indigenous people in their pathways to learning from early education through to graduation.

6.1.8.1.1.3.3 Mitigation and Accommodation to Address Concerns Associated with Education

In terms of evaluation of impacts, Biigtigong Nishnaabeg believes the EA analysis to be flawed, where it states that, “the availability of school space in nearby RSA communities may help alleviate this pressure (p. 6.433)”. Biigtigong Nishnaabeg is sensitive about shipping more of their kids to the public school in Marathon as not a meaningful mitigation measure to address potential increase demands for education. This also contravenes Article 14 of UNDRIP.

Biigtigong Nishnaabeg also shared its concerns with Ontario and Canada that the EA does not address the need for outdoor educational experiences to off-set the loss of the community trapline. The community continues to call for areas to be dedicated or set-aside for priority community-use areas. Biigtigong Nishnaabeg has also noted that because of the direct impacts the project will have on fish and fishing in close proximity to the community, the community would like to invest in a dedicated micro-hatchery learning facility within the community.

As such, Biigtigong Nishnaabeg believes the evaluation of sufficiency in the EA is flawed and needs to be more thoughtfully explored with engagement from the Proponent and the Crown. In particular, Biigtigong Nishnaabeg has asked for specific mitigation measures required to reduce the sufficiency of the project’s residual impacts on the demands for education.

⁵ <https://www.afn.ca/wp-content/uploads/2017/05/2013-Drummond-First-Nations-Education-Funding.pdf>

Potential accommodation actions related to health, safety and social services, housing and infrastructure and education, along with the CCT's related actions, can be found in *Table 6.5* in the CCT views section.

6.1.8.1.2 Summary of the Proponent's Assessment of Impacts Associated with Socio-Economic Values and Conditions

6.1.8.1.2.1 Health, Safety and Social Services

In the EIS Addendum Section 6.2.12 the Proponent notes that the SSA and LSA contribute meaningfully to Biigtigong Nishnaabeg's traditional diet and restricted access to these areas have the potential to negatively affect their traditional activities that support physical and spiritual health, gathering of medicinal plants and dietary health. However, continued access to the LSA will not be affected by the Project for animal, plant, fish, and timber harvesting purposes.

The Proponent noted that the Project has the potential to result in localized reduction and ability to forage for traditional plants and affect wildlife harvesting within the SSA from habitat loss and displacement caused from construction and clearing of the site. The Proponent maintained that these habitats and ecosites are common and widespread in the RSA and their loss in the SSA is not predicted to jeopardize their long-term habitat availability.

The Proponent's proposed mitigation measures include rehabilitation and revegetation of the area which will incorporate plant species of interest to Indigenous groups, in locations where appropriate and technically feasible. The Proponent noted that some species may take up to 20 years to return to site area depending on site stabilization and successful revegetation post-closure.

The Proponent noted that the release of CoPCs through Project-related air and water emissions can affect human health by changing the quality of environmental media such as air, water, and country foods. Potential pathways by which CoPCs from air and water emissions can travel through the environment to people who consume country foods and is detailed in Section 6.2.10.6.3 of this EIS Addendum (Vol 2).

The updated Human Health Risk Assessment (HHRA) (Appendix D10 of this EIS Addendum [Vol 2]) illustrates that there are minimal predicted Project increases on CoPC concentrations in the environment and therefore on human health. As a result the Proponent concludes that adverse effects on human health from country foods consumption are not expected from Project-related air and water emissions. The Proponent also notes that is consistent with the conclusion in the original EIS (2012) that the Project will have limited effects on CoPC concentrations in the environment.

Nonetheless, the Proponent acknowledges that Indigenous communities have stated they are concerned with background levels of CoPCs and potential pathways in country foods that can influence human health. Indigenous communities have indicated they fish and consume fish

from Hare Lake, Hare Creek, Bamooos Lake, Stream 6 (Angler Creek) and Pic River, and want to ensure the safety of human consumption of fish from those waterbodies.

The Proponent predicts that residual effects on surface water will be limited to changes in water quality relative to background that do not exceed human health benchmarks during any phase of the Project. Therefore, changes in surface water quality are not expected to adversely affect human health via use of surface water as drinking or recreational water.

The Proponent concludes that no significant adverse effects on human health are expected from Project-related changes in the quality of country foods during any phase of the Project. With mitigation and environmental protection measures, changes to air and water quality are not expected to have a significant adverse effect on human health via country food consumption because air and water quality are not predicted to differ substantially from background conditions at locations where subsistence harvesters may harvest country foods.

The Proponent responded to several information requests submitted by the JRP, which were informed by sufficiency comments on the EIS. The responses relevant to Biigtigong Nishnaabeg concerns regarding impacts on health are summarized below.

- In response to Information [Request #33 from Package 6](#) “Human Health Risk Assessment for Country Food”, the Proponent has stated that, “Plant samples were collected at two reference locations and five locations in the vicinity of the Project where baseline air and soil samples were previously collected... The country food monitoring program will provide opportunities for ongoing engagement and assessments directed by the feedback received from Indigenous groups.”
- In response to Information [Request #10 from Package 7](#) “Community Well-Being and Indigenous Health”, the Proponent has stated that, “social, psychological, and emotional effects of the Project on Indigenous peoples were considered indirectly in the assessment of Indigenous Considerations.”
- In its response to [IR 7-8](#), the Proponent stated that based on the more detailed assessment of changes to plants of interest to Indigenous communities, no additional mitigation is warranted and the conclusion that there will be no significant residual effects on traditional land and resources remains unchanged.

Mitigation measures to avoid or reduce potential Project-related effects on air and water quality (Sections 6.2.1.6.1 and 6.2.3.6.4 of this EIS Addendum [Vol 2]) will also reduce potential Project-related effects on country foods and human health. GenPGM recognizes the importance of traditional land and resource use and activities and is committed to working with Indigenous communities to monitor country foods. The Proponent committed to continue to engage Biigtigong Nishnaabeg and other interested Indigenous groups in the Project to monitoring activities, which can be used as a means to communicate results of environmental

monitoring to help alleviate potential concerns Indigenous resource users may have regarding Project impacts.

Regarding potential Project impacts on spiritual health, the Proponent recognizes and respects the cultural, societal, and economic value of the Biigtigong Nishnaabeg Trapline and how it contributes to the health, spirituality, sense of community, TK, and Biigtigong Nishnaabeg's ability to live of the land. Although substantial effort has been made to design and plan the site with community input and minimize disturbance, ultimately the deposit location and supporting infrastructure will have an impact on the Biigtigong Nishnaabeg Community Trapline. With mitigation during the life of the Project and reclamation of disturbed areas following mining activities, residual adverse effects are considered to be temporary and reversible.

In Section 6.2.9.4 of the EIS Addendum, the Proponent notes that health care, social services, home and community care, and mental health and crisis response are provided through a combination of care within the community (Biigtigong Mno-zhi-yaawgamig, including resident staff and visiting physicians and specialists) and in the Town of Marathon (Wilson Memorial General Hospital and Marathon Family Health Team).

Regarding impacts on mental health, the Proponent noted ongoing work with local communities and Project stakeholders will allow for adaptive management as needed. Mental health and addictions services, which are included in the community service VEC, have been identified as potential areas of concern due to operational capacity. The Proponent noted that the establishment of health services on the Project site including an employee assistance program should help mitigate Project effects on mental, social, and spiritual well-being of individuals and communities.

The Proponent noted the concerns raised by Biigtigong Nishnaabeg that influx of members could place strain on these local and regional services and programs (i.e., increased demand for services, staff hiring / retention). While the community is working to address capacity constraints, with many plans in place to improve community services and infrastructure, funding to implement such solutions remains uncertain. The Proponent indicated that Biigtigong Nishnaabeg stated the funding and the process currently established through government agencies to address community services and infrastructure-related issues contain many barriers, which are lengthy and overly complicated in comparison to the steps local municipalities can take to resolve similar issues in their communities.

[6.1.8.1.2.2 Housing and Infrastructure](#)

In Section 6.2.9 of the EIS the Proponent provides analysis regarding the Project's potential effects on the Socio-Economic environment.

The Proponent indicates that comments and feedback have been addressed throughout the consultation process with Biigtigong Nishnaabeg, including:

- siting and location of the proposed Accommodation Complex,
- information regarding workforce training and employment opportunities;
- training and education requirements; and
- capacity of the community's infrastructure and services to accommodate members who may wish to return to the community to attain Project work.

The Proponent's summary of Biigtigong Nishnaabeg's housing situation was consistent with information provided by Biigtigong Nishnaabeg, including number of homes, current over capacity state, wait list and challenges associated with a shortage of serviceable land. Members of Biigtigong Nishnaabeg are hopeful that off-Reserve members will return to the community for Project-related employment. As noted in Section 6.2.9.3.2 of the EIS Addendum, there is concern that the community does not have housing to accommodate these members, as there is currently a waitlist with approximately forty families requesting new homes or maintenance to existing homes. While the number of off-reserve Biigtigong Nishnaabeg members who may return to the RSA is unknown, the Proponent agrees that Biigtigong Nishnaabeg is already beyond capacity with respect to housing. The Proponent acknowledges that though the preference may be for returning members to live on-reserve, housing will be available for Project employees at the Accommodations Complex during construction and operation.

Similarly, the Proponent acknowledged that the water supply infrastructure is also operating beyond its designed lifespan, with limited capacity to support existing water demand and shortages that often lead to boil water advisories. The current lack of community sewage treatment facility, limited childcare services, the need for a new elementary school and the lack of the health care and social services were also all described by the Proponent.

The Proponent acknowledged the concerns raised by Biigtigong Nishnaabeg that an influx of members could place strain on the local and regional services and programs (i.e., increased demand for services, staff hiring / retention). While the community is working to address capacity constraints, with many plans in place to improve community services and infrastructure, funding to implement such solutions remains uncertain. It was described by Biigtigong Nishnaabeg to the Proponent that the funding and the process currently established through government agencies to address community services and infrastructure-related issues contain many barriers, which are lengthy and overly complicated in comparison to the steps local municipalities can take to resolve similar issues in their communities.

The Proponent acknowledged that the Project may provide the opportunity for Biigtigong Nishnaabeg members outside of the RSA to move back to the community through the provision of a local employment opportunities. However, housing constraints within the community limit their ability to move into the community proper, and capacity constraints on existing infrastructure limit Biigtigong Nishnaabeg's ability to establish additional housing on reserve.

For the Proponent's part, the Accommodations Complex is proposed to provide housing for all workers, including members of Indigenous communities.

In addition to the mitigation and enhancement measures for infrastructure and services that will be implemented by the Proponent, the Proponent pointed to Biigtigong Nishnaabeg's list of proposed meaningful mitigation measures that would be the responsibility of federal and provincial government agencies (i.e., Indigenous Services Canada (ISC), Ontario Ministry of Northern Development, Mines, Natural Resources and Forestry (NDMNR)), to help improve upon existing conditions and reduce potential adverse socio-economic effects of the Project on their community should any members decide to move back to the community.

Other mitigation measures identified by the Proponent to address issues raised by Biigtigong Nishnaabeg regarding socio-economic impacts include, but is not limited to, the following:

- Establishing measures to encourage and recruit employees from the existing populations in local communities.
- Mandatory cultural sensitivity training for all Project employees.
- Engaging with municipal authorities to coordinate planning of infrastructure development or upgrades that may be needed to ensure that they do not negatively affect the local communities
- Providing Project employees with health services (physical, mental and social health), including Employee Assistance Programs (EAP) and on-site emergency service infrastructure, including fire-fighting equipment.
- Co-ordinating an Emergency Preparedness and Response Plan (EPRP) with the Town of Marathon emergency services department.
- Commitment to on-going monitoring of socio-economic effects on the Biigtigong Nishnaabeg community

In IR 7-10 ([CIAR #950](#)), the Proponent indicates that in the EIS Addendum ([CIAR #727](#)), the socio-economic environment includes economy and employment, infrastructure and services, and land and resource use. The vulnerable and diverse sub-groups within Indigenous communities who are most likely to experience disproportionate effects of the Project with respect to socio-economic environment are members of low-income households, women, and youth. This determination is based on feedback from engagement, a literature review on socio-community impacts from mining and linear resource projects, and on the professional experience and knowledge of the socioeconomic technical team.

With respect to access to housing, the Proponent noted that the use of the Accommodations Complex for construction and operations workers whose homes are outside the RSA, will help reduce demands on permanent and rental accommodations. As such, the Proponent believes that the Project is not anticipated to result in changes to the availability and costs of existing

housing, which could have disproportionate adverse effects on sub-groups within the LAA, including members of Indigenous groups (e.g., persons on fixed incomes and marginally-housed persons). Additionally, the Proponent stated that the use of the Accommodations Complex, along with cultural sensitivity training for Project employees, will reduce adverse social interactions between Project workers and local residents, which typically affect women disproportionately.

The Proponent indicated the possibility of funding a comprehensive community master plan that would outline a strategy for managing growth and investment in technology and training for the Biigtigong Nishnaabeg on-reserve housing program. The Proponent stated that this would help establish additional housing on reserve, thus improving the availability of affordable housing for vulnerable sub-groups.

6.1.8.1.2.3 Education

The Proponent noted that Biigtigong Nishnaabeg has an elementary school and a private high school and is currently seeking approval with ISC to construct a new K-8 school. The elementary school is operating beyond its capacity with only four classrooms and other areas of the school performing dual functions. Recruitment of qualified teachers and early childhood educators is also a challenge and daycare services are limited in the community. Any returning off-reserve members with families may place additional demands on education and daycare infrastructure and services in the community. The availability of school space in nearby RSA communities may help alleviate this pressure. Further capacity improvements within the community are being sought by Biigtigong Nishnaabeg to address existing and future demands.

6.1.8.1.3 Summary of the Crown Consultation Team's Views Associated with Socio-Economic Values and Conditions

6.1.8.1.3.1 Health, Safety and Social Services

Regarding Biigtigong Nishnaabeg's concern related to impacts on country foods, HC noted the potential accumulation of contaminants from Project activities in country foods (e.g. fish) and indicated that the associated health risks are not sufficiently considered by the Proponent. HC identified challenges associated with assessing potential impacts to human health with the available information. As noted in HC's submission, they state that the methods used to screen out the traditional food consumption pathway from the HHRA were not adequately supported. To address the uncertainties associated with the predicted Project impacts on human health via consumption of traditional foods, the proposed traditional food monitoring program should include contaminants that were screened using inadequate methods and be informed by Indigenous engagement input. The results from follow-up monitoring should be assessed for potential health risks associated with consumption of traditional foods. For more analysis on this issue, please refer to Section 3 of HC's written submission to the Panel.

The information gaps expressed by the technical experts are noted by the CCT and add a level of uncertainty in the assessment of potential health impacts on Biigtigong Nishnaabeg members. Based on the community's proximity to the Project and the considerable evidence

provided regarding harvesting activities in area, the CCT recognizes the potential health risks associated with the Project on Biigtigong Nishnaabeg members.

The CCT notes the potential for the Project to add additional pressure from the influx of workers on the regional rise in inflation, availability of social services such as physical and mental health care, housing and employment resource centres, domestic violence shelters and food banks. The CCT recognizes the importance of Indigenous groups, including Biigtigong Nishnaabeg, being engaged by the Proponent, in the planning of proposed Projects at the earliest possible stages in order to ensure that impacts on community infrastructure and public services are understood and arrangements are implemented to ensure the minimization of negative effects.⁶

The CCT also notes the importance of the Proponent working with Indigenous groups to identify stresses and overburdens on community programs, in order to ensure that programs are in place to address any potential violence and discrimination against Indigenous women, girls, two-spirited and gender-diverse persons. The CCT notes the need for the Proponent to develop policies and procedures in collaboration with Indigenous groups to address risks associated with related sexual harassment, violence, harassment and discrimination which are applicable in the workplace and local communities. The CCT acknowledges the importance of the workforce being properly educated on the workers' code of conduct and issues of discrimination and violence.

The CCT acknowledges the conflicts that Biigtigong Nishnaabeg notes they have encountered in their asserted territory and how this would result in members not feeling safe on their lands. The CCT notes the barrier the Project would create to Biigtigong Nishnaabeg accessing the north end of the territory via Camp 19. This could result in more users, both Biigtigong Nishnaabeg and non-Indigenous shifting to Deadhorse road, which has the potential to increase conflicts and safety issues in Biigtigong Nishnaabeg territory. The CCT acknowledges that the anticipated influx of workers from the Project could impact the physical and mental health of Biigtigong Nishnaabeg members.

6.1.8.1.3.2 Housing and Infrastructure

The CCT acknowledges the concerns raised by Biigtigong Nishnaabeg regarding the current need for infrastructure within the community. The CCT is committed to ongoing dialogue to continue to better understand these needs. The CCT acknowledges that community health, education, sanitation, drinking water, housing services and infrastructure are all basic requirements needed for a healthy community and culture.

The CCT acknowledges the seriousness of the challenges faced by Biigtigong Nishnaabeg to consistently access clean drinking water for the community. The CCT acknowledges the urgency of the situation for Biigtigong Nishnaabeg including the challenges it faces when boil water

⁶ [indigenous-gender-based-analysis-cmmp .pdf \(minescanada.ca\)](#) p.45

advisories are in place, which has occurred as recently as January 2022. The CCT also understands Biigtigong Nishnaabeg's view that it is currently in this position due to cumulative impacts on their previous source of drinking water as a result of a cyanide spill from another mining development north of the community. The CCT has been and will continue to support Biigtigong Nishnaabeg in its efforts to seek approvals for the water treatment facility, which are already underway.

Regarding housing, the CCT recognizes that the current housing situation in the community will not support the number of members anticipated to return should the Project proceed. The CCT agrees with Biigtigong Nishnaabeg that the Proponent's mitigation measures of an Accommodations Complex to address the issue is not ideal. As per the findings of the National Inquiry into [Missing and Murdered Indigenous Women and Girls](#) there is a risk of potential racism and safety issues associated with such shared living complexes. As such, this proposed mitigation measure could exacerbate potential negative impacts. The CCT notes the evidence presented in studies and literature that illustrate how resource extraction and development in rural and northern communities can exacerbate housing insecurities in Indigenous communities. These housing insecurities can especially impact vulnerable populations, including women and children.⁷ The CCT notes that a needs assessment from Biigtigong Nishnaabeg outlining the number of anticipated number of returning community members would assist in pursuing more specific solutions to address forecasted housing shortages.

The CCT understands that the current state of the communities' infrastructure services as described by Biigtigong Nishnaabeg is inadequate and that services are strained. While Biigtigong Nishnaabeg clearly articulated the needs of the community regarding housing, infrastructure and education, the CCT notes that these needs pre-date the proposed Project's potential impacts or contributions. The CCT recognizes that impacts from the Project could potentially increase demands for these services and create further strain on infrastructure due to the possibility of more Biigtigong Nishnaabeg members moving back for employment opportunities at the mine. Although the additive introduced by the Project is difficult to measure, the CCT acknowledges that even a small increase to the existing strain may have a considerable impact on the current conditions of Biigtigong Nishnaabeg members. As such, the CCT will continue to work with Biigtigong Nishnaabeg to pursue a number of the solutions listed that Biigtigong Nishnaabeg is seeking as part of this EA process.

6.1.8.1.3.3 Education

The CCT acknowledges the concerns raised by Biigtigong Nishnaabeg regarding additive pressures to education resulting from the Project, however, notes that more information would be required to measure the impact. The federal Crown is of the view that more information,

⁷ [The social determinants of health impacts of resource extraction and development in rural and northern communities: A summary of impacts and promising practices for assessment and monitoring.](#) (Prepared for Northern Health and the Provincial Health Services Authority)

including a needs assessment for housing, would be required from Biigtigong Nishnaabeg regarding the anticipated number of returning community members, to ascertain the anticipated increased demands for school and childcare programs. This information would need to be compared to the spaces and services available in the new school which the Indigenous Services Canada has committed \$25.8 million to building, which is expected to be completed by summer 2023. The CCT acknowledges Biigtigong Nishnaabeg's concerns regarding the disparities between federal and provincial funding as it pertains to education programs for First Nations children, however, the Project's contribution to this not clear.

The CCT acknowledges the direct impacts of the Project on the community trapline, which is understood to have cultural, educational and societal values of the community. The CCT notes that this has traditionally been a core area used by Biigtigong Nishnaabeg for youth camps and outdoor classrooms. The CCT commits to working with Biigtigong Nishnaabeg to continue exploring alternative areas for outdoor classrooms on the land and government funding for associated infrastructure (eg: cabins).

The CCT is committed to work with Biigtigong Nishnaabeg to identify potential solutions and options regarding their requests of the Crown. Table 6.6 provides an updated list of the CCT's efforts to respond to Biigtigong Nishnaabeg's requests related to impacts on the socio-economic environment.

Table 6.5

Socio-Economic Conditions: Biigtigong Nishnaabeg List of Proposed Crown Accommodations or Mitigation Measures with Crown Consultation Team Actions Taken to Date

Accommodation or Mitigation Measures	CCT Actions
Support and funding of a social service plan and targeted health services plan. This would be dovetailed with the existing community wellness plan	Continue discussions IAAC initiated with ISC regarding potential FNIHB programs that may align with the concerns and the Health Services Integration Fund: Health Services Integration Fund (sac-isc.gc.ca) . Community Wellness Program will work with other ISC programs, communities and partner organizations to support community health and wellness.
Support and funding of a women and children wellness and safety plan.	<p>CMHC and IAAC provided Biigtigong Nishnaabeg with information related to: Indigenous Shelter and Transitional Housing initiative support construction of shelters. Submission window for proposals will remain open on a continual basis until December 2023.</p> <p>Please see the Health Services Integration Fund (sac-isc.gc.ca) as resources may be available for application. Follow up with FNIHB for details.</p>
Mandatory, advanced cultural sensitivity training for all mine workers (understanding of Residential Schools, Truth and Reconciliation Commission, Missing and Murdered Indigenous Women and Girls, etc.)	Please see CCT recommendation to the JRP regarding the Proponent’s need to develop mandatory training in consultation with Biigtigong Nishnaabeg.
Support and funding for annual monitoring and evaluation of programs and services to align resources with changing needs such as: additional community health nurses,	Continue discussions IAAC initiated with ISC regarding potential FNIHB programs that may align with the concerns and the Health Services Integration Fund: Health Services Integration Fund (sac-isc.gc.ca) . Community Wellness Program will work with other ISC

<p>mental health and addiction services programs, home and community care programs and nurses, medical transportation programs, Indigenous traditional healing programs and Elder support programs.</p>	<p>programs, communities and partner organizations to support community health and wellness.</p>
<p>Additional staff and support for the North East Mental Wellness and Crisis Response Team.</p>	<p>Continue discussions IAAC initiated with ISC regarding potential FNIHB programs that may align with the concerns and the Health Services Integration Fund: Health Services Integration Fund (sac-isc.gc.ca). Community Wellness Program will work with other ISC programs, communities and partner organizations to support community health and wellness.</p>
<p>Commitment to design, fund and build new Emergency Response Centre - consolidated fire, police, medical transport program, helicopter airlift landing station, new fire trucks, funding for new police staff and equipment.</p>	<p>ISC followed up directly with Biigtigong Nishnaabeg in November of 2021. ISC confirm that \$378,436 has been provided to the Biigtigong Nishnaabeg to purchase a new fire truck.</p> <p>Please see the Emergency Management Assistance Program (sac-isc.gc.ca) as resources may be available.</p>
<p>Emergency Response Plan relating to the mine.</p>	<p>Please see CCT recommendation to the JRP regarding the Proponent need to consult Biigtigong Nishnaabeg on the Emergency Response Plan.</p>
<p>Funding commitment for land suitability study and comprehensive community needs assessment and geotech studies.</p>	<p>ISC has provided \$194,000 (in total) to Biigtigong Nishnaabeg to complete a Land Use Plan. A document is currently being reviewed by Chief and Council.</p>
<p>Funding commitment to prepare subdivision lots for 50 houses.</p>	<p>IAAC initiated discussions with CMHC to explore potential solutions.</p>

Funding commitment for 40 houses (10 can be community-member owned).	IAAC initiated discussions with CMHC to explore potential solutions.
Fast-track commitment to fund and build new water treatment plant.	<p>ISC, IAAC, MECP and NDMNRF are actively working with Biigtigong Nishnaabeg on the approval process associated with the water treatment facility, which is at 66% design phase.</p> <p>ISC confirm that the design of the project is complete and is working with the Biigtigong Nishnaabeg to finalize documents for construction phase approval consideration. These documents have been shared with the Biigtigong Nishnaabeg for review and support. With Biigtigong Nishnaabeg concurrence, ISC will advance this project for construction approval through the Department’s established approval process. The NDMNRF has provided the project consultant with mitigation measures for inclusion in the tender process.</p>
Commitment for design and construction of new sewage treatment plan.	No updates to provide as of February 2022.
Commitment for funding and construction of a new school;	<p>ISC is published a joint announcement on December 9th, 2021 with Biigtigong Nishnaabeg regarding the construction of a new school. See: https://ofntsc.org/news/construction-begin-new-school-biigtigong-nishnaabeg-first-nation</p> <p>GoC has committed an investment of \$25.8 million to support the new school and is working in close partnership with Biigtigong Nishnaabeg leadership to ensure the project is successful. Construction is set to begin in winter/spring of 2022 and is expected to be completed by summer 2023.</p>
Funding commitment for special education teachers / occupational therapists.	<p>ESDC’s indicated early learning and child care (ELCC) program provides funding to provincial and territorial governments for programs and services through bilateral agreements. ELCC programs and services would be available through the province of Ontario: https://www.ontario.ca/page/provide-child-care-and-early-years-programs.</p>

Funding for new school buses and transportation services.	No updates to provide as of February 2022.
Commitment for funding and construction of land-based education infrastructure based on difference in costs between the old and new school building standards.	No updates to provide as of February 2022.
Protection of core areas as our outdoor classroom Permitting and support for outdoor classrooms on the land (long house, cabins, cooking station, etc.).	<p>The CCT commits to continue to explore existing government funding that could align with this request, including but not limited to <i>Canada Ontario Resource Development Agreement (CORDA)</i> program.</p> <p>The NDMNRF would like to discuss this matter in more detail directly with BN and work collaboratively regarding this proposal to better understand BN's interests and to explore potential opportunities.</p>
Dedicated micro-hatchery learning facility.	NDMNRF has been working with Biigtigong Nishnaabeg since 2018 for the provision of 10 000 brook trout eggs annually from a hatchery in Dorion, ON in support of its outdoor education curriculum, which provides the students with the opportunity to learn about and observe the growth/development. NDMNRF would like to work directly with Biigtigong Nishnaabeg to better understand the request and explore potential opportunities as appropriate.

6.1.8.2 Preliminary Assessment of Biigtigong Nishnaabeg's Interests and Values Associated with Socio-Economic Conditions

Based on the information provided by Biigtigong Nishnaabeg and the Proponent analysis, the CCT is of the view that the Project has the potential for MODERATE to HIGH impacts on Biigtigong Nishnaabeg's interests and values associated with socio-economic conditions and values.

6.1.8.3 Potential Measures to Address Concerns Associated with Socio-Economic Values and Conditions

In an effort to minimize impacts on Biigtigong Nishnaabeg's interests and values associated with socio-economic conditions and values, the CCT suggests that the JRP consider making the following recommendations:

- The Proponent consult Biigtigong Nishnaabeg in the selection of plant species for the re-vegetation activities.
- The Proponent consult the Biigtigong Nishnaabeg in monitoring of country foods as part of the mitigation and enhancement measures.
- The Proponent consult the Biigtigong Nishnaabeg in the development of a detailed monitoring plan related to Project impacts on vegetation, which would incorporate appropriate air quality standards and accurately reflect the diet of local Indigenous groups. This could reduce the impacts to asserted rights from any real and perceived contamination of plants.
- HC recommends the Proponent develop and implement a comprehensive traditional food monitoring program for all phases of the Project, that considers community-specific or representative food types/species, harvesting/fishing/hunting/trapping grounds, and consumption patterns of traditional foods. Demonstrate how Indigenous engagement is used to inform the monitoring program.
- HC recommends the Proponent assess the human health risks based on the results of the traditional food monitoring program and communicate the findings to Indigenous peoples who may be impacted by Project activities.
- The Proponent develop and deliver mandatory, advanced cultural sensitivity training for all mine workers to mitigate potential incidents of racism. The training curriculum should include, but not be limited to an understanding of Residential Schools, Truth and Reconciliation Commission, Missing and Murdered Indigenous Women and Girls, etc.).
- The Proponent and relevant government agencies explore options related to Biigtigong Nishnaabeg's requests for health and wellness services. This would be required to mitigate both
 - the potential further strain on community infrastructure and services from Biigtigong Nishnaabeg members moving back for employment opportunities mine;

- the impacts associated with an influx of workers on further straining services in the region .
- The Proponent develop, in collaboration with Biigtigong Nishnaabeg, a targeted health services plan that would dovetail with their existing community wellness plan.
- The CCT to continue to support Biigtigong Nishnaabeg in navigating the approval process associated with the water treatment facility.
- The Proponent develop, in collaboration with Biigtigong Nishnaabeg, a socio-economic management and monitoring plan (SEMMP) to measure and mitigate the socio-economic impacts of the Project on Biigtigong Nishnaabeg.
- The Proponent consult Biigtigong Nishnaabeg in the development of Emergency Response Plan relating to the mine.
- The CCT to continue to explore existing government funding that could align with the request to support outdoor classrooms on the land.

6.1.9 Preliminary Assessment of Potential Impacts to Biigtigong Nishnaabeg Established or Asserted s. 35 Rights Associated with Cumulative Effects

6.1.9.1 Potential Impacts to Biigtigong Nishnaabeg Established or Asserted s. 35 Rights Associated with Cumulative Effects

6.1.9.1.1 Summary of Biigtigong’s Views – This Represents the Views of Biigtigong Nishnaabeg

After careful consideration and analysis of the information presented to-date regarding the Project, it is Biigtigong Nishnaabeg’s assessment that the additive effects of the Project will contribute to already extensive cumulative effects pressures which will have a **HIGH impact** on the ability of Biigtigong Nishnaabeg to exercise their Aboriginal Title rights and interests.

It is Biigtigong Nishnaabeg’s view that the additive cumulative effects of the Project will be felt across every discipline discussed herein, including the terrestrial environment, aquatic environment, and spiritual, cultural and socio-economic considerations.

To reiterate Biigtigong’s cumulative effects considerations outlined in the terrestrial environment section, Biigtigong Nishnaabeg continues to experience the cumulative impact of past and present development on the terrestrial environmental and its associated impacts on the exercise of rights. Mineral exploration, forest harvesting, patenting of private lands, alienations of lands through parks, municipalities and protected areas, hydro corridors, rail lines, roads, aggregate pits, and Crown dispositions such as easements, licenses of occupation and land use permits all combine to result in significant impacts to the terrestrial environment and the exercise of Biigtigong Nishnaabeg’s rights. In Biigtigong Nishnaabeg’s view, consideration of these cumulative impacts should also include impacts from Crown policies,

such as wildlife management regimes (Ontario) and the lack of community infrastructure and services support (Canada), which also exacerbate the seriousness and magnitude of these impacts. These impacts combine to challenge the community's resiliency in being able to adapt to and accommodate increasing external pressures.

As noted in the aquatic environment section, Biigtigong has expressed concern that the Proponent has not included the GECO mine or the Hemlo gold mine camp as activities with potential to cause cumulative effects. Both mines are within the Black River watershed, which meets the Biigtig Zibi (Pic River) in Biigtigong Nishnaabeg's reserve lands. Both mines have the potential to cause downstream effects that could have cumulative effects from anticipated or unforeseen discharges from the Project to the Biigtig Zibi (Pic River). These cumulative effects could come from uncontrolled discharge of contaminants from either mine, as has previously occurred with cyanide spills from Hemlo. The Project may also have cumulative impacts to water quality and quantity and fish and fish habitat related to future mineral exploration activities and the Peninsula Harbour Remediation Project, which the Proponent has not included.

Biigtigong Nishnaabeg continues to experience pressure from ongoing mineral exploration in their Exclusive Title Area, including exploration work in the immediate proximity of the Biigtig Zibi (Pic River) within the Local and Regional Study areas. The Peninsula Harbour Remediation Project, which has been implemented but is still in recovery, is downstream of the mine site and cannot be considered in isolation from the mine.

[6.1.9.1.2 Summary of the Proponent's Assessment on Cumulative Effects](#)

In section 6.6 of the EIS Addendum, the Proponent notes that Biigtigong Nishnaabeg, as with other Indigenous communities, have expressed concerns with the adverse effects of past and present projects and activities within their traditional territories and the implication on their interests and rights. The Proponent makes reference to Biigtigong Nishnaabeg's Feb 25, 2021 presentation which illustrates the historic alienation of their traditional territory by past decisions and activities, a copy of which is included with permission from Biigtigong Nishnaabeg in the Record of Consultation (Appendix C of the EIS Addendum [Vol. 2]).

As expressed by Biigtigong Nishnaabeg to the Proponent, Biigtigong Nishnaabeg is of the position that significant cumulative effects have occurred as a result of the past and present projects and activities within their asserted traditional territory. However, the Proponent notes that Biigtigong Nishnaabeg acknowledged that such effects will have occurred and are likely to occur independent of the Project. The Proponent shared that Biigtigong Nishnaabeg have identified additional mitigation measures that they propose are required from the federal and provincial governments to address existing conditions and historical effects on Indigenous communities.

With respect to Project contributions to cumulative effects within their traditional territories, the Proponent notes that Project residual effects (even small changes) are anticipated for all

VECs (except archaeology and built and cultural heritage) and have the potential to contribute to cumulative effects. In each case where residual cumulative adverse effects have been identified, the Proponent characterizes the residual cumulative adverse effects as not significant. The Proponent committed to implementing mitigation and environmental protection measures to address Project-specific effects on all VECs, in consultation with Indigenous communities, such that the contribution of effects from the Project to cumulative effects would be negligible.

The Proponent references that the AIP, signed by Biigtigong Nishnaabeg, contains solutions to a number of issues and signals Biigtigong Nishnaabeg's leadership support, in principle, for the Project. The Proponent also indicated it is in the process of establishing a CBA to address potential Project impacts to Biigtigong Nishnaabeg.

[6.1.9.1.3 Summary of the Crown Consultation Team's Views Associated with Cumulative Effects](#)

The CCT acknowledges Biigtigong Nishnaabeg's view that a multitude of past, current and future projects have eroded Biigtigong Nishnaabeg's ability to use its traditional territory. The CCT notes that these activities have cumulatively affected or could affect the conditions that support or limit Biigtigong Nishnaabeg's exercise of their rights, as evident in Figure 4, provided by Biigtigong Nishnaabeg, but that further information is required to measure the additive that the Project would introduce. The CCT recognizes that the Project is located within a landscape where past and ongoing resource development activities have contributed to cumulative impacts on BN's established or asserted s. 35 rights. The CCT acknowledges Biigtigong Nishnaabeg's perspective that this has impacted their ability to achieve their land use planning objectives and vision.

- water quality and quantity, including groundwater and surface water resources,
- aquatic resources and watersheds,
- economic and social environment, including resource uses and human health.

Therefore, the CCT is of the preliminary view that the Project has a HIGH potential to contribute to cumulative effects of past and ongoing land uses on BN's established or asserted s. 35 rights.

6.1.10 Outstanding Concerns and Interests of Biigtigong Nishnaabeg

- Timing of EA Process with concurrent asserted title claim negotiations.

6.2 Ginoogaming First Nation

6.2.1 Introduction

The information Ginoogaming First Nation has submitted on the JRP record and shared with the CCT through consultation meetings regarding their established or asserted s. 35 rights and values potentially impacted by the Project form the basis of the CCT's understanding of the context in which impacts on these rights would occur. CCT engagement with the community of Ginoogaming First Nation is in early stages. To date, two meetings have been held between the CCT and the community.

This submission was shared with Ginoogaming First Nation on February 9, 2022 for validation and comment. Ginoogaming First Nation provided comments on February 17, 2022, which were subsequently integrated into this document.

The EA was suspended in 2014 and recommenced in July 2019. While the Proponent has addressed some concerns raised previously, others were not raised during consultations since the EA recommenced and are therefore not assessed in this document.

The CCT met with Ginoogaming First Nation three times between June 2021 and February 2022. The community submitted comments to the registry of their Review of the Generation PGM Inc. Marathon Palladium Project Environmental Impact Statement Addendum [CIAR #908](#) on July 26, 2021.

6.2.2 Background

The following background information was gathered from Ginoogaming First Nation's public website in 2022 and does not necessarily reflect the views of Canada or Ontario:

Ginoogaming First Nation is a member Nation of the Nishnawbe Aski Nation, a political territorial organization representing 49 First Nations in northern Ontario. Ginoogaming First Nation is also a member Nation of Matawa First Nations Management, a tribal council providing a variety of advisory services and programs to eight First Nations in James Bay Treaty No. 9 and one First Nation in the Robinson-Superior Treaty. Ginoogaming First Nation has expressed that they had long inhabited and occupied the lands and waters of the area before either Treaty came into effect.

Ginoogaming First Nation (formerly known as Long Lake Reserve #77) is an Anishnawbe (Ojibway) First Nation located 40 km east of Geraldton, Ontario, on the northern shore of Long Lake, immediately south of Long Lake #58 First Nation and the community of Longlac, Ontario. While Ginoogaming First Nation is 120 Km from the proposed development, the CCT notes that the Regional Study Area for the Project partially overlaps with the area of Treaty 9, of which Ginoogaming First Nation is a signatory, and understands that Ginoogaming First Nation's asserted traditional territory overlaps with the Project's Regional Study Area and Local Study Area. Figure 5 shows the spatial extent of that Ginoogaming First Nation's asserted traditional territory.

Ginoogaming First Nation have expressed that its community members are not sedentary and that they and their ancestors have utilized waterways for thousands of years as transportation networks just as highways are used today ([Section 2.1-Nanagjitoong Nibi \(Water Protection Council\) & the GFN Trappers Association – Water Protection Declaration Support for basic tenets and principles of a draft Water Protection Declaration prepared by: Jennifer Wabano, Omushkegowuk Women’s Water Council](#)). Many Ginoogaming First Nation families identify an ancestral connection to migration routes both northward (to Hudson Bay coast) and southward (to Pic River and Lake Superior). Ginoogaming First Nation states that these routes connect Ginoogaming First Nation to other Nations found along waterways and the kinship and family connections formed across their traditional territories depend on the waters that connect them. In a July 26, 2021 letter to the Joint Panel (CIAR #908), Ginoogaming First Nation referenced and enclosed their “Nanagjitoong Nibi Water Protection Declaration”. The Nanagjitoong Nibi Water Protection Declaration helps inform the values and concerns Ginoogaming First Nation has expressed to the CCT and is understood to be an important part of the basis of Ginoogaming First Nation’s interest in the Project. For example, Ginoogaming First Nation has shared: *“It is our duty to ensure that the future generations, and the original land right holders, receive the waters in its pure form. We must guarantee that the waters will*

be free of contamination, for the ones who have yet to use it, for our children and great grandchildren and theirs.”

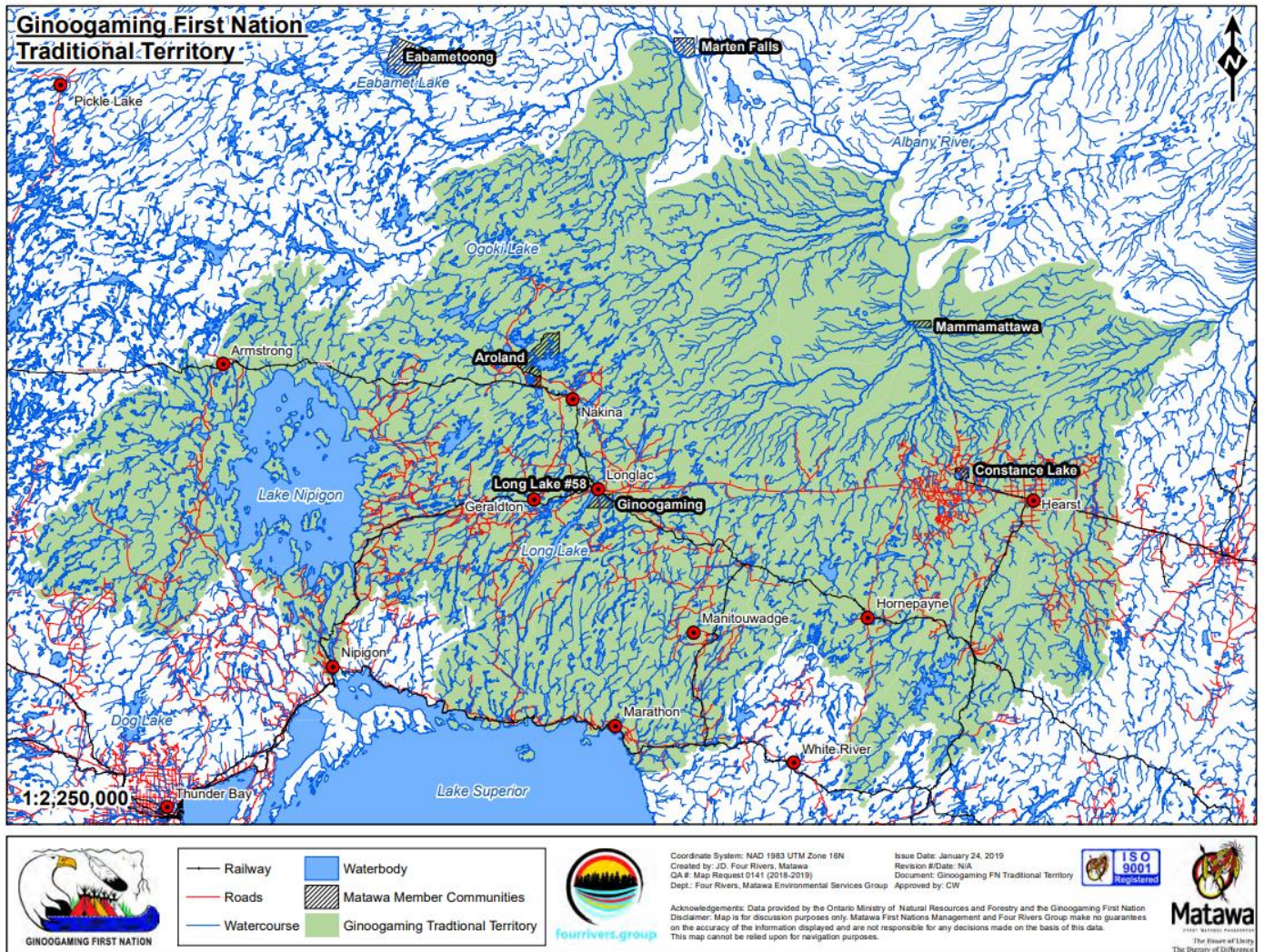


Figure 5: The map shows the traditional homeland across the province (source: Ginoogaming First Nation CIAR #908). This map does not reflect the Crown’s current understanding of the First Nation’s asserted title area.

6.2.3 Ginoogaming First Nation’s Priority Values and Interests

Based on what the CCT has heard from Ginoogaming First Nation community members on the Project record and throughout the consultation process, below is a summary of key points raised by Ginoogaming First Nation. These highlighted topics are not an exhaustive list of concerns related to community interests in and around the Project, but those for which the CCT can assess impacts to rights.

Ginoogaming First Nation noted its interest in the potential for training and employment opportunities. Due to lack of specifics and the inability to speculate on this interest, this interest is not assessed further in this document. Should additional details be provided through GINOOGAMING FIRST NATION engagement activities, the CCT will include an assessment related to Ginoogaming First Nation’s socio-economic concerns.

6.2.3.1 Impacts on Water Quality

The number one priority for Ginoogaming First Nation is understood to be water, the protection of it, and its associated influence on land, animals, air, and the people who depend on it. Ginoogaming First Nation notes that measures such as environmental monitoring programs must be in place throughout the duration of the Project to protect and measure water quality of affected watersheds.

6.2.3.2 Impacts on Harvesting

Impacts on harvesting practices such as hunting, fishing, and gathering of valued plants (edible, medicinal, technology) in what they describe as their traditional territory are a concern for Ginoogaming First Nation. Ginoogaming First Nation have identified that their members hold traplines and conduct harvesting activities in areas upstream, within the watershed of the Project.

6.2.4 Preliminary Assessment of Potential Impacts to Ginoogaming First Nation's Established or Asserted s.35 Rights and Related Interests

6.2.4.1 Potential Impacts to Ginoogaming First Nation's Established or Asserted s. 35 Rights Associated with Water Quality

6.2.4.1.1 Summary of Ginoogaming First Nation's Views – This Represents the Views of Ginoogaming First Nation

Ginoogaming First Nation indicated that potential impacts to water are of utmost importance and monitoring programs should be in place for the duration of the Project. Positioned at the height of the Pic River watershed, Ginoogaming First Nation has asserted that their traditional territory spans from Lake Superior to James Bay and covers a wide swath of waterways, lakes and streams. Ginoogaming First Nation considers water to be essential to Indigenous health, culture, and well-being of the community, this is reflected in the letter ([CIAR #908](#)) that they shared with the Joint Review Panel. Ginoogaming First Nation has expressed that its spiritual and physical bond to the waterways is a value that it seeks to protect now and for future generations. The health of well-being of Mother Nature is inextricably connected to Ginoogaming First Nation's health and the sustenance that the lands and waters provide.

Ginoogaming First Nation is currently discussing with the Proponent the potential to improve flow in the watershed by removing previously installed dams associated with the forestry industry. Ginoogaming First Nation are hopeful that ongoing discussions will result in actions in this regard and will continue the reconciliation efforts and relationship building between Ginoogaming First Nation, the Proponent, and Government parties as required. Ginoogaming First Nation has expressed interest in the training and appointment of an environmental monitor from their community. This Ginoogaming First Nation community member, trained by the Proponent, would facilitate communication with the Proponent regarding watershed protection, monitoring, and mitigation actions. Ginoogaming First Nation indicated this would help achieve trust and reconciliation efforts in the community.

6.2.4.1.2 Summary of the Proponent's Assessment of Impacts to Water Quality

The Project interactions with water quantity and quality have been noted in Section 6.2.3 of EIS Addendum (Vol 2) ([CIAR #727](#)), including effects on ground water, surface waters, and sediment quality of waterways. Details on anticipated effects are outlined for all stages of the Project including site preparation, operation, and finally closure. All effects are mitigated with the Proponents planned modifications. A number of these mitigation measures and modifications to the Project involve reducing potential impact on the Pic River watershed and directing discharge from Process Solids Management Facility (PSMF) into Hare Lake. This includes reducing potential for waters to enter the Pic River, moving infrastructure out of watersheds that drain into the Pic River, and to direct discharge from the PSMF into Hare Lake.

Regarding water quality and quantity, anticipated effects to surface water are assessed in the Surface Water Hydrology Effects Assessment (Appendix D3 of EIS Addendum [Vol 2]). While changes to surface water hydrology were noted, anticipated effects were deemed non-significant given the proposed protection measures and follow-up monitoring programs. Mitigation actions include ensuring periodic testing, reducing water use in the Project, and collecting runoff. Similarly, change in surface water quality from routine activities carried out during each phase of the Project are considered non-significant. The Proponent reports that predicted changes in water quality do not exceed benchmarks in the local study area and no effects on aquatic biota or water uses will occur. An updated offsetting and compensation plan was submitted by the Proponent on January 14, 2022 ([CIAR #983](#)). It was noted by DFO that additional work is required to evaluate the appropriateness of the proposed measures. DFO's thoughts on this plan are included in its submission.

Ground water quantity and quality mitigation measures include limiting construction footprint, using standard management practices of drainage control and cut-offs, installing water seepage collection ditches, completion of water well surveys, progressive vegetative rehabilitation, and accelerating open pit filling at time of closure to return ground water levels to steady state sooner. Again, no significant effects are expected given the Proponent's mitigation actions, this is consistent with the original 2012 EIS ([CIAR #226](#)).

While Project components and activities are not expected to directly alter water quantity or quality there are residual effects expected. Of which the Proponent has planned long term monitoring programs. The specifics of the long-term monitoring program (Section 7.1.2.3 EIS Addendum (Vol 2) ([CIAR #727](#))) detailed in the Environmental Monitoring and Management Program section indicate the program will be developed during the permitting process which will include participation from various specialist and leaders in the topic. Further details of the offsetting and compensation plan are discussed in the Proponent submission [CIAR #983](#), as noted previously, DFO, requires more specificity regarding the viability of such plans.

The impact to specific fish species has been summarized in [IR5-14](#), [IR5-15](#), EIS Addendum ([CIAR #727](#)) 6.2.3, 6.2.4 and 6.2.12, including the mitigation measures. Mitigation was informed by consultation with Indigenous communities and DFO's policy for applying offsetting measures

under the Fisheries Act (Fish and Fish Habitat Protection Program). Though ongoing communications, offsetting methods have been developed to rectify the direct and indirect loss of fishing privileges. The Proponent has concluded the associated effects of the Project will have no effect on fishing by Indigenous peoples. The Proponent will be required by the *Fisheries Act*, through DFO and ECCC, to develop, implement, and monitor a fish habitat offsetting plan.

Finally, the Proponent in section 6.2.12 of EIS Addendum Volume 2 ([CIAR #727](#)), recognizes Indigenous communities have relationships to the land and waters within their traditional territories, much of which are associated with spiritual and cultural way of life. The ability of Indigenous to maintain cultural heritage and access to the waterways that are of cultural significance may also affect the health of Indigenous communities. The Proponent has made ongoing efforts to engage with communities and have established an Environmental Committee that commenced in March 2021 that meet on a monthly basis. Ginoogaming First Nation has participated in these meetings where representatives have had an opportunity to discuss topics of concern, review mitigation details, and obtain feedback that can inform Project design. ([Responses to Information Request #1](#) Package 7 “Assessment of Effects of Valued Ecosystem Components of Indigenous Interest”). There is a new offsetting plan ([CIAR #983](#)), which has been reviewed by DFO. DFO's thoughts on this plan are included in its submission.

6.2.4.1.3 Summary of Crown Consultation Team's Views of Impacts to Water Quality

The CCT acknowledges the spiritual, cultural and physical connection Ginoogaming First Nation has to the waters in what they describe as their traditional territory, including community use of waterways to carry out culturally significant activities, maintain a connection to historic roots, while ensuring the same use for future generations.

The CCT recognises that adverse effects to water quality can affect resources such as fish and country foods. Any adverse impacts on these resources could also affect Ginoogaming First Nation's established or asserted s. 35 rights to fish and hunt, although the CCT currently has no knowledge of Ginoogaming First Nation's practices of rights at or near the Project area. The CCT does note the limited information provided by Ginoogaming First Nation regarding potential impacts from the Project on specific concerns as they relate to water. For example, Ginoogaming First Nation have not provided direct information related to Project impacts on preferred sites used for fishing and recreation or reduced access to specific waterways resulting from the Project. The CCT will continue consultation and its views regarding potential impacts to Ginoogaming First Nation's established or asserted s. 35 rights could change.

The CCT notes the Proponent's commitments to mitigating the Project's effects on water quality through avoidance and water quality management and subsequently the effects on fish and fish habitat. Also, the Proponent has committed to finalizing and implementing a fish habitat offsetting in consultation with DFO and other interested parties. DFO noted that the Proponent may need to further engage Indigenous groups on impacts on the asserted or established Aboriginal or Treaty rights to fish.

A draft offsetting and compensation plan was submitted by the Proponent on January 14, 2022 ([CIAR #983](#)). In response to [CIAR #983](#), DFO specifically recommends that further development of the offsetting plan should be done in collaboration with Indigenous Communities (Recommendation 9). Furthermore, DFO notes that although the draft offsetting plan represents substantial progress, there is still a lot of work required to determine the viability and appropriateness of the proposed offsetting measures, but that no technical barriers prevent the Proponent from creating an appropriate offsetting plan. The CCT recognize that should the Project proceed, DFO has a duty to consult with potentially impacted Indigenous communities through the regulatory stage.

For a detailed summary of DFO's assessment of the Project's potential effects on fish and fish habitat, please refer to DFO's hearing submissions.

For a detailed summary of ECCC's assessment of the Project potential effects on water quality and quantity, please refer to ECCC's hearing submissions.

The CCT maintains the importance of the Proponent's continued consultation with Ginoogaming First Nation and their continued involvement in the Environmental Committee, where issues can be presented and resolved. The CCT also notes the importance of Ginoogaming First Nation being consulted on further efforts of the Proponent in relation to the Fish Habitat Compensation and Offsetting Plan. The CCT also recognizes the importance of a continued open dialogue and information sharing through-out the lifespan of the Project between Ginoogaming First Nation and the Proponent. Facilitating regular communication and engagement with Ginoogaming First Nation is critical to ensure Ginoogaming First Nation has access to information that can inform their priorities for water protection and cultural practices which may rely on waterways within what they describe as their traditional territory.

6.2.4.2 Preliminary Assessment of Potential Impacts to Ginoogaming First Nation's Established or Asserted s. 35 Rights Associated with Water Quality

Based on the information provided by Ginoogaming First Nation and the Proponent's analysis, the CCT is of the view that there is a potential for NEGLIGABLE to LOW negative impacts from the Project on Ginoogaming First Nation's established or asserted s. 35 rights or interests associated with water.

6.2.4.3 Potential Measures to Address Concerns Associated with Water Quality

The CCT suggests that the JRP should consider making the following recommendations:

- The Proponent establish a communication and engagement plan with Ginoogaming First Nation throughout the Project's lifecycle to communicate results of monitoring and follow-up program. This communication and engagement plan would also facilitate an opportunity to discuss potential mitigation measures that may be required to address unforeseen effects on water quality and quantity and fish and fish habitat.

- As per DFO’s recommendation, the Proponent is to continue working directly with DFO, provincial regulators and Indigenous communities to provide a final version of an offsetting plan that adequately balances fish habitat losses caused by Project activities.

6.2.4.4 Potential Impacts to Ginoogaming First Nation’s Established or Asserted s. 35 Rights Associated with Harvesting

6.2.4.4.1 Summary of Ginoogaming First Nation’s Views – This Represents the Views of Ginoogaming First Nation

Ginoogaming First Nation has indicated that they have members who carry out harvesting activities throughout what they describe as their traditional territory, which they have indicated overlaps with the Local Study Area and Regional Study Area for the Project. Ginoogaming First Nation states that members use the land around the Project area, including the highway 11 corridor, and south along highway 17 and Lake Superior for a variety of harvesting practices. Harvesting activities cited by Ginoogaming First Nation include fishing, hunting, trapping and plant gathering. Ginoogaming First Nation has expressed concerns regarding the impact the Project may have on their community member’s abilities to practice harvesting activities.

While details on specific impacts and concerns from Ginoogaming First Nation have not been fully articulated, partially due to the late involvement in the consultation process, it is clear that the ability to continue harvesting holds cultural and spiritual significance to the community. Ginoogaming First Nation has noted that their members are active land users and trappers on their ancestral traplines that were located in proximity to Terrace Bay and within 5-10 km north of Marathon. More specifically, Ginoogaming First Nation have indicated that four to six families and members engaged in trapping activities 5-10 km north of Marathon and that these activities could be impacted by the Project. Ginoogaming First Nation currently gathers medicinal plants (including aquatic plants) along waterways upstream of the Project and has expressed a desire to further understand the potential impacts of contaminants to valued plants connected with the waterways (questions surrounding the potential for transport on fish, waterfowl, and dust). Ginoogaming First Nation has deep ties to the lands and waters for their sustenance and livelihood and wants to ensure that future generations can return to the landscape and find the medicines and foods that their ancestors harvested. Ginoogaming First Nation expressed concerns that many of these landscapes have been altered by forestry activities over that last century, and that they need to be cautious in all projects to predict impacts and protect values and biodiversity.

6.2.4.4.2 Summary of the Proponent’s Assessment of Impacts to Harvesting

While not specific to Ginoogaming First Nation, the Proponent has undertaken an analysis regarding waters bodies that could be impacted by the Project, while site specific (Hare Lake, Bamoo Lake, Pic River) the Proponent has recognized that the area is used by multiple communities for traditional activities both historically and currently. The Proponent recognizes that “potential effects include social, cultural, and spiritual importance and way of living for the community”.

Harvesting activities such as hunting and use of traplines have been evaluated by the Proponent. The Proponent maintains the direct and indirect effect will be minimal. With the loss of 1,116 ha of habitat at the site study area (SSA) animals will be displaced during construction and operation and habitat will be fragmented. Following the completion of mining activities and the restoration process many mammals will return to the SSA and others will recolonize the local study area in time, while still others may become accustomed to human presence and return to the extent of the SSA before mining activities cease ([Section 5 and 6.2.12 of EIS Addendum Volume 2](#)). The change in habitat coverage is predicted to have no long-term impacts on wildlife or residual effects in the boreal ecosystems. Mitigation strategies to reduce impacts on harvesting have been proposed by the Proponent, including and providing limited access to areas outside of the SSA for Indigenous community use.

The Project has the potential to reduce ability for Ginoogaming First Nation community members to forage for plants and harvest materials of cultural importance within the SSA. Effects on plant harvesting in the SSA and LSA are anticipated during operation such as reduced access to plants of interest and dust accumulation, which could impact harvesting and foraging activities. During closure there will be substantial effects on vegetation as restoration of habitat originally occupied by the mine will be undertaken via reclamation ([Section 1.5.2.3 of the EIS Addendum \(CIAR #727\)](#)). The closure plan will include Indigenous communities' views on the potential to incorporate plant species of interest to Indigenous communities, including the identification of suitable locations, and will involve joint creation of the Country Foods Monitoring Program (IR 6-16–[Closure Landscape](#)). In response to the [IR6-33 – Human Health Risk Assessment for Country Food](#), the country food monitoring program will provide opportunities for ongoing engagement and assessments directed by the feedback received from Indigenous groups.

[6.2.4.4.3 Summary of the Crown Consultation Team's Views of Impacts to Harvesting](#)

The CCT acknowledges Ginoogaming First Nation's views regarding the spiritual, cultural and physical connection the community has to the waters and lands of their described traditional territory and the rights to practice harvesting. The CCT recognises that adverse effects to water quality can affect resources such as fish and country foods. Any adverse impacts on these resources could also affect Ginoogaming First Nation's established or asserted s. 35 rights to fish, hunt, or gather plants. The CCT has no knowledge of Ginoogaming First Nation's practice of rights in the vicinity of the Project. The CCT does note the limited information provided by Ginoogaming First Nation regarding potential impacts from the Project on specific concerns as they relate to hunting or harvesting. The CCT will continue consultation and its views regarding potential impacts to Ginoogaming First Nation's established or asserted s. 35 rights could change.

The CCT maintains the importance of continued communication between the Proponent and Ginoogaming First Nation, including continued involvement in the Environmental Committee; where issues can be presented and resolved. Facilitating regular communication and engagement with Ginoogaming First Nation is critical to ensure Ginoogaming First Nation has

access to information relevant to any potential impacts to established or asserted s. 35 rights related to harvesting. The CCT also notes that Ginoogaming First Nation will be consulted on the Proponent's closure plan, should the Project proceed. The consultation process on the closure plan could provide a forum and mechanism to address some the concerns raised by Ginoogaming First Nation related to the Project's potential impacts on harvesting activities.

6.2.4.5 Preliminary Assessment of Potential Impacts to Ginoogaming First Nation's Established or Asserted s. 35 Rights Associated with Harvesting

Based on the information provided by Ginoogaming First Nation and the Proponent's analysis, the CCT is of the view that there is a potential for NEGLIGABLE to LOW negative impacts from the Project on Ginoogaming First Nation's established or asserted s. 35 rights or interests associated with harvesting.

6.2.4.6 Potential Measures to Address Concerns Associated with Harvesting

The CCT suggests that the JRP should consider making the following recommendations:

- The Proponent establish a communication and engagement plan with Ginoogaming First Nation throughout the Project's lifecycle to communicate results of monitoring and follow-up program. This communication and engagement plan would also facilitate an opportunity to discuss potential mitigation measures that may be required to address unforeseen effects on trapping and land use.
- The Proponent consult Ginoogaming First Nation on the mine closure plan.

6.2.5 Outstanding Concerns and Interests

- Ginoogaming First Nation did not share any additional concerns or interests at the time of submission.

6.3 Métis Nation of Ontario (Region 2)

6.3.1 Introduction

The information the Métis Nation of Ontario has submitted on the JRP record and shared with the CCT through consultation meetings regarding their rights and values potentially impacted by the Project form the basis of the CCT's understanding of the context in which impacts on the Métis Nation of Ontario's asserted s.35 rights would occur.

This submission was shared with the Métis Nation of Ontario on February 10 2022 for validation and comment. The Métis Nation of Ontario provided comments on February 17, 2022, which were subsequently integrated into this document. The Métis Nation of Ontario shared a redacted version of a Traditional Knowledge and Land Use Study (TKLUS) with the CCT on February 22, 2022. It has not been integrated into this document prior to internal approvals on February 24, 2022 but will be considered in the final assessment of the severity of the impacts prior to decision-making.

The EA for the Project was suspended in 2014 and recommenced in 2019. It is understood that the Proponent addressed some of the Métis Nation of Ontario's concerns prior to the suspension, and that others have not been raised by the Métis Nation of Ontario since the recommencement of the EA. Those concerns that have been previously addressed, as well as those not raised by the Métis Nation of Ontario since the recommencement of the EA, are not assessed in this document.

The CCT met with Métis Nation of Ontario-Region 2 four times between September 2020 and May 2021, which includes one in person meeting. The community submitted comments to the registry on July 21, 2021 ([CIAR #882](#)).

6.3.2 Background

Note: the information below was obtained from the Métis Nation of Ontario website ([Métis Nation of Ontario | About the Métis of Ontario \(metisnation.org\)](#)) and does not necessarily reflect the views of Canada or Ontario.

In 1993, the Métis Nation of Ontario (MNO) was established through the will of Métis people and Métis communities coming together throughout Ontario to create a Métis-specific [governance structure](#). Prior to 1993, Métis had been involved in pan-Aboriginal lobby groups and organizations. The MNO was not created to represent all individuals and communities that claim to be Métis, but those individuals and communities that are a part of the Métis Nation.

At its original meetings, Métis representatives from communities throughout the province set out the foundational vision for the MNO. This vision is encapsulated in the MNO [Statement of Prime Purpose](#).

The statement is a seminal document for the MNO and it sets out why the MNO was formed, who MNO represents, and what the MNO wants to achieve. The statement has been central to the MNO's success over the last 27 years. The statement also affirms that the MNO was created

to represent Métis people and communities in Ontario that are a part of the Métis Nation. Specifically, the document states:

“We, the Métis are a people of the lands which gave rise to our history and tradition and culture. We call these lands the Métis Homelands. The Homelands stretch from the lakes and rivers of Ontario; cross the wide prairies; traverse the mountains into British Columbia and into the far reaches of the Northwest Territories. They include the hills and valleys of the north-central American States. These are our lands. They are Métis lands. They are the lands of our past which nurture us today and which we value as the precious foundation of our future.”



A map from the Métis Nation of Ontario showing the traditional harvesting territories across the province. (Metis Nation of Ontario)

Figure 6: The traditional harvesting territories that the Métis Nation of Ontario has identified across the province (source: MNO). This map does not necessarily reflect the Crown's view of the geography of the Métis Nation of Ontario's traditional territories

6.3.3 Métis Nation of Ontario's Priority Values and Interests

Based on what the CCT has heard from the Métis Nation of Ontario members on the Project record and throughout the consultation process, below is a summary of key points the Métis Nation of Ontario has raised related to the context of the Métis Nation of Ontario's interests in and around the Project. The Métis Nation of Ontario has also put information on the environmental assessment record about who they are as a people, and their concerns in relation to the Project.

The Métis Nation of Ontario has shared that the approach to understand and assess the potential effects of the Project on the rights and interests of the Métis Nation of Ontario citizens could have considered additional sources to further contextualize Métis rights. Some

examples of sources indicated by the Métis Nation of Ontario include: the MNO-MNRF Framework Agreement on Métis Harvesting, and the MNO-Canada Métis Government Recognition and Self-Government Agreement (2019).

The Métis Nation of Ontario has indicated that perception-based effects for Métis can occur in relation to wildlife, fish, plant harvesting, and access and travel routes (please see section 6.3.4.1.1 of this submission for more information). All Valued Ecosystem Components (VECs) interact with Indigenous considerations through changes to perception. For example, if there are perceptive shifts for harvesters in relation to air quality, they may no longer harvest in proximity to the Project. The Métis Nation of Ontario is of the view that the Proponent must consider the perceptive effects of the Project on Métis harvesters in order to ensure fulsome assessment of Indigenous considerations.

6.3.3.1 Impacts on Harvesting

The MNO-MNRF Framework Agreement on Métis Harvesting (2018) specifically defines credibly asserted Métis Harvesting Rights as involving “...hunting, trapping, fishing and gathering of natural resources for food, social or ceremonial purposes”. The Métis Nation of Ontario expressed concerns regarding the Project’s impacts on Métis harvesters’ ability to exercise these rights.

6.3.3.2 Impacts on Water Quality, Fish Health, and Fish Harvesting

The Métis Nation of Ontario raised concerns regarding the comprehensive potential effects to fish health through sediment deposition, sediment quality and/or increased turbidity, which may impact fish and the harvesting of those fish for consumption without reaching a lethal effect. The Métis Nation of Ontario cites that fish health or growth may be affected by Project-related changes in water, water chemistry, water turbidity, and sediment quality; these were identified as effect pathways for benthic invertebrates, but a similar effect pathway was not applied for fish. The Métis Nation of Ontario noted that fish health and growth are critical to ongoing Métis harvest, and that fish health, fecundity, and mortality are important considerations given that the Project may result in fish health and mortality in the SSA. Studies conducted on fish contamination and/or toxicity must reflect the fish consumption in Métis Nation of Ontario’s citizens.

6.3.3.3 Interest in Training and Employment Opportunities

The Métis Nation of Ontario stated that they would like to have more information on possible training, apprenticeship, and jobs. The Métis Nation of Ontario noted that there is still limited information in the socio-economic volume related specifically to Métis and the assessment of alternatives, both of which require additional information and consultation with the Métis Nation of Ontario. Assessment is requested on how the presence of Project workers in the LSA may impact vulnerable populations including Métis women and girls (including 2SLGBTQ+) in proximity to the proposed Accommodations complex. The Métis Nation of Ontario is of the view that GBA+ must be considered in this context.

6.3.4 Preliminary Assessment of Potential Impacts to Métis Nation of Ontario's Asserted s.35 Rights and Related Interests

6.3.4.1 Potential Impacts to Métis Nation of Ontario's Asserted s. 35 Rights Associated with Harvesting

6.3.4.1.1 Summary of Métis Nation of Ontario's Views – This Represents the Views of the Métis Nation of Ontario

The Métis Nation of Ontario Region 2 has asserted that they have Aboriginal Harvesting rights in the Project area, which are characterized and contextualized through the Supreme Court decision in *R v. Powley* 2003 SCC 43 (CanLII), [2003] 2 SCR 207), and through the MNO-MNRF Framework Agreement on Métis Harvesting (2018). The Métis Nation of Ontario has stated that the construction and operation of the Project will impact the exercise of those rights for the duration of the Project, and that the Proponent and the Métis Nation of Ontario should work together to ensure continued relationship building and deeper understanding of Métis rights and how they are exercised.

The Métis Nation of Ontario noted that Project development at the SSA will result in a loss of wildlife habitat and vegetation, but also in a loss of available Crown land for the Métis Nation of Ontario to access in order to exercise their asserted rights. The Métis Nation of Ontario expressed concerns about gates and fences around mines in the region limiting the Métis Nation of Ontario's harvesting activities. The Métis Nation of Ontario indicated that some members used Camp 19 road and that access should not be fully restricted, unless there are safety concerns. The Métis Nation of Ontario indicated they require access to the mine site and surrounding areas for harvesting and hunting. The Métis Nation of Ontario indicated the need, in a general sense, for an additional road or trail to be constructed to assist the Métis Nation of Ontario harvesters to access areas for harvesting. The Métis Nation of Ontario indicated that some members have been provided access to use Camp 19 road for the past 40 years. The Métis Nation of Ontario stated that irreversible loss of vegetation communities and wetlands must be evaluated in relation to their harvesting. The Métis Nation of Ontario indicated that 20 years' post-closure constitutes a significant loss for the Métis Nation of Ontario to harvesting, way of life, and sharing of intergenerational traditional knowledge.

The Métis Nation of Ontario shared that the Project's location is near Lake Superior which consists of three climates and ecosystems that contain specific country foods and associated to the Métis Nation of Ontario harvesting activities that are specific to these ecosystems. The Métis Nation of Ontario would like to know the list of planned species that will be part of the re-vegetation stage of the closure plan and to also participate in the re-vegetation plan. The Métis Nation of Ontario indicated it is still waiting to conclude an Agreement with the Proponent, which would include provisions for an environmental committee. The Métis Nation of Ontario would like to have a member that uses the area (harvesters/trapper) be part of that committee and to conduct the monitoring and samples and ensure the Métis Nation of Ontario interests are addressed. The heat produced by the Project, particularly buildings, open pit, and energy (gas, pipeline, etc.) infrastructure may also affect wildlife. Of particular importance is to caribou, nesting birds, and bat populations. Noise levels during harvesting and sensitive life-

cycle events, such as calving season, are of particular importance and steps towards mitigation are recommended at these times.

The Métis Nation of Ontario noted that harvesters may avoid the LSA and RSA for harvesting even if species are still present on the area due to negative perceptions or experiences, which constitutes a significant loss to the Métis. The Métis Nation of Ontario maintained that sites are visited for more than harvesting. The Métis Nation of Ontario noted that these sites are important for ongoing junior exploration and used for connection to the land. Teaching sites will be lost, and intergenerational knowledge of the area will be irreversible as the timeline for reestablishment is beyond the key harvesting years of one person. The Métis Nation of Ontario noted that this loss for Métis harvesters was not explored and should be assessed as part of the EIS Addendum. The Métis Nation of Ontario asserted that several decades constitutes a permanent loss for the exercise of harvesting rights in the SSA.

The Métis Nation of Ontario stated several safety-related concerns associated with the Project. The Métis Nation of Ontario requested information about the Proponent's emergency response plans and how incidents would be communicated to harvesters. The Métis Nation of Ontario would like to know who will receive the notification, as many harvesters are in the field.

The Métis Nation of Ontario raised the need for tailored baselines studies on platinum group elements as, in their professional opinion, their effects on the environment are still in the infancy of study. In particular, the Métis Nation of Ontario's view is that a better understanding of platinum group elements is necessary to better understand potential effects on soil, water, bioaccumulation, and cycling within the ecosystem. Furthermore, the Métis Nation of Ontario seeks information on platinum group elements to assess effects from the mine on the specific ecosystems. The Métis Nation of Ontario indicated that it is inappropriate to state that risks to human health will not be affected when the effects of the Proponent's ore, platinum group elements, have not been studied in regard to the water, air, soil, and ecosystem. For example, the Giant gold mine in the Yellowknife Dene First Nation was opened in the 1940s prior to the understanding of arsenic and its impact to humans, water, soil, and ecosystems. To date the Canadian government is still in negotiations on how the land will be remediated and compensation given. Concerns remain that there are limited studies on effects from platinum group elements in the environment. Data collected from South Africa and Russia are insufficient analogues as these mines are located in drastically different biomes, significantly different groundwater flow, and have different ore and waste rock. The study of platinum group elements and their effects on the water, air, soil, and cycling in the ecosystem are best practices. Indeed, the Experimental Lakes, a world-renowned centre for this type of study, is located in Northwestern Ontario where this can be completed.

[Métis Nation of Ontario's June 30 submission to the Joint Review Panel](#) noted several concerns regarding potential Project impacts on air quality, particularly regarding Nitrogen Oxides (NOx), Particulate Matter (PM10), chemical dust suppressants (and surfactants) and crystalline silica. The Métis Nation of Ontario are concerned about real or perceived impacts to the Métis Nation

of Ontario harvesters in relation to air quality resulting in loss of harvesting activities in proximity to the Project.

The Métis Nation of Ontario requested that the Proponent undertake additional engagement to ensure better understanding of the identified exceedances of Nitrogen Dioxide (NO₂) and PM₁₀ and allow for development of collaborative mitigation, where applicable. The Métis Nation of Ontario is seeking further details on why ultrafine particulate matter (particulate matter with a diameter less than 2.5 or PM₁) was not considered for assessment, particularly for palladium which is the Métis Nation of Ontario believes is harmful to public health. The Métis Nation of Ontario suggests that this could be considered under new or updated Canadian Ambient Air Quality Standards (CAAQS) which came into effect in 2020. According to the Métis Nation of Ontario, perceptible shifts for Métis Nation of Ontario harvesters in relation to air quality means there may no longer be harvesting activities in proximity to the Project. The impacts to the Métis Nation of Ontario harvesting activities may be real or perceived.

The Métis Nation of Ontario wants to know if crystalline silica concentrations were considered in relation to the Métis Nation of Ontario Traditional Knowledge and Land Use Study data and the potential for harvesters to be in proximity to potential special receptor locations. The Métis Nation of Ontario wants to continue engaging with the Proponent to understand how the exceedances may result in real or perceived impacts to the Métis Nation of Ontario harvesters.

Chemical dust suppressants and surfactants are of concern to the Métis Nation of Ontario as they can potentially impact subsistence vegetation and displace potential harvesters who would otherwise use the area for the exercise of their rights should awareness or evidence of chemical dust suppressants or surfactant be identified.

Cumulative effects on vegetation was also raised as a concern during consultation activities. The Métis Nation of Ontario shared that climate change has affected the harvesting area in the LSA and RSA, specifically for plants and wildlife. The combined effects of the Project site and the planned forest harvest within the Pic Forest - Forest Management Unit (FMU) must be evaluated. The Métis Nation of Ontario has stated that this constitutes a major disruption in available areas for the exercise of Métis asserted harvesting rights and must be evaluated. The Métis Nation of Ontario submitted an IR on the subject for a response by the Proponent. Cumulative effects of any Project and Project area are assess in the IAAC process. Therefore, there is responsibility on the Proponent to assess cumulative effects of past, current, and future effects in the region.

The Métis Nation of Ontario wants to be involved in all required provincial approvals, permits and/or authorizations, regarding the closure plan, environmental compliance approval, permit to take water, crown land work permits, aggregate licence or permit and sewage treatment system permit. These approvals, permits and/or authorizations can include key areas of interest to the Métis Nation of Ontario including connection to water, air quality, and noise which can interact with the Métis Nation of Ontario rights and interests.

The loss of approximately 1,103 ha removed/disturbed land is significant to the Métis, particularly when it is included in the cumulative effects of exploration Projects conducted by the Proponent. This loss of land and the inherent potential impacts to the Métis way of life has not been addressed. The Métis Nation of Ontario holds a different opinion to what is considered, “a temporary loss”, as the loss of forest impacts Aboriginal way of life practices. A more detailed plan on seed genetics, planting practices, forestry management, and aerial seeding is needed, particularly in reference to the Métis Nation of Ontario’s participation. On the land participation between Métis knowledge holders and harvesters with the Proponent when the Project has the potential to impact harvesting, way of life, cultural, and spiritual practices is strongly recommended to mitigate concerns.

[6.3.4.1.2 Summary of the Proponent’s Assessment of Impacts to Harvesting](#)

Information relevant to the assessment of harvesting and resources use as described by the Proponent were found in sections [4](#), [6.2.6](#) and [6.2.12 of the EIS Addendum](#). Section 6.2.12 of the Proponents’ assessment indicates the Métis Nation of Ontario harvesting and historical use of the area and includes a general geographical representation of the area. The Proponent noted that the Métis Nation of Ontario did not provide known locations specific to the SSA or LSA but generally described use of the region for traditional and current and activities within their traditional territory, which includes the SSA and LSA.

The Proponent references the existing MNO-MNRF Framework Agreement on Métis Harvesting which states that: “MNO Harvesters Card holders who ancestrally connect to a Verified Métis Family Line for this Historic Métis Community may have their Métis Harvesting Area designated as: Lakehead, Nipigon and Michipicoten”. The Proponent notes that this includes the SSA, LSA and portions of the RSA, but that the loss of potential traditional harvesting in the SSA is only a fraction of the available areas to the Métis Nation of Ontario.

The Proponent noted the importance of the area for the Métis Nation of Ontario who practice “activities associated with current and traditional land use play an important role in the economic, social, cultural, and spiritual lives of MNO.” The Proponent also acknowledged that effects related to First Nation and Métis country food gathering and use of the Biigtigong Nishnaabeg community trapline could extend into the closure phase for a somewhat longer period as the reclamation process takes hold and plant and animal communities re-distribute themselves in the landscape.

The Proponent maintained that “MNO members are allowed to use the overall RSA, even if within Biigtigong Nishnaabeg traplines, for traditional and resource use as it promotes spiritual, physical, or dietary health.” The Proponent noted that upon the commencement of the Project, access to and through the SSA will no longer be available as the site will be actively mined and restrictions will be necessary. These restrictions will last through operations and into closure until such time as the site is once again deemed safe for public access.

The Proponent acknowledged that changes to access patterns or requirements for specific arrangements for continued access places limitations on the exercise of asserted Aboriginal rights and that potential negative perceptions of access and access restrictions could result in increased avoidance behaviors by Métis harvesters. The Proponent however stated that mitigation measures such as allowing some restricted site access to Indigenous peoples during mine operation, when safe and feasible, will allow the Indigenous communities to continue harvesting and mitigate potential negative impacts to harvesting.

Regarding the Métis Nation of Ontario's safety related concerns, in Section 6.3 of the EIS, the Proponent provides details about its Environmental management system (EMS) which includes two plans, the Emergency Preparedness and Response Plan (EPRP) for on-site emergency and the Environmental Monitoring and Management Plans (EMMP) for procedures to reduce potential adverse environmental effects of the Project. The Proponent indicates engagement with Indigenous communities will occur from the EA process and during development of the environmental management activities. As indicated in section 6.3 the EPRP will include a communication and warning protocol. The Proponent noted that the Project has the potential to result in localized reduction and ability to forage for traditional plants and effect wildlife harvesting within the SSA from habitat loss and displacement caused from construction and clearing of the site. The Proponent noted that approximately 1,081 ha of forested habitat in the SSA, 21 ha of wetland, and less than 1 ha of rock barren/talus habitat will be removed / disturbed by the Project. The Proponent maintained that these habitats and ecosites are common and widespread in the RSA and their loss in the SSA is not predicted to jeopardize their long-term habitat availability.

The Proponent's proposed mitigation measures include rehabilitation and revegetation of the area which will incorporate plant species of interest to Indigenous groups, where the use and establishment of these species is appropriate and technically feasible, the residual effect is conservatively considered irreversible. The Proponent noted that some species may take up to 20 years to return to site area depending on site stabilization and successful revegetation post-closure.

The Proponents response to [IR 6-17](#) on Cumulative Effects to vegetation sent by the JRP based on comments received from the Métis Nation of Ontario indicates that "over time, forested communities that have been harvested in the past are expected to be renewed because of revegetation activities (e.g., planting, aerial seeding) by forestry companies and natural regeneration. As such, any loss of forest because of timber harvest is considered a temporary loss".

In [IR 7-1 Assessment of Effects of Valued Ecosystem Components of Indigenous Interest](#), the Proponent indicates that it appreciates that Indigenous harvesters have experienced effects from past developments in their territories and that access barriers to harvesting can be both real (e.g., physical access and access management) and perceived. However, the types of effects experienced on past projects will not necessarily result from this Project. The Proponent

has designed the Project to reasonably avoid or reduce the potential effects on environmental conditions, including those that may influence negative perceptions (e.g., air quality, water quality).

Information relevant to the assessment of harvesting and experience of cultural importance as described by the Proponent were found in sections [1](#), [4](#), [6.2.1](#), [6.2.2](#), [6.2.12](#), [6.3](#) and [7](#) of the EIS Addendum.

The Proponents EIS indicates that there is currently minimal information on effects from Palladium and Platinum on the environment. The EIS shows that the supply and concurring data come from mines based in South Africa and Russia. The Proponent has responded to [IR 5-18](#) related to potential effect of Palladium and other Platinum Group Metals on water quality.

The Proponent responded to several of Métis Nation of Ontario concerns, including in several meetings and responding to air quality concerns. The Proponent recognises the potential air quality effects from Contaminants of Potential Concern (COPCs) such as Nitrogen Oxides (NO_x), Particulate Matter (PM₁₀), chemical dust suppressants and crystalline silica, and want to continue working with the Métis Nation of Ontario throughout the Project lifecycle to address concerns.

In [IR 6-33 Human Health Risk Assessment for Country Foods](#), the Proponent indicates that the updated human health risk assessment (HHRA) (Ecometrix, 2021, Appendix D10 of the EIS Addendum [CIAR #727](#) concluded that air emissions from the Project are not expected to adversely affect the environment (including country foods) or human health based on a screening approach applied to predicted air quality. The screening assessment in the updated HHRA did not identify any Project-related airborne contaminants of potential concern (COPCs) as being likely to accumulate to elevated levels in country foods based on comparison to air quality criteria and the range of background values.

In [IR 6-31 Exposure to Health Risks within the Site Study Area and the Property Boundary](#), the Proponent indicates that in the unlikely case that a visitor to the Site Study Area (SSA) is present during an episode of elevated NO₂, the risk associated with NO₂ is predominantly from short-term exposures via inhalation. Nitrogen dioxide is a primary irritant to the upper respiratory tract and lungs. The potential for some sensitive individuals to experience transient respiratory effects from short-term exposure to NO₂ within the SSA during the construction phase cannot be fully ruled out. However, these risks are unlikely because access to the SSA will be controlled during construction. In [IR 3-3 Monitoring and Follow-Up](#), the Proponent describes that crystalline silica exceedances are predicted during construction and operations. These exceedances are limited in geographic extent and are predicted to be in areas where human presence is infrequent.

The Human Health Risk Assessment acknowledged that exceedance of the dust fall AAQC may be used to interpret where deposition of Project-related dust to soil and potentially uptake of trace elements by country foods are more likely to occur. The Proponent indicates that in this

context, the dust fall predictions can therefore be used to inform a country food monitoring plan. In [IR 3-3 Monitoring and Follow-Up](#), the Proponent mentions that the air quality modeling, while conservative, predicts an exceedance of monthly dust fall criterion (25%) close to the mine entrance at the modelled property boundary, within a limited geographic extent. However, predicted dust fall levels are below the criterion at special receptors. The Atmospheric Environment Monitoring Program will include the use of dust suppression techniques and the implementation of dust collection system and baghouses. Fugitive dust will be collected using dust fall jars at locations identified through the effects assessment (See Figure 5 of Appendix D1 of the EIS Addendum). Sampling will occur at appropriate intervals throughout the life of the Project.

The Proponent's above analysis and assessment of air quality, including proposed mitigation measures, does not predict any residual effects on country foods, and predicts a very low probability of any real impacts on the Métis Nation of Ontario's harvesting activities.

In [IR 3-3 Monitoring and Follow-Up](#), the Proponent mentions that incremental changes in country foods are predicted and therefore an incremental risk is perceived though no specific human health risks are expected. As part of a *Country Food Monitoring Program*, a conceptual plan for monitoring country foods for CoPCs and exposure pathways during the preoperational and operational phases of the Project has been prepared per [IR 21.1 \(CIAR #461\)](#) and [AIR 16 \(CIAR #659\)](#).

The Proponent indicates that sampling of country food will be conducted to set a baseline, once during construction, and every three years during operation. A minimum of five (5) samples will be collected for each of blueberries, moose tissues and fish at each sampling location during a sampling campaign. Sampling locations will be coordinated with local hunters and harvesters. If increases in concentrations of COPCs in environmental media are observed to result in a Project related increased risk to human health additional mitigation measures may be proposed.

The Proponent indicates that additional mitigation measures will be developed specific to the risk factors and in coordination with country food harvesters. Project-related air emissions are not expected to cause CoPCs to accumulate in country foods to levels of concern for human health. For safety reasons, public access to the SSA will be prohibited during the construction, operations and decommissioning phases of the Project.

In [IR 6-33 Human Health Risk Assessment for Country Foods](#), the Proponent describes how it has begun to engage with Indigenous groups to develop and implement the country food monitoring program. The country food monitoring program will provide opportunities for ongoing engagement and assessments directed by the feedback received from Indigenous groups.

Additionally, the Proponent has committed to ongoing engagement and information sharing with potentially affected Indigenous groups and to work together with Indigenous groups, including the Métis Nation of Ontario, through a collaborative regional Environmental

Committee to encourage transparency and build trust which will help resolve negative perceptions associated with the Project. As described in Section 5.2.4.3.3 of the EIS Addendum ([CIAR #727](#)), the Proponent's goal is to foster collaboration wherever possible, including seeking direct community participation in environmental management and monitoring.

Although monitoring will continue throughout the Project lifecycle, there are no specific human health risks expected. The Proponent recognized the potential for a perceived impact by the Métis Nation of Ontario harvesters and will continue working with the Métis Nation of Ontario to help resolve negative perceptions associated with the Project.

6.3.4.1.3 Summary of the Crown Consultation Team's Views of Impacts to Harvesting

The CCT acknowledges that the Métis Nation of Ontario may experience an impact on its asserted harvesting rights from the Project, given the Métis Nation of Ontario's indication that these harvesting rights are practiced in the vicinity of the Project and that the Project would occur on Crown land. The CCT acknowledges that a negative perception of a lack or reduction of species available for harvesting and avoiding the Project area was voiced as a concern from the Métis Nation of Ontario.

The CCT notes that in the EIS, the Proponent indicated that the Métis Nation of Ontario has used the area for generations and have rights to use the area where the Project is located. The Proponent indicates that SSA will remain accessible for Indigenous groups to practice their rights. However, information on this accessibility is lacking from the Proponent, including with respect to whom and when access will be granted. The CCT does note that more information is required from the Métis Nation of Ontario regarding species harvested, locations and practices that could be directly impacted by the Projects components and activities.

The CCT notes that depending on the Projects' revegetation plan and successes, the Métis Nation of Ontario's ability to access the Project area post-closure to practice their asserted harvesting rights may be subject to a 20-year gap. This period could be prolonged should certain plant species not perform as expected following revegetation and site rehabilitation activities. This could result in a localized reduction in the Métis Nation of Ontario's capacity to pass down intergenerational traditional knowledge within the SSA and the LSA. The CCT notes the Métis Nation of Ontario's stated importance to take part in the revegetation plan.

The CCT understands the Métis Nation of Ontario's concerns regarding the loss of wetlands. The CCT is of the view that this loss is minimal and that wetlands are readily available in the RSA, as shown in the Proponent's assessment.

The CCT notes that light disturbance may result in increased avoidance to the sites area by the Métis Nation of Ontario's harvesters, which may displace Métis harvesters. The Proponent's assessment focuses on potential impacts on wildlife but does not assess the impact the ambient light level may have on Métis Nation of Ontario's harvesters.

Information provided by the Proponents' response to [IR6-10](#) does not evaluate the impact of noise levels on harvesters in or around the LSA. The Proponents response solely indicates the noise levels will not exceed what is required under MECP criteria for nighttime conditions. The CCT notes that the noise levels that would be conducive to harvesting activities may not be the same as MECP exclusionary criteria for nighttime noise level conditions in rural areas, especially since harvesting could also occur in the SSA.

The Proponent's response to [IR 5-18](#) on potential effect of Palladium and other Platinum Group Metals is focused on impacts to water quality. Assessment on other VEC's is unevaluated. In section 1 of the EIS, the Proponent shared that Platinum Group Metals mines are mostly located outside of Canada. As such, potential effects from the Project on this specific environment and ecosystems is unknown.

Based on review of the information in the Proponent's assessment the CCT does not have information on how the EPRP procedures will be implemented for the Métis Nation of Ontario harvesters' safety while on the mine site. The Proponent does not indicate how the communication and warning protocol will occur. The CCT notes that for safety reasons, the Métis Nation of Ontario may be less keen to access the SSA. As for the EMMP, it includes monitoring and follow-up programs related to accidents and malfunctions on all VEC's, however, there is no indication on how potential accidents and malfunctions may be communicated with Indigenous communities who may be on the mine site for harvesting.

The CCT acknowledges the Métis Nation of Ontario's concerns about air quality and perceptive shifts for the Métis Nation of Ontario's harvesters resulting in a loss of harvesting activities in proximity to the Project.

The CCT notes the Proponent's analysis and assessment of air quality, including NOx, PM10, chemical dust suppressants (and surfactants) and crystalline silica. ECCC has noted that an air quality Follow-Up and Monitoring Program should be undertaken to ensure that any air emission effects are consistent with the predictions made in the EIS addendum and to confirm the assumptions used in the assessment. Follow-up monitoring will also assist in determining the effectiveness of mitigations and to facilitate the development of adaptive management measures, should there be any unanticipated environmental effects. HC also noted that potential accumulation of Project contaminants in country foods via atmospheric deposition and the associated health risks are not sufficiently considered and that the selected air quality screening criteria do not necessarily represent safe exposure levels from country foods consumption. As noted in HC's submission, they state that the methods used to screen out the traditional food consumption pathway from the HHRA were not adequately supported. To address the uncertainties associated with the predicted Project impacts on human health via consumption of traditional foods, the proposed traditional food monitoring program should include contaminants that were screened using inadequate methods and be informed by Indigenous engagement input. The results from follow-up monitoring should be assessed for potential health risks associated with consumption of traditional foods. Please refer to Section 3

of Health Canada's Written Technical Hearing Submission to the Panel for further information, if necessary.

The CCT notes the Proponent's proposed monitoring and follow up measures which are intended to reduce any negative air quality effects. The CCT also recognizes the Proponent's commitment to continue to monitor the air quality and to communicate their findings with the Métis Nation of Ontario. The Métis Nation of Ontario has been in contact with the Proponent since March 2021, including regular environmental monitoring meetings that are expected to continue during the Project lifecycle. The CCT notes the Proponent's collaborative approach with the Métis Nation of Ontario on collecting samples of country food to set a baseline.

6.3.4.2 Preliminary Assessment of Potential Impacts to Métis Nation of Ontario's Asserted s.35 Rights Associated with Harvesting

Based on the information provided by the Métis Nation of Ontario and the proponent's analysis, the CCT is of the view that the Project may have a LOW to MODERATE negative impact on the Métis Nation of Ontario's asserted harvesting rights.

6.3.4.3 Potential Measures to Address Concerns Associated with Harvesting

The CCT recommends that the Proponent continue its ongoing efforts to engage the Métis Nation of Ontario, including continuing the Environmental Committee that commenced in March 2021. These meetings provide opportunities for the Métis Nation of Ontario to discuss and better understand environmental topics of concern, including the assessment and mitigation details related to air quality and other environmental concerns related to harvesting rights. Based on the potential low to moderate impacts on the Métis Nation of Ontario's asserted rights to harvest, the CCT believes that the JRP should consider making the following recommendations:

- The Proponent involve the Métis Nation of Ontario in the development of mitigation measures, environmental management, and monitoring and follow-up programs related to areas of their interest. Involvement in the form of an Environmental Committee has commenced and further development of on-the-land Métis environmental monitors is recommended.
- The Proponent consult the Métis Nation of Ontario in the development of a detailed monitoring plan related to Project impacts on vegetation, which would incorporate appropriate air quality standards and accurately reflect the diet of local Indigenous groups.
- The Proponent consult the Métis Nation of Ontario in the development of the mine closure plan.
- The Proponent consult the Métis Nation of Ontario in the development of a Harvester Training Fund Initiative to mitigate potential impacts.
- HC recommends the Proponent develop and implement a comprehensive traditional food monitoring program for all phases of the Project, that considers community-specific or representative food types/species, harvesting/fishing/hunting/trapping

grounds, and consumption patterns of traditional foods. Demonstrate how Indigenous engagement is used to inform the monitoring program.

- HC recommends the Proponent assess the human health risks based on the results of the traditional food monitoring program and communicate the findings to Indigenous peoples who may be impacted by Project activities.

6.3.4.4 Potential Impacts to Métis Nation of Ontario's Asserted s. 35 Rights Associated with Fishing

6.3.4.4.1 Summary of Métis Nation of Ontario's Views – This Represents the Views of the Métis Nation of Ontario

The Métis Nation of Ontario indicated that the Project location is in an area where the transition between the Great Lakes and the boreal forests with differing elevations, contributes to microclimates. The Lake Superior area, which includes the Project area consists of three climates and ecosystems that contain specific country foods and harvesting that are specific to these ecosystems.

The Métis Nation of Ontario shared that better understanding of platinum group elements is necessary to better understand potential effects on water, soil, and the ecosystem to assess effects from the mine on the specific ecosystems. Baseline studies are not available on Platinum and Palladium Group Metals in the area of the Project as their effects are still unknown. The Métis Nation of Ontario would also like to know what are the proposed back up plans in these emergency measures, as minor and major events (i.e.: fire, spills) may occur.

The Métis Nation of Ontario pointed out that Sauger (*Sander canadensis*), which was described in the Métis Nation of Ontario's August 2013 TKLUS as part of a commercial fishery in the past, was not included in the Proponent's assessment.

The Métis Nation of Ontario articulated interest in the water quality and connectivity of ground water with surface water, especially since processed water will be discharged to Hare Lake. The Métis Nation of Ontario does not agree with the sampling methods used by the Proponent in the assessment.

The Métis Nation of Ontario shared their interest in participating in the development and implementation of a management system to monitor the phosphorus concentrations in Hare Lake.

The Métis Nation of Ontario shared concerns regarding fish health in the Project area which can be affected through sediment deposition, sediment quality and/or increased turbidity. These conditions may impact fish and fish harvesting for consumption, even without reaching a lethal effect. Project-related changes in water and sediment quality were identified as effect pathways for benthic invertebrates but a similar effect pathway was not applied for fish.

The Métis Nation of Ontario is currently working on a monitoring program with the province of Ontario on water quality and would like to be involved in the development and implementation

of the fish habitat offsetting plan to ensure habitat offsetting and/or compensation is adequate to address potential impacts to the Métis asserted right to fish.

As for the Proponent's response to [IR 5-18](#), the Métis Nation of Ontario asks to be given a timeline on when the studies on PGMs will be conducted and when the data will be available for review.

The Métis Nation of Ontario requests hydrogeological models that project to the end of the Project and beyond.

[6.3.4.4.2 Summary of the Proponent's Assessment of Impacts to Fishing](#)

Information relevant to the assessment of fish and fishing as described by the Proponent were found in sections [4](#), [6.2.3](#), [6.2.4](#) and [6.2.12 of the EIS Addendum \(CIAR #727\)](#).

The Proponent's assessment includes fish species of interest with Indigenous consideration found in the SSA and LSA. [Section 4 \(CIAR #727\)](#) provides a table of fish species either present or not present in the SSA and the LSA, the table provided in the Proponent's assessment does not include the fish species Sauger.

The Proponent's assessment indicates "There is no commercial food fishery in study area lakes, or in the near shore area of Lake Superior in the vicinity of the streams draining the Project site."

The Proponent responded to [IR 5-18](#) Water Quality and Aquatic Ecology - Palladium and other Platinum Group Metals. The response indicates that "At this time, other than those data noted above, palladium concentrations and those of other PGMs in leachate from humidity cell testing or other geochemical test work from which predictions of water and sediment quality would be derived are not available."

The EIS indicates that "No Indigenous, recreational, or commercial fishery has been identified in the SSA. Any loss of fish habitat will be compensated for through the implementation of fish habitat offsetting in consultation with DFO and other interested parties."

The Proponent's response to [IR 5-15](#) Fish and Fish Habitat Offsetting Plan indicates that the "Development of the Project's Fish Habitat Compensation and Offsetting Plan (FHCOP) is ongoing and includes Indigenous, Provincial (MNDMNRF), Federal (DFO/ECCC) and public engagement to identify suitable candidate compensation and offsetting opportunities." On January 14, 2022, the Proponent submitted his response to the IR on [Fisheries Offset and Water Quality Modelling Information](#)

The JRP submitted many Information Requests (IRs) relevant to water quality specific to Hare Lake. The following IRs have been responded to by the Proponent: [IR 5-4](#) Hare Lake Modelling - CORMIX; [IR 5-7](#) Hydrological Monitoring and Follow-up; [IR 5-9](#) Pic River, Hare Lake; [IR 5-11](#) Mercury Concentrations, Nutrient Enrichment and Phosphorus Loading.

With regard to phosphorus, the Proponent's response to [IR 5-11](#) indicates that "the risk of increased phosphorus loadings causing increased primary productivity and enrichment or eutrophication of Hare Lake is regarded as low. As indicated above, the goal of phosphorus management is to ensure phosphorus levels remain at or below the PWQO, which should be protective of this outcome not occurring."

The Proponent's response to [IR 5-14](#) on Potential Effects to Fish, more specifically Table 3, highlights that blasting will have no residual effects on the area. The Proponent responded to the Métis Nation of Ontario's concern for habitat characterization at [IR 5-13](#) - Fish Habitat Characterization.

The Proponent's EIS indicates that it was mentioned to the Proponent during consultation that the Métis Nation of Ontario access Bamooos Lake via use of Hare Creek and Hare Lake. The Métis Nation of Ontario have also reported use of the region overall, for traditional and current resource use. "MNO has documentation showing that Métis have been practicing fishing, trapping and other traditional activities throughout the territory since the 1700s (MNO 2021a)." The Proponent is of the view that no impacts on accessibility are anticipated.

As for the monitoring of the area, the Proponent will "Implement Follow-up Monitoring and Environmental Management Plans on waterbodies such as Pic River extending downstream of the Project site to the mouth of Lake Superior, the outlet of Hare Creek at Port Munro and Stream 6 (Angler Creek) and the outlet at Sturdee Cove that have significance to Indigenous communities."

[6.3.4.4.3 Summary of the Crown's Consultation Team's View of Impacts to Fishing](#)

The CCT requires more information on the current use of Sauger by the Métis Nation of Ontario, including where Sauger is being fished and whether it is being fished pursuant to the Métis Nation of Ontario's asserted harvesting rights, or for another purpose. [Section 4 \(CIAR #727\)](#) of the EIS (Table 4.6-1) includes fish species of importance for Indigenous communities that are found or not found in waterbodies in the SSA and LSA; however, Sauger is not included in this table, which was noted of importance for the Métis Nation of Ontario. At this time the CCT does not have enough information about how the Métis Nation of Ontario harvest fish in the Project's location and surrounding area to assess the impact of the Project on the Métis Nation of Ontario's asserted fishing rights. The Métis Nation of Ontario may provide a redacted version of a Traditional Knowledge and Land Use Study (TKLUS) that may include additional information.

The Proponent will be required by the *Fisheries Act*, through DFO and ECCC, to develop, implement, and monitor a fish habitat offsetting plan. A draft offsetting and compensation plan was submitted by the Proponent on January 14, 2022. In its assessment, DFO specifically recommends that further development of the offsetting plan should be done in collaboration with Indigenous Communities. Furthermore, DFO notes that although the draft offsetting plan represents substantial progress, there is still a lot of work required to determine the viability

and appropriateness of the proposed offsetting measures. DFO has outstanding concerns related to water quantity. Relevant information on the matter is available in DFO's technical submission under section 3.2.1.

As for the Proponent's response to question 1 related to blasting in IR [IR 5-14](#) the CCT defers to section 3.2.3 of DFO's technical submission.

The Joint Review Panel submitted an IR on the effects of Platinum Groups Metal and effects on water and the Proponent's responded to IR [IR 5-18](#) Water Quality and Aquatic Ecology - Palladium and other Platinum Group Metals. MECP indicated that given the uncertainty in PGM loading predictions, and the unknown potential impacts to water quality, monitoring and contingencies will be needed to address potential impacts to surface water features. It is recommended that that additional surface water and sediment baseline sampling be carried out, focusing on palladium and other Platinum groups metals and elements (PGMs) to establish background values for the site.

HC noted that it is unclear how COPCs in mining and metal processing effluents will be monitored and how results will inform adaptive management during mine operation (Hare Lake) and post-closure (Pic River) phases. To adequately address uncertainties associated with the predicted Project impacts on human health via consumption of contaminated water, the proposed surface water monitoring program should include contaminants that were screened using inadequate methods. HC noted that Indigenous peoples (e.g., BN) expressed concerns over potential impacts of Project effluents on water quality and the health of fish in receiving waterbodies. Although these waterbodies are not likely to be used as drinking water sources, exposure to contaminants may still occur via incidental ingestion of surface water during traditional land use and recreational activities (e.g., fishing, boating, swimming). However, the EIS addendum does not provide the predicted concentrations in receiving waterbodies (e.g., Hare Lake) of i) mining by-products of palladium and other platinum group metals (PGM)^[1] and ii) the chemicals that will be used for on-site processing of PGM^[2] during operations (Appendix D11, CIAR 727). As such, treated effluent quality for these substances was not compared against drinking water quality standards, where available, and they were not considered as COPCs in the HHRA.

Please refer to Section 2 of Health Canada's Written Technical Hearing Submission to the Panel for further information, if necessary.

NRCAN indicates that the Proponent's response to [IR 5-18](#) is correct, as there are currently no federal or provincial environmental guidelines (water and sediment) for Palladium (Pd) and Platinum Group Metals (PGM). However, NRCAN highlighted to the JRP in its July 2021 submission that there are studies showing that Pd and PGMs might be more toxic and soluble

^[1] For example, platinum, ruthenium, rhodium, osmium, and iridium.

^[2] For example, potassium amyl xanthate (PAX), methyl isobutyl carbinol (MIBC), AEROfroth, carboxymethyl cellulose (CMC), Drewfloc 2279 polymer, lime (calcium hydrated).

than what was originally thought in the 2012 EIS. NRCan therefore requested that the Proponent provide a mass balance presenting conservative release rates of Pd and PGMs from waste rock, process solids and water, effluent sludge and effluent. This information would then help NRCan in its review of the proposed tailings and waste rock management plans. This issue was also discussed with the Province who shared NRCan's concerns.

In relation to the Métis Nation of Ontario's interest in water quality and groundwater-surface water interactions, MECP indicated that it is unclear from the Proponent's response to [IR 5-6](#) Drawdown, Surface Water and Ground Water interactions if the predicted changes in groundwater discharge have been accounted for within the predictions of potential impacts to surface water features. It is recommended that the Proponent confirm if the changes in groundwater discharge to these surface water features have been accounted for in their predictions of streamflow reduction.

Regarding fish health, NRCan has identified aspects of the hydrogeological model that create uncertainty in long term water quality. NRCan provided recommendations in its submission to the JRP to help address these uncertainties from a groundwater flow perspective.

The CCT recognizes that, should the Project proceed, some concerns raised by the Métis Nation of Ontario could be addressed through the regulatory process. DFO has a duty to consult, and, where appropriate, accommodate potentially impacted Indigenous communities through the regulatory stage.

As for the monitoring programs, the CCT is not aware whether there is an agreement between the Proponent and the Métis Nation of Ontario about monitoring, or the level of involvement of the Métis Nation of Ontario within these programs. The Métis Nation of Ontario has also indicated that some monitoring programs are being developed with the Province. The CCT is aware of the Métis Nation of Ontario's concerns about the overall water quality of the discharge location, Hare Lake, and fish health from contamination, turbidity, and debris in water. Please refer to Section 3 of Health Canada's Written Technical Hearing Submission to the Panel for further information, if necessary.

The CCT does not have enough information from the Métis Nation of Ontario regarding any impacts to the Métis Nation of Ontario's fish harvesting activities at specific locations in the Project area. However, the CCT notes the potential for impacts to fish species of interest, country foods, access and cultural activities as associated with fish harvesting.

6.3.4.5 Preliminary Assessment of Potential Impacts to Métis Nation of Ontario's Asserted s. 35 Rights Associated with Fishing

Based on information provided by the Métis Nation of Ontario and the Proponent's analysis, the CCT is of the view that that the Project may have a NEGLIGIBLE to LOW negative impacts on the Métis Nation of Ontario's fishing rights.

6.3.4.6 Potential Measures to Address Concerns Associated with Fishing

Based on the potential impacts on Métis Nation of Ontario's asserted fishing rights, the CCT suggests that the JRP consider making the following recommendations:

- The Proponent involve the Métis Nation of Ontario in the development and implementation environmental monitoring programs and follow-up programs related to water, sediment, and soil quality in the Project area, specifically the discharge location, Hare Lake.
- The Proponent provide a more developed fish habitat offsetting and monitoring plan using appropriate methodology for the quantification of impacts, particularly surrounding the assessment of hydrology impacts. This information is required for a fulsome assessment of the Project's potential impacts on the Métis Nation of Ontario's rights to fish.
- The Proponent consult the Métis Nation of Ontario in the development of mitigation measures, which incorporates traditional knowledge, to protect fish and fish habitat.
- The Proponent consult the Métis Nation of Ontario and include traditional knowledge in the development and implementation an offsetting plan in relation to fish and fish habitat.
- HC stated need to develop and implement a comprehensive surface water quality monitoring program that includes i) monitoring of the mining by-products of palladium and PGM and metal processing chemicals in Hare Lake during operations, and ii) monitoring of Pic River water quality for the complete list of surface water contaminants used in the EIS addendum before and after water overflow from the open pits.
- As per DFO's recommendation, the Proponent is to continue working directly with DFO, provincial regulators and Indigenous communities to provide a final version of an offsetting plan that adequately balances fish habitat losses caused by Project activities.

6.3.5 Outstanding Concerns and Interests of the Métis Nation of Ontario

- Possibilities for the Métis Nation of Ontario and the Proponent to work collaboratively on Métis Nation of Ontario's climate change and GHG initiatives.
- Possibilities for the Métis Nation of Ontario citizen to collaborate on an on-the-land environmental monitoring program.

6.4 Michipicoten First Nation

6.4.1 Introduction

The information Michipicoten First Nation has submitted on the JRP record and shared with the Crown through consultation meetings regarding their established or asserted s. 35 rights and values potentially impacted by the Project form the basis of the Crown's understanding of the context in which potential impacts on these rights could occur.

This submission was shared with Michipicoten First Nation on February 9, 2022 for validation and comment. Michipicoten First Nation provided comments on February 17, 2022 and discussed with IAAC on February 18, 2022 to integrate comments into this document.

The CCT met with Michipicoten First Nation five times between February 2021 and February 2022. The community submitted comments to the registry of their Marathon Palladium Project EIS Review [CIAR #870](#) on July 7, 2021 and on February 1, 2022.

6.4.2 Background

The following information was provided by Michipicoten First Nation on January 21, 2021 and does not necessarily reflect the views of Canada or Ontario:

*The traditional territory of MFN extends from the Pukaswa River and the mouth of the White River in the west to Kabinakagami, Missinaibi, and Kapuskasing Rivers in the north, beyond the Groundhog River in the East, toward the St. Mary's River in the south (Figure). Such association with rivers can be attributed to availability of fishes and other wildlife such as migratory waterfowl in these habitats. In the past, members of MFN would move seasonally to be in close proximity to Lake Superior in the south during the warm months and then migrate to the forests of the north during the cold months. When they were near Lake Superior, fishing for Great Lakes species like Lake Trout (*Salvelinus namaycush*) and Lake Whitefish (*Coregonus clupeaformis*) was a top priority whereas when they were in the forests, fishing for Northern Pike (*Esox lucius*) and Walleye (*Sander vitreus*) were top priorities. This territory represents an area > 4000 km² and contains 100s of lakes and rivers currently used for traditional fisheries.*

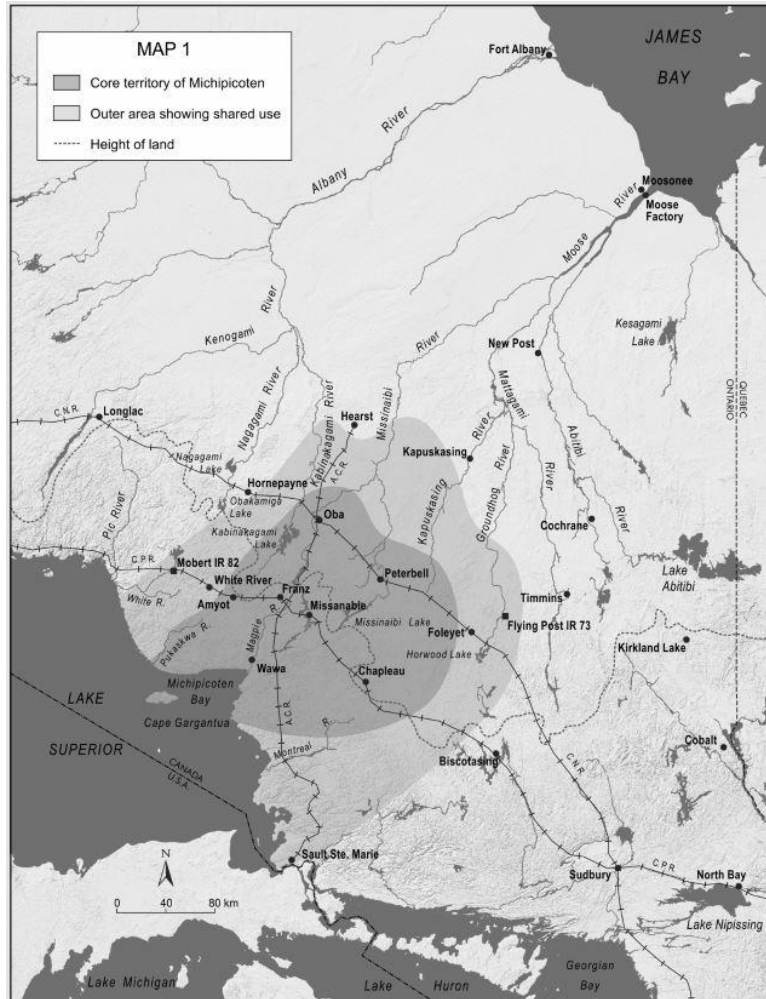


Figure 7: Map showing approximate boundaries of Michipicoten First Nation traditional territory.

Following contact with Europeans, MFN residents ended their seasonal migrations and dispersed to communities along the shoreline of Michipicoten Bay, Lake Superior (west of Wawa), to Wawa, to the north near Dubreuilville, further north to the White River, to the east at Chapleau to the east, and south towards the Batchawana River. Other residents migrated to west to Thunder Bay, east to Timmins and Sudbury, and to the far south to Saulte Ste. Marie. Approximately 85 members reside near Michipicoten Bay, with another 50 in Wawa, and then 25 – 50 in Dubreuilville and White River, about 75 in Chapleau, and 100s spread across Timmins, Sudbury, Saulte Ste. Marie, and Thunder Bay. Due to this wide distribution, intermarriage has occurred between MFN members and the seven neighbouring First Nations (FNs) including Batchewana FN; Brunswick House FN; Missanabie Cree FN; Chapleau Cree FN; Chapleau Ojibway FN; Pic Moberg FN; and Pic River FN.

Michipicoten First Nation’s community vision is to be an economic, independent, self-sustaining, self-governing First Nation where all members share a strong cultural identity based on a

profound understanding of who we are. Members of MFN understand this view is predicated on a clear sense of connection with our cultural origins and natural environment. Our community is led by Chief Patricia Tangie in collaboration with six Councillors. We strive to be a community that lives in peace with all of creation, maintains a healthy balance between the individual and collective needs of the community, and works productively with both Aboriginal and non-Aboriginal communities, based on a sense of mutual respect and equality. Where Members rightfully come together and virtuously establish a strong sense of self esteem, respect for each other and who work together for the well being of all. A First Nation where youth have a positive future, and the Elders hand over a strong and thriving community to the next generation.

*Traditional Land Use Studies (TLUS) were completed during 2018 and 2019 due to six proposed mines and an expansion of an existing hydro line. These TLUS documented current activities of MFN residents across the territory in the context of historical activities. These TLUS identified that fisheries exist downstream of these mines and power lines, and include species such as Northern Pike and/or Walleye, Lake Trout, Lake Whitefish, Rainbow Trout (*Oncorhynchus mykiss*), Chinook Salmon (*Oncorhynchus tshawytscha*), Brook Trout (*Salvelinus fontinalis*), Burbot (*Ling ling*), Round Whitefish (*Prosopium cylindraceum*), Yellow Perch (*Perca flavescens*), among other fishes. During scientific studies completed in conjunction with the reviews of the proposed mines and hydro line, it was documented that the fish biomonitoring database for these areas is absent or out-of-date (e.g., no samples during the last 10+ years). Due to this documentation of incomplete biomonitoring database for traditional fisheries, updating this information was identified as a priority for the community. In addition, all activities in MFN territory that could modify water quality and volumes are of concern, due to possible consequences on resident fish populations and fisheries.*

6.4.3 Michipicoten First Nation Rights, Values and Interests

Based on what the Crown has heard from Michipicoten First Nation members on the Project record and throughout the consultation process, below is a summary of key concerns and priorities Michipicoten First Nation has raised related to the Project.

6.4.3.1 Water Quality

Michipicoten First Nation has frequently referenced concerns of the Project's potentially adverse effects to water quality and how this may affect resources such as fish and country foods.

6.4.3.2 Caribou

Michipicoten First Nation has shared concerns of the Project's potentially adverse effects to caribou, including restoration efforts.

6.4.4 Preliminary Assessment of potential Impacts to Michipicoten First Nation's Established or Asserted s.35 Rights and Related Interests

6.4.4.1 Water Quality

6.4.4.1.1 Summary of Michipicoten First Nation Views – This Represents the Views of Michipicoten First Nation

Water quality is a top priority for the Michipicoten First Nation. With this view, the Michipicoten First Nation also wants to ensure that future generations are able to live in a healthy environment. In addition, Michipicoten First Nation is especially concerned about the Project's impacts to Lake Superior, especially since Hare Lake and Hare Creek are south of the Project and discharge into Lake Superior.

Michipicoten First Nation is specifically concerned that watersheds throughout the Precambrian Shield in Northern Ontario already suffer from Eutrophication and ever-increasing contributions of nutrients including phosphorous, which leads to methyl mercury contamination and continuing to increase contributions of nutrients and phosphorous caused by mining activity will exacerbate an already significant problem and lead to increased mercury contamination in fish populations, plant habitat, and mammal populations affecting the entire food chain.

Michipicoten First Nation also understands there are other First Nations with interests and concerns regarding the Project. Michipicoten First Nation sees the area of the Project as shared territory and want to be consulted at a higher level to ensure their established or asserted s.35 rights are not impacted. This includes any effects on hunting or fishing due to any effects on resources. Water quality is crucial for resources such as fish or other animals that have significant importance for the Michipicoten First Nation.

Michipicoten First Nation has acquired much experience over the years with environmental assessment processes for proposed mines that may impact Michipicoten First Nation's traditional territory. Michipicoten First Nation works with mining companies to avoid or mitigate any environmental effects, including finding cost effective ways to reduce company liabilities.

Michipicoten First Nation has provided several detailed concerns on water quality; the content can be mostly found in [Michipicoten First Nation's July 7, 2021 submission to the JRP \(CIAR #870\)](#) and a February 1, 2022 memo that was shared by email. Michipicoten First Nation has identified the following high priority concerns for water quality:

- Methylmercury Contamination & Eutrophication in the Vicinity of the Project
- Mine Effluent Discharge into Hare Lake
- Water Quality in Closed Pit Lakes and Discharge to the Pic River

Phosphorous remains a significant concern to Michipicoten First Nation in terms of overall loadings to Hare Lake and Pic River that would then flow into Lake Superior. In Michipicoten First Nation's view, current phosphorus loadings have already created a methylmercury

problem. Michipicoten First Nation is concerned about this in both the Hare Lake and Pic River watersheds. For both locations, available field observations identify the presence of elevated fish methylmercury levels in different species. Thus, Michipicoten First Nation is concerned about the bioaccumulation of mercury in fish that poses health risks for both human and wildlife consumers. Establishing baselines and interaction with other projects is imperative to Michipicoten First Nation. In addition, Michipicoten First Nation notes that the Ontario general, aesthetics-based Provincial Water Quality Objectives (PWQO) guidance for phosphorus (10, 20, 30 µg/L) is superseded by other guidance on the Precambrian Shield in Northern Ontario by other. In this region, the applicable phosphorus PWQO for a water body should be based on a site-specific PWQO value determined via a loading-based modelling protocol. So far no site-specific phosphorus PWQOs have been provided for the Project. These topics were raised during past meetings and in written submissions by Michipicoten First Nation in the past, and remain unresolved relative to the current description of the Project.

Michipicoten First Nation stated that: *“Given the existing eutrophication-induced fish tissue methylmercury contamination evident all around MPP [Marathon Palladium Project], it is likely that specific measures to minimize phosphorus loadings to local watercourses from mine effluent and mine runoff will be required to mitigate phosphorus-driven degradation. One common, cost-effective solution for reducing plant nutrients (both phosphorus and nitrogenous substances) in treated mine effluent and storm water runoff is to use a wetland treatment lagoon prior to release of treated water to local surface waters. This use of wetland treatment to polish water from mine sites has been applied at mine sites across Canada and within Ontario. Michipicoten First Nation also indicates that “additional studies of possible selenium toxicity are warranted for both the pit lakes and Pic River. This study should also address the likely scenario of eutrophication of the pit lakes leading to greater rates of methylation of selenium, to fully assess possible risk from selenium toxicity on fish and wildlife within the pit lakes and Pic River.*

Michipicoten First Nation indicates that due to the lack of site-specific phosphorus PWQOs for Hare Lake and Pic River, it is not possible to reach the conclusion that the mine effluent and or Pit Lake discharges will not substantially contribute to increased eutrophication and, consequently, increased fish tissue methylmercury levels. Michipicoten First Nation indicates that a loading-based phosphorus analysis is needed to be able to demonstrate this.

Michipicoten First Nation wants to inform the design of the core sediment sample program as Michipicoten First Nation’s goal is to establish the baseline of phosphorous/methyl mercury in Hare Lake and Pic River. This approach to establish baseline for sediment chemistry is critical for Michipicoten First Nation to understanding the current nature of the phosphorus loading in these lake and river habitats. With this approach, Michipicoten First Nation hopes that the Proponent remains on track with its water treatment program as a strategy to avoid making, according to Michipicoten First Nation, an existing sediment phosphorus problem worse.

While Michipicoten First Nation has been pleased with the Proponent and the environmental assessment process to date, there are still outstanding concerns that Michipicoten First Nation is hoping to work with the Proponent to resolve. One very encouraging initiative is Michipicoten First Nation's ongoing participation in the Proponent's Environmental Committee that meets monthly. Michipicoten First Nation would want to receive quarterly monitoring reports and funding from the Proponent to allow Michipicoten First Nation's experts to conduct independent reviews and recommendations throughout the Project's lifecycle. Michipicoten First Nation also wants to be part of any fish tissue sampling and Indigenous communications plan.

In terms of impacts on Michipicoten First Nation's rights, Michipicoten First Nation stresses that discharging nutrients and phosphorous into Hare Lake and ultimately Lake Superior results in methylmercury contamination that is not contained in any specific geographic location but rather the contamination spreads throughout the lake over time. Further, fish are a prime resource and food source for Michipicoten First Nation citizens and as fish populations are known to migrate very far distances into multiple water bodies that the impacts would likely be commensurate to all the Anishanaabe communities around Lake Superior and beyond.

[6.4.4.1.2 Summary of the Proponent's Assessment of Impacts to Water Quality](#)

The Proponent has been responsive to several Michipicoten First Nation concerns since February 2021, including several meetings and responding to water quality concerns. As described in [Section 6.2.3 of the EIS \(CIAR #727\)](#) and [Section 7 of the EIS \(CIAR #727\)](#) the Proponent recognises the potential water quality effects from the discharge of excess water to Hare Lake and wants to continue working with Michipicoten First Nation throughout the Project lifecycle to address concerns.

In [IR 3-3 \(CIAR #912\)](#), the Proponent indicates that during operations, the primary potential water quality effect from the Project is the discharge of excess water from the site water management system to Hare Lake. Based on the mine waste testing programs completed to date, phosphorus, as well as total suspended solids (TSS), have been identified as potential management needs. In [IR 2-3 \(CIAR #752\)](#), the Proponent describes that a Water Treatment Plant (WTP) will be constructed and commissioned in Year 1. The site water balance estimates that excess water may be discharged via the WTP and Hare Lake discharge pipeline during the fourth quarter of Year 1. As such, the WTP will be operational in advance of any potential requirement for discharge to Hare Lake.

In [IR 5-11 \(CIAR #950\)](#), the Proponent responds more specifically to questions from Michipicoten First Nation on Mercury concentrations, nutrient enrichment and phosphorus loading. With respect to phosphorus, the Proponent indicates a potential for increases in phosphorus loadings to Hare Lake during the operations phase when effluent from the water management pond is discharged to the lake, was identified as a management need or priority in the Surface Water Quality Effects Assessment Update ([Appendix D11 of the EIS Addendum \[CIAR #727\]](#)). In the report it states, "*With respect to phosphorus, it is noted that a phosphorus*

(phosphate) based reagent is planned to be used in the floatation circuit. Taking a very conservative view, it can be assumed that this phosphorus will remain in the dissolved form within the process water stream. In this case, the dissolved phosphorus would be at levels at end of pipe that could result in phosphorus concentrations that are greater than background and exceeding relevant receiver water quality objectives, without appropriate management. Therefore, there is potential for nutrient enrichment (increased primary productivity) in Hare Lake if not mitigated. Local Indigenous communities have expressed direct concern for possible nutrient enrichment related effects. In consideration of the potential risk and local Indigenous community concern, phosphorus levels in the final discharge to Hare Lake will be managed via treatment as needed. Treatment technologies are readily available to reduce phosphorus levels at end of pipe (MEND, 2014) to ensure that phosphorus concentrations in Hare Lake remain at or below PWQO1, which are protective of aquatic ecosystems to mitigate the potential risk of nutrient enrichment. The Proponent is committed to implementing such a management/system and the water quality predictions presented herein for Hare Lake reflect this commitment.”

Within this context, the risk of increased phosphorus loadings causing increased primary productivity and enrichment or eutrophication of Hare Lake is regarded as low. As indicated above, the goal of phosphorus management is to ensure phosphorus levels remain at or below the PWQO, which should be protective of this outcome not occurring.

The provided rationale does point to a theoretical scenario whereby if significant eutrophication was to occur, organic carbon could accumulate on the lake bottom (as the result of algal death and sinking) which could then create an oxygen sink as the organic matter decays. In this hypothetical scenario, bottom waters could become anoxic with low redox potential. This could alter metal speciation and bioavailability, and anoxia with reducing conditions would be one of the conditions that in combination with others could result in mercury methylation. As discussed above however, the risk of such conditions developing is considered low given that management of phosphorus at source has been identified as a need and priority for the Proponent.

The Proponent has committed to a comprehensive surface water quality monitoring program. A framework for the anticipated surface water quality monitoring program is provided in Attachment A of the Proponent response to IR5-3. Additionally, in the Proponent response to IR5-12, there is a commitment to conceptualizing a comprehensive monitoring program for the purpose of investigating the potential change in mercury and methyl mercury in the aquatic environment through the development, operation and closure of the mine via consultation with appropriate agencies, interested parties and Indigenous peoples.

With respect to potential Project-related effects to the Pic River, the Proponent summarized the following in [IR 5-9 \(CIAR #950\)](#):

- No direct effects (i.e., physical effects or overprinting of aquatic habitats) will result from the implementation of any of the phases of the Project.

- Changes in hydrologic parameters (e.g., alteration of flow) will be small in magnitude, to the extent that they are well below effects thresholds that would be meaningful from an aquatic habitat point of view.
- Water quality effects on the aquatic environment are not expected. Water management practices will divert potentially site-influenced water away from the Pic River during construction and operations and no discharge from the site to the Pic River will occur. A storm-event related release scenario to the Pic River from the MRSA catch basins during operations was analyzed and only small, if any, incremental changes in constituent concentrations were predicted with no concentrations exceeding relevant water quality thresholds. During closure, drainage from the MRSA and overflow from the open pit directed to the Pic River is also predicted to result in only small, incremental changes in constituent concentrations, with no concentrations exceeding relevant water quality thresholds.

In [IR 6-33 \(CIAR #950\)](#), the Proponent indicates that the updated human health risk assessment (HHRA) ([Ecometrix, 2021, Appendix D10 of the EIS Addendum \[CIAR #727\]](#)) concluded that air and water emissions from the Project are not expected to adversely affect the environment (including country foods) or human health based on a screening approach applied to predicted air and water quality. To confirm the conclusions of the HHRA, the Proponent is developing and implementing a country food monitoring program in collaboration with Indigenous groups. The purpose of the monitoring plan for country foods is to verify the accuracy of the HHRA conclusions and the effectiveness of the measures implemented to mitigate potential adverse environmental effects of the Project. As part of the Environmental Monitoring and Management Plan (EMMP), the country food monitoring program will support the management of environmental effects of the Project and the implementation of adaptive management responses, if required, to address any previously unanticipated adverse environmental effects.

In [IR 7-1 \(CIAR #950\)](#), the Proponent indicates ongoing efforts to engage Michipicoten First Nation and other Indigenous communities including the establishment of an Environmental Committee that commenced in March 2021 that meets on a monthly basis. The meetings provide opportunities for community representatives to discuss environmental topics of concern, including the assessment and mitigation details related to Valued Environmental Components of interest to Indigenous communities.

[6.4.4.1.3 Summary of the Crown Consultation Team's Views of Impacts to Water Quality](#)

The CCT recognises that adverse effects to water quality can affect resources such as fish and country foods. Any adverse impacts on these resources could also affect Michipicoten First Nation's established or asserted s. 35 rights to fish and hunt, although the CCT has no knowledge of Michipicoten First Nation's practice of rights at or near the Project area. Despite the lack of information regarding the Project impacts or disruption to preferred locations, times and means for Michipicoten First Nation's practice of rights associated with water, the CCT does acknowledge that Michipicoten First Nation has water quality as a top priority for the

community. Michipicoten First Nation has provided considerable expertise and detailed technical concerns to help the Proponent better respond and address these concerns.

The CCT does note the limited information provided by Michipicoten First Nation regarding potential impacts from the Project on specific species of concern or those that are frequently harvested. Additionally, Michipicoten First Nation did not provide information related to how the Project may impede access to areas where they currently practice established or asserted s.35 rights. Despite this, the CCT acknowledges the cultural significance for Michipicoten First Nation to protect the water quality for future generations. The CCT also recognizes the potential that cumulative impacts of development may have contributed to the current levels of levels of mercury and other potential contaminants of concern.

The CCT acknowledges the Proponent's efforts and commitment to continue working with Michipicoten First Nation to address their concerns through the Environmental Committee, as well as its commitments to mitigation through avoidance and management of water quality. The CCT notes that the Proponent has committed to additional baseline sampling, and is in the process of collecting additional baseline data. The additional baseline sampling should include surface water sampling of the Pic River using low-level mercury concentrations. The Proponent also proposes to carry out additional geochemical testing of waste rock and source material to assess the potential for mercury releases in the effluent and from site drainage. ECCC notes that background mercury at PR1 and PR2 in the Pic River were both listed as having a concentration of 0.0001 mg/L which exceeds CCME guidelines (please see ECCC's submission for further discussion on this topic).

HC noted that it is unclear how COPCs in mining and metal processing effluents will be monitored and how results will inform adaptive management during mine operation (Hare Lake) and post-closure (Pic River) phases. HC illustrated that Indigenous peoples expressed concerns over potential impacts of Project effluents on water quality and the health of fish in receiving waterbodies. Although these waterbodies are not likely to be used as drinking water sources, exposure to contaminants may still occur via incidental ingestion of surface water during traditional land use and recreational activities (e.g., fishing, boating, swimming). However, the EIS addendum does not provide the predicted concentrations in receiving waterbodies (e.g., Hare Lake) of i) mining by-products of palladium and other PGM^[1] and ii) the chemicals that will be used for on-site processing of PGM^[2] during operations ([Appendix D11, CIAR #727](#)). As such, treated effluent quality for these substances was not compared against drinking water quality standards, where available, and they were not considered as COPCs in the HHRA. For more information regarding this potential effect, please refer to Section 2 of HC's

^[1] For example, platinum, ruthenium, rhodium, osmium, and iridium.

^[2] For example, potassium amyl xanthate (PAX), methyl isobutyl carbinol (MIBC), AEROfroth, carboxymethyl cellulose (CMC), Drewfloc 2279 polymer, lime (calcium hydrated).

written submission to the Panel. HC noted that it is hard to assess potential effects to human health when they have not presented those results appropriately.

The Proponent's results from water quality modelling identified that maximum predicted concentrations of constituents of potential concern are not expected to exceed proposed water quality benchmarks, as such the Proponent has predicted that minimal increases in fish tissue contaminant concentrations. The CCT notes that the Proponent has proposed to carry out a comprehensive monitoring program to investigate potential changes in mercury and methylmercury in the aquatic environment, and that part of this investigation involves ongoing collection and analysis of fish tissue from large-bodied and small-bodied fish. The purpose of sampling of large-bodied fish is to assess the suitability for human consumption by comparing results the Ontario Fish Consumption Guidelines, and to evaluate the impact of mine discharges. Small-bodied fish are collected to assess the potential for mercury releases and/or the methylation/mobilization of mercury over a defined time period. This data is used as an early indicator for biological uptake of contaminants.

The MECP notes that baseline phosphorus concentrations in the watershed downstream of Hare Lake exhibit some elevated values. Continued collection of baseline data will help to better characterize the Hare Creek watershed. Regarding Hare Lake baseline phosphorus values, the 75th percentile concentration for Hare Lake suggests that a water quality criterion (benchmark) of 0.01 mg/L should apply to Hare Lake, not 0.02 mg/L as listed in the EIS Addendum.

The CCT notes Michipicoten First Nation's concern of the potential for mercury mobilization to be exacerbated in Hare Lake by nutrient enrichment as a result of increased phosphorus loadings and decreased pH from the Process Solids Management Facility discharge during operations. The MECP understands that the concerns are that increased phosphorus will result in nutrient enrichment that will lead to anoxic conditions in lake sediment and the hypolimnion. This may subsequently create favourable conditions for the production of methylmercury, while reduced pH will allow for metal speciation and bioavailability. Alkalinity and pH predictions have been provided by the Proponent in response to IR5-3 and indicate that there should be no incremental change in Hare Lake pH levels during operations. The Proponent has identified that phosphorus will require management prior to discharge from the Process Solids Management Facility, as it is used as a flotation chemical in the process plant and is predicted to be an environmentally relevant concentration in process water. To address this concern, the Proponent proposes to remove phosphorus from their final effluent using a metal-based coagulant at optimum pH and removal of precipitate via settling and filtration, resulting in a concentration near benchmark values. However, MECP notes that further assessment of the proposed treatment technology may be necessary in order to achieve the lower suggested phosphorus benchmark of 0.01 mg/L.

The CCT also recognizes the Proponent's commitment to continue to monitor water quality through the comprehensive surface water quality monitoring and country food monitoring

programs, and to communicate their findings with Michipicoten First Nation. It is very encouraging that Michipicoten First Nation has been in contact with the Proponent since February 2021, including regular environmental monitoring meetings that are expected to continue during the Project lifecycle. The CCT notes the Proponent's collaborative approach on monitoring and developing a communications plan to assist in addressing Michipicoten First Nation's concerns.

6.4.4.2 Preliminary Assessment of Potential Impacts on Michipicoten First Nation's Established or Asserted s. 35 Rights Associated with Water Quality

Based on information provided by Michipicoten First Nation and the Proponent's analysis, the CCT is of the view that there are NEGLIGIBLE to LOW potential negative impacts from the Project on Michipicoten First Nation's established or asserted s. 35 rights related to water quality, such as fishing.

6.4.4.3 Potential Measures to Address Concerns Associated with Water Quality

Based on the potential impacts on Michipicoten First Nation's established or asserted s. 35 rights associated with water quality, the CCT suggests that the JRP consider making the following recommendations:

- The Proponent continue to include Michipicoten First Nation in Environmental Committee meetings throughout the Project's lifecycle and engage with Michipicoten First Nation to ensure concerns associated with mercury and phosphorous are appropriately addressed.
- The Proponent establish a communication and engagement plan with Michipicoten First Nation throughout the Project's lifecycle to communicate results of monitoring and follow-up program. This communication and engagement plan would also facilitate an opportunity to discuss potential mitigation measures that may be required to address unforeseen effects on water quality and quantity and fish and fish habitat.
- HC stated a need to develop and implement a comprehensive surface water quality monitoring program that includes i) monitoring of the mining by-products of palladium and PGM and metal processing chemicals in Hare Lake during operations, and ii) monitoring of Pic River water quality for the complete list of surface water contaminants used in the EIS addendum before and after water overflow from the open pits.
- The Proponent consult Michipicoten First Nation in the development of the mine closure plan.

6.4.4.5 Caribou

6.4.4.5.1 Summary of Michipicoten First Nation's Views – This Represents the Views of Michipicoten First Nation

The following information was provided by Michipicoten First Nation and does not necessarily reflect the views of Canada or Ontario:

Michipicoten First Nation has a deep concern for the dwindling caribou population in the Lake Superior Coast Range (LSCR). Michipicoten First Nation notes that caribou was a staple diet to the Anishinabek community, was historically used for pelts and clothing, and that there is a spiritual aspect to caribou for the community. In February 2021, Michipicoten First Nation indicated that there may only be approximately twenty caribou remaining on the mainland of the North Shore of Lake Superior. Michipicoten First Nation indicated that caribou were relocated from the mainland in the early 1980s to Michipicoten Island to help protect the caribou from predators. However, the caribou population on Michipicoten Island was severely affected in 2014 due to wolf predation when the lake froze and an ice bridge formed between the mainland and the Michipicoten Island. According to Michipicoten First Nation, there are currently no caribou that exist on Michipicoten Island.

Michipicoten First Nation has a committee of expert biologists with expertise in caribou management to assist the community in furthering efforts to promote and preserve the caribou population through translocation strategies to offset the recent loss of a significant herd of caribou existing on Michipicoten Island. Michipicoten First Nation indicates that in 2014, MECP allowed all 1000 caribou to be extirpated over a period of 4 years. Michipicoten First Nation has never been accommodated for this lost resource. Historically, caribou played a central and key role in all aspects of Ojibway life including influence of the caribou on Ojibway spiritual life and beliefs. Michipicoten First Nation's efforts to translocate caribou back to Michipicoten Island through mitigation efforts with another Proponent have been frustrated, according to Michipicoten First Nation, by a lack of support from the province of Ontario to endorse any translocation activities.

Michipicoten First Nation has stated that they want mining and other companies to take responsibility for the very tragic circumstances that have resulted in the caribou mainland population decline. Michipicoten First Nation has secured funding to help mitigate effects and attempt to increase the caribou population to possibly eighty or more. Michipicoten First Nation is interested in conducting a series of aerial surveys for caribou along the Lake Superior shoreline and in the Project area. If any caribou are found in the Project area, Michipicoten First Nation would like to relocate them to Caribou and Michipicoten Islands. Michipicoten First Nation indicates that the intermingling between the groups of caribou is important to maintain genetic diversity.

Michipicoten First Nation indicated in February 2021 that there may be an opportunity to partner with the Proponent to help protect caribou. Michipicoten First Nation suggested sharing data and aerial images produced between the community and the Proponent. Since that time, Michipicoten First Nation has been in contact with the Proponent and participated in regular environmental monitoring meetings with the Proponent.

Michipicoten First Nation continues their efforts today and are involved in trying to find any caribou within the LSCR. There have been very few caribou sightings over recent years. Michipicoten First Nation is focused on restoration efforts to protect caribou habitat in hopes of

their return. Although Michipicoten First Nation may not currently exercise rights within the specific Project area, their rights could still be affected if the Project impacts the restoration efforts and potential future movement of caribou. Also, Michipicoten First Nation notes that caribou are of spiritual and cultural significance to Michipicoten First Nation and that this underscores the need for them to be protected.

6.4.4.5.2 Summary of the Proponent's Views of Impacts to Caribou

The Proponent has provided information on caribou in [Section 6.2.8.1.9 of the EIS Addendum \(CIAR #727\)](#) and subsequent responses to information requests, including historical records, population viability, potential pathways, residual effects, proposed mitigations measures and potential follow up.

In [IR 6-25 Residual Effects on Caribou](#), the Proponent is of the opinion that “the residual effects of the Project arise from the loss of approximately 107 ha of potential caribou winter habitat in the Project’s Site Specific Area (albeit only 2.9 ha are undisturbed) and an additional 45 ha of modelled disturbance”.

The Proponent outlines several factors and is of the opinion that it is likely that the caribou population in the mainland Regional Study Area has a very low probability of persistence, even in absence of the Project. The Proponent indicates that despite several unconfirmed reports of caribou along the north shore during 2020 (SooToday 2021, [Section 6.2.8.1.9 of the EIS Addendum \(CIAR #727\)](#)), there is a real risk that the mainland population will continue to decline. Even in the best-case scenario, assuming no further decline in the mainland population in the near future, the Proponent is of the view that the potential for caribou to interact with the Project is very low.

The Proponent indicates at [CIAR #950, IR 6-25](#) that the most comprehensive survey of the LSCR was conducted by OMNRF and Parks Canada in 2016, beginning near Kama Pt. in the area of Discontinuous Distribution east through the Coastal Range to Cape Gargantua (Lake Superior Provincial Park). Since 2014, four other aerial surveys using regular transects perpendicular to the coast have also been conducted in the Coast Range west of Pukaskwa by either Northern Bioscience or Michipicoten First Nation and its partners.

The Proponent outlines several mitigation measures in its Caribou [Section 6.2.8.1.9 of the EIS Addendum \(CIAR #727\)](#), which were taken directly from MNRF’s (2013a) *Best Management Practices for Mineral Exploration for Woodland Caribou*. In the section entitled “[Caribou Habitat Connectivity](#)” of [CIAR #976](#), the Proponent outlines several “progressive rehabilitation measures” for the conceptual configuration of the Project site at closure. Several off-site mitigation measures such as road decommissioning to improve future caribou habitat are outlined in the Proponent’s [Proposed Caribou Habitat Off-site Mitigation, 2014 \(CIAR #671\)](#).

In [CIAR #950, IR 6-21](#), the Proponent indicates that due to the perceived risk of local extirpation, many have advocated for translocation of the remaining caribou from the LSCR mainland to offshore islands.

[CIAR #950, IR 6-25 indicates that](#) as part of the Proponent's ongoing commitment to caribou monitoring and support of caribou recovery in the Coastal Range, an additional aerial survey of the RSA west of Pukaskwa is planned for the winter of 2021-2022. The Proponent notes that the results of such a survey would not be expected to substantially alter the analysis of residual effects. The Proponent expressed openness to collaborate with Michipicoten First Nation, including sharing Project coordinates for a potential aerial survey (s) to identify caribou.

If the Project proceeds, the Proponent commits to developing a more comprehensive closure plan with input from Indigenous communities, government agencies and public stakeholders. In [CIAR #950, IR 6-21](#), the Proponent indicates that the goal of the mine site rehabilitation is to develop a largely vegetated landscape that is self-sustaining, consistent with the Caribou Conservation Plan (CCP) (OMNRF 2009) and that is supported by Indigenous communities.

[6.4.4.5.3 Summary of the Crown Consultation Team's Views of Impacts to Caribou](#)

The CCT acknowledges Michipicoten First Nation's significant interest in and deep concern for the dwindling caribou population in the LSCR. The CCT also recognises that Michipicoten First Nation's established or asserted s.35 rights could be affected if the Project impacts any of Michipicoten First Nation's restoration efforts, especially considering the potential east-west movement of caribou.

The CCT understands that Michipicoten First Nation do not currently exercise hunting rights within the vicinity of the Project. The CCT acknowledges the cultural significance of the caribou within the LSCR to Michipicoten First Nation. The CCT also recognizes the cumulative impacts of development which may have contributed to the current state of the caribou population.

Several departments have sent information requests regarding caribou including ECCC and the MECP. On December 7, 2021, ECCC sent a letter to the JRP indicating that additional information was required regarding caribou habitat connectivity, sensory disturbance and mitigation and rehabilitation measures. The Proponent has responded to all these information requests on [November 9, 2021](#) and [January 7, 2022](#).

The CCT notes the Proponent's historical background and baseline reporting of information on caribou. The MECP notes that there are no historical caribou observations within the Project footprint (SSA); however, the lack of observations does not support a conclusion of lack of use. Furthermore, caribou are known to persist in the LSCR (LSA), albeit at very low numbers (2016 population estimate of approximately 50 caribou may remain in this area. Although when the uncertainty associated with this estimate is taken into account, actual caribou numbers could be as low as 13 or as high as 227). Unless the caribou population increases, it appears that there would be a very low potential for adverse impacts from the Project to Michipicoten First Nation's established or asserted s. 35 rights related to caribou.

The CCT notes the Proponent's proposed mitigation, enhancement and rehabilitation measures which are intended to reduce the Project's effects on caribou in the LSCR. The CCT also recognizes the Proponent's commitment to continue to monitor for the presence of caribou

and to communicate their findings with Michipicoten First Nation. It is very encouraging that Michipicoten First Nation has been in contact with the Proponent since February 2021, including regular participation in environmental monitoring meetings that are expected to continue during the Project lifecycle. The CCT notes the Proponent's collaborative approach on aerial surveys, monitoring and developing a communications plan to assist in addressing Michipicoten First Nation's concerns.

6.4.4.3 Preliminary Assessment of Potential Impacts on Michipicoten First Nation's Established or Asserted s. 35 Rights Associated with Caribou

Given that caribou persist in very low numbers within the LCSR (LSA), the CCT identifies there is a NEGLIGIBLE to LOW potential for negative impacts from the Project on Michipicoten First Nation's established or asserted s.35 rights related to caribou.

6.4.4.4 Potential Measures to Address Concerns Associated with Caribou

Despite the predicted low probability of the Project impacting Michipicoten First Nation's established or asserted s. 35 rights associated with caribou, the CCT believes that the JRP should consider making the following recommendations:

- The Proponent consult Michipicoten First Nation in the development of on-site and off-site restoration and monitoring activities related to caribou.
- The Proponent consult Michipicoten First Nation in the development of monitoring and follow-programs related to Project effects on caribou.

6.4.5 Outstanding Concerns and Interest of Michipicoten First Nation

While Michipicoten First Nation has been pleased with the Proponent and the environmental assessment process to date, the CCT understands that Michipicoten First Nation still has outstanding concerns that it is hoping to work with the Proponent to resolve. They are listed here:

- That the Proponent provide Michipicoten First Nation with regular monitoring reports and funding to allow Michipicoten First Nation's experts to conduct independent reviews and potential recommendations.
- Michipicoten First Nation wants to continue participating in the Proponent's environmental monitoring meetings and work with the Proponent on a comprehensive closure plan, measures to detect any caribou that may be present in the LSCR and preferred mitigations.
- The Proponent and Michipicoten First Nation work together to include measures to detect any caribou that may be present in the LSCR.
- The Proponent should continue working with Michipicoten First Nation to revise their Off-Site Mitigation Plan.
- Michipicoten First Nation specifically wants to translocate caribou from Slate Islands and Caribou Island to establish a herd on Michipicoten Island as part of any overall benefit permit for the species. This is Michipicoten First Nation's priority.

6.5 Netmizaaggamig Nishnaabeg (Pic Mobert First Nation)

6.5.1 Introduction

Netmizaaggamig Nishnaabeg have submitted on the record and shared with the Crown through consultation meetings their views regarding their asserted rights and interests potentially impacted by the Project. This information forms the basis of the Crown's understanding of impacts on rights and Netmizaaggamig Nishnaabeg priority values.

The CCT notes that in a January 7, 2014 email to the Panel, [CIAR #643](#), Netmizaaggamig Nishnaabeg indicated it would not participate in the public hearings. The Crown has continued to notify Netmizaaggamig Nishnaabeg of major EA milestones for the Project. On January 24, 2022, Netmizaaggamig Nishnaabeg's Consultation Coordinator responded to the CCT's notification email regarding the Project, indicating that "*Netmizaaggamig Nishnaabeg observes the area as Biigtigong Nishnaabeg exclusive title area and we do not plan to write any submissions nor register for the public hearings*". If at any time Netmizaaggamig Nishnaabeg wishes to re-engage in the JRP process the Crown will collaborate with the community to assess the severity of any potential adverse impacts on established or asserted s. 35 rights and on commensurate solutions.

The items discussed hereafter form the basis of the Crown's understanding of Netmizaaggamig Nishnaabeg priority values and interests to date. Based on information provided and discussions with Netmizaaggamig Nishnaabeg prior to the 2014 email, the Crown has identified three community values and priorities that are potentially impacted by the Project.

The community submitted comments on the registry regarding requesting a public hearing [CIAR #202](#) in 2012, and their nonparticipation in the public hearing [CIAR #643](#) on January 7, 2014.

This submission was shared with Netmizaaggamig Nishnaabeg on February 9, 2022 for validation and comment. Netmizaaggamig Nishnaabeg provided no additional comments.

6.5.2 Background

The following background information was provided by Netmizaaggamig Nishnaabeg, prior to 2014 and from their public website in 2022, it does not necessarily reflect the views of Canada or Ontario.

Pic Mobert First Nation, as an Ojibwe community of Anishinaabe people and member of both Anishinabek Nation and the Nookiiwin Tribal Council have inherent rights over the lands and waters entrusted to them by the creator. The community is governed by a Chi-Naaknigewin ([Community Constitution](#)) approved on June 21, 2016 ([About Us | Netmizaaggamig Nishnaabeg | Pic Mobert First Nation](#)).

The Anishinaabe Chi-Naaknigewin forms the Traditional Government of the Anishinabek Nation which is comprised of 39 First Nations across Ontario. Of the Anishinabek Nation, Netmizaaggamig Nishnaabeg is part of the Northern Superior region. The Anishinabek Nation

falls within the Union of Ontario Indians (UOI). As of June 2017, the corporate entity of UOI is used for legally-binding agreements and Anishinabek Nation is used for all other purposes.

As a member of the Nokiiwin Tribal Council, Netmizaaggamig Nishnaabeg is dedicated to working in unity with other members to support, promote, and encourage working relationships within the Robinson Superior Territory. It should be noted that Netmizaaggamig Nishnaabeg never signed the treaty and have never ceded or surrendered any of their Aboriginal title to lands or waters and are exercising Aboriginal and treaty rights over the territory. Netmizaaggamig Nishnaabeg entered formal negotiations with Ontario and Canada in September 2019 to resolve their Aboriginal title claim. This negotiation between the three parties is still ongoing.

Netmizaaggamig Nishnaabeg is comprised of two land bases, Pic Mobert South and Pic Mobert North. They are located on the eastern shores of White Lake. While Netmizaaggamig Nishnaabeg is approximately 60 kilometers from the Project site and their asserted traditional territory overlaps entirely with the Project site, members will not be presenting any information to the JRP and will defer to Biigtigong Nishnaabeg. A [letter](#) issued by Netmizaaggamig Nishnaabeg to the Panel in 2012 states:

“PPMFN acknowledges the overlapping territories of Pic River First Nation, and Pays Plat First Nation in the Regional Study Area; and that there may be other Aboriginal users of the area. PMFN takes no position with respect to the claims or traditional uses of the area by various First Nations or Aboriginal groups. PMFN will not be presenting any information to the Panel that purports exclusivity to the area, but will only be providing their own historical information and use of the Project locality and beyond, including the Regional Study Area.”

However, prior to letter submission, Netmizaaggamig Nishnaabeg expressed concerns regarding the cumulative impacts of development activities in the region and raised issues of water quality, fishing, and closure plans. To understand and assess the concerns expressed by Netmizaaggamig Nishnaabeg, it is important to consider the fundamental values of the community. The fundamental Netmizaaggamig Nishnaabeg values and beliefs are:

“Every Pic Mobert First Nation citizen shall strive to... a) follow the teachings of our Seven Grandfathers; b) preserve, protect and promote the betterment of our people, our lands, waters and resources; c) preserve, protect and promote respect for our rights, values, language, culture and history; d) promote the traditional and modern education of our Pic Mobert First Nation citizens; e) promote the spiritual and physical well-being of our citizens; f) promote positive and healthy communications between our people and with our government; and, g) carry out any function, activity or responsibility as may be necessary for the betterment of Pic Mobert First Nation...” [Pic Mobert First Nation Chi-Naaknigewin, 2016](#)

6.5.3 Netmizaaggamig Nishnaabeg’s Priority Interests and Values

Based on what the Crown has heard from Netmizaaggamig Nishnaabeg community members on the Project record and throughout the consultation process, below is a summary of key

points Netmizaaggamig Nishnaabeg had raised, prior to the 2014 email, related to the context of Netmizaaggamig Nishnaabeg's interests in and around the Project. Please note that due to the lack of information provided by Netmizaaggamig Nishnaabeg related to the potential Project impacts on these values and interests since the EA process resumed, the CCT did not undertake an assessment of these potential impacts. Should Netmizaaggamig Nishnaabeg re-engage in the EA process and bring forward information or concerns, the CCT will collaborate with Netmizaaggamig Nishnaabeg to complete an assessment and pursue commensurate solutions, should they be required.

6.5.3.1 Cumulative Impacts of Development

Netmizaaggamig Nishnaabeg expressed concerns surrounding their current use of traditional lands and resources within the Project area and the collective impacts development would have; in particular, those that could impact asserted or established Aboriginal s. 35 rights.

6.5.3.2 Impacts to Water, Fish, and Fish Habitats

The community raised concerns about mitigating impacts to ground water, surface water, fish and associated fish habitats. They expressed concerns about water quality and indicated that measures should be taken to limit or prohibit contaminated water (e.g., tailings water) from entering the Pic River watershed. Netmizaaggamig Nishnaabeg expressed desire for information regarding fish survey methods.

6.5.3.3 Impacts of Closure Plans and Remediation

Members' interests included Project closure plans and the associated remediation projects. Environmental management plans should include strong traditional practices such as ecosystem resource management, resource rotation, and succession management regimes. As stated by former Chief Johanna Desmoulin, "this knowledge has been acquired over thousands of years of direct human contact with the environment" ([CIAR #113](#)). The associated monitoring programs and the remediation of mine pits to productive lakes was of concern to Netmizaaggamig Nishnaabeg.

6.5.4 Preliminary Conclusion of the Project's Impacts on Netmizaaggamig Nishnaabeg's Established or Asserted s. 35 Rights

As no new information was brought forward by Netmizaaggamig Nishnaabeg since the EA process resumed, and as Netmizaaggamig Nishnaabeg indicated in 2022 that it would not be participating in the hearing or providing written submissions, a preliminary assessment of impacts on rights was not conducted. Should Netmizaaggamig Nishnaabeg share new information prior to the EA decision, the CCT will work with Netmizaaggamig Nishnaabeg to integrate information in the EA process remaining steps and consultation processes which include the public hearings, closing remarks, consultation on the recommendation in the JRP Report and draft EA Conditions. Any additional information will be included in the Crown Consultation and Accommodation Report (CCAR). The CCAR, will be provided the decision makers to inform their final decision. An executive summary of the CCAR will be posted on the registry at the time of decision.

6.6 Pays Plat First Nation

6.6.1 Introduction

The information Pays Plat First Nation has submitted on the JRP record and shared with the CCT through consultation meetings regarding their established or asserted s. 35 rights and values potentially impacted by the Project form the basis of the CCT's understanding of the context in which impacts on Pays Plat First Nation's s. 35 rights would occur.

This submission was shared with Pays Plat First Nation on February 10, 2022 for validation and comment. Pays Plat First Nation provided comments on February 17, 2022, which were subsequently integrated into this document.

The EA was suspended in 2014 and recommenced in July 2019. The Proponent has addressed some concerns, and others have not been raised during consultations since the EA recommenced and are therefore not assessed in this document.

The CCT met with Pays Plat First Nation nine times between November 2020 and January 2022, two of those meetings were in person. The community submitted four sets of comments to the registry:

1. Regarding their review of Terms of Reference ([CIAR #723](#)) on November 30 2020;
2. Comments on their review of the EIS ([CIAR #894](#)) on July 26, 2021;
3. A letter to the JRP about the public hearing process ([CIAR #943](#)) on October 25, 2021; and
4. A letter to the JRP regarding concerns with the timeline of hearing ([CIAR #973](#)) on January 5, 2022.

6.6.2 Background

Note: The following information was provided by Pays Plat First Nation ([Letter from Pays Plat First Nation](#)) and does not necessarily reflect the views of Canada or Ontario.

The people of Pays Plat have occupied the north shore of Lake Superior since time immemorial. The first recorded document of the area and its people was in 1777, when a fur trader named John Long passed through and noted that it was a flat area between two mountains. This is how the name Pays Plat – or 'flat land' – came about. The people who lived in the area called it Pawgwasheeng or 'where the water is shallow'.

The people of Pays Plat did not sign a treaty. Based on oral history, while Ojibwa Chiefs from across the north shore signed the Robinson-Superior Treaty on September 7th, 1850 in Sault Ste. Marie, the people who would later settle in the region of Pays Plat were out hunting at the time. They only became aware of the treaty in 1883 when the Canadian Pacific Railway came to the area to build the railroad. The people of this region were allotted a single square mile of reserve land to live on, around the right of ways that were carved through the land.

Since 1883, the community of Pays Plat has had numerous developments across its traditional lands and its allotted reserve. The right of ways for the highway and hydro lines cut across the community, and since the early 1990's the community has been involved in a Land and Larger Land Base claim to deal with this issue. An Agreement-in-Principle was signed in 2009 on adding lands to the reserve. Drafting of the final agreement is underway ([Our Community – Pays Plat First Nation \(Pays Plat First Nation.ca\)](#)).

Although historically associated with the Robinson-Superior Treaty (1850), Pays Plat First Nation asserts that they did not adhere to the Treaty. The Project is within the treaty area.

“Pays Plat First Nation’s traditional territory extends westerly from Nipigon River, north to Highway 11, and east to the Marathon area, to the boundaries of the [Biigtigong First Nation]”. Pays Plat First Nation’s traditional land includes the coastline of Lake Superior up to and including the Town of Marathon. ([Letter from Pays Plat First Nation](#)).

Pays Plat First Nation declined the invitation to provide a map of their traditional territory.

6.6.3 Pays Plat First Nation Priority Values and Interests

Pays Plat First Nation raised a number of concerns associated with the Project with the CCT. Below is a summary of key concerns raised by Pays Plat First Nation both through consultation activities and on the JRP record, related to potential impacts from the Project on their rights.

Pays Plat First Nation provided other information regarding the Project’s potential impacts on values and/or valued components that is not represented in an individual section in this submission. For example, concerns were expressed regarding potential Project effects on bats and the Canadian warbler. An assessment of the Project effects on these species is included in ECCC’s written submission.

6.6.3.1 Potential Impacts to Pays Plat First Nation’s Established or Asserted s. 35 Rights and Values Associated with Water and Fishing

Pays Plat First Nation has raised concerns regarding both the activities of the Project and cumulative effects on water and fisheries. Waterbodies of concern include Hare Lake, Bamoos Lake, Angler Creek, Lake Superior and the Pic River.

6.6.3.2 Potential Impacts to Pays Plat First Nation’s Established or Asserted s. 35 Rights and Values Associated with Culture

Pays Plat First Nation has spoken at length about the importance of Angler Creek, a former settlement of the community where several members can trace a family lineage and conduct fishing activities.

6.6.3.3 Potential Impacts to Pays Plats First Nations Established or Asserted s. 35 Rights Associated with Harvesting

Pays Plat First Nation raised concerns that the Project would adversely affect harvesting rights and the terrestrial environment in general.

6.6.4 Preliminary Assessment of Potential Impacts to Pays Plat First Nation's Established or Asserted s. 35 Rights and Related Interests

6.6.4.1 Potential Impacts to Pays Plat First Nation's Established or Asserted s. 35 Rights and Values Associated with Water and Fishing

6.6.4.1.1 Summary of Pays Plat First Nation Views – This Represents the Views of Pays Plat First Nation
Pays Plat First Nation illustrated the importance of water to its community members. Pays Plat First Nation shared the importance of Lake Superior to its band members, how it is one of the world's most beautiful and important lakes and how it might be the only place to access drinkable water in the future. Pays Plat First Nation members do not want to see another polluted water body in their traditional territory, which they maintain has already been significantly altered by a history of resource development projects, including mining and forestry, without their consent.

Pays Plat First Nation consistently raised numerous concerns regarding possible Project and cumulative effects on Lake Superior, including in areas of concern around Terrace Bay and Marathon. More specifically, Pays Plat First Nation clearly and frequently raised concerns regarding the Project's wastewater management system, which is designed to discharge into Hare Lake and Angler Creek, a tributary located in close proximity to Lake Superior. Pays Plat First Nation shared concerns that effluent discharged into Hare Lake would eventually reach Peninsula Harbour (Marathon) along with Jackfish Bay (near Terrace Bay), both of which they note have been designated as [Areas of Concern](#) (AOC). Pays Plat First Nation noted this could occur via the predominant westerly currents in Lake Superior, and circulate these waters along the north shore. Pays Plat First Nation notes this could exacerbate the degradation of the water quality, contamination of sediment and the destruction of fish and fish habitat in these AOCs. Pays Plat First Nation indicated that the EIS fails to adequately assess contaminant impacts resulting from the combined effect of the Project with other existing or planned projects in the area.

Pays Plat First Nation stated that the proposed wastewater management system is extremely risky and would need to be "fail proof" in order to avoid leaks/catastrophe in Lake Superior (3km away from Project).

Pays Plat First Nation raised numerous concerns that the Proponent did not adequately assess the potential impacts of the Project on the aquatic environment and has strongly asserted that the Proponent's analysis of the Project's effects on fish and fish habitat do not meet the EIS guidelines or DFO guidance. Pays Plat First Nation noted that this is in part due to the out of date fish and fish habitat studies and water quality/quantity baseline studies (10-year gap) and haphazard sampling practices used to inform the Proponents' assessment. Pays Plat First Nation noted that the consequences of the haphazard sampling are grave, as it does not describe how fish communities change over time. Furthermore, as most sampling units were surveyed in different years, it is impossible to explain how the communities vary spatially in any given year. This results in inadequate ecological characterization, which means it is impossible

to infer the state of the benthic communities that would receive the effects of the Project a decade later.

Pays Plat First Nation raised numerous concerns with the Proponent's Fish Offsetting Plan, which they state they were not consulted on. Pays Plat First Nation noted that the Fish Offsetting Plan is insufficient to achieve no net loss of productivity in the aquatic ecosystem because the baseline is unknown. The characterization of the aquatic habitat is inadequate, with minimal temporal replication, undescribed natural variation in fish productivity, and a large temporal gap between the studies and the proposed activities. Pays Plat First Nation stated "the logical truth is that it is impossible to evaluate the success of the Offsetting Plan". Pays Plat First Nation maintained that the Proponent offsetting plan establishes a false equivalency between the amount of habitat to be destroyed and created.

Pays Plat First Nation also raised the following technical concerns regarding the Proponent's assessment of the Project's effects on fish and fish habitat:

- Lack of information on the expected water quality in groundwater that will flow from the MRSA and PSMF, including mixing of surface water and groundwater.
- Water quality and chemical components in Hare Lake (CORMIX)
- Concerns regarding potential increase in mercury levels (e.g.: clearing activities increasing levels in Hare Lake and Jackfish Bay area).
- Effects of water management ponds filling and Potentially Acid Generating Rock (PAG).
- Lack of information regarding remediation of Pits into productive lakes.
- A monitoring plan is provided to assess the impacts on flows in watersheds post closure but there are no contingency measures provided and no triggers have been developed for the contingency measures.
- There will be an estimated reduction of 0.16% of the watershed area that includes Pic River. Reduction in MAF of 0.15% in construction and 0.13% in ops. Pic River could be used as a supplemental source of process water to a maximum of 300 m³/hour, which is 0.17% of MAF. The Proponent states that a low flow trigger will be developed for the Pic River. This trigger should be developed now.
- Supporting studies to evaluate the impacts to surface water quality are not included in the EIS and are required to determine how the mine's development and operation will affect the Site's water quality (e.g., ARD/ML studies).
- The water quality modeling predicts no change in arsenic quality but an increase in sediment arsenic and copper concentrations before dropping again. Why is sediment changing but not water? Why are there significant concentration spikes in sediment quality for molybdenum and vanadium?

- Water quality modeling for Hare Lake appears to be based on whole-lake constituent concentrations following mixing, this assumes the lake will be well mixed, which is very unlikely.
- Concerns regarding clearing, grubbing, and stripping of vegetation, topsoil, and other organic material during the activities of the Project may result in the release and mobilization of mercury (Hg) from the soil into adjacent watersheds.
- Reference to a recent study showed that bays in the Great Lakes receiving riverine inputs have high mercury concentrations that can lead to consumption restrictions (Visha et al., 2018).

Specific species of concern raised by Pays Plat First Nation include the steelhead population in Stream 6/Angler Creek (Subwatershed 106), Lake Trout and Brook Trout, and Lake Sturgeon. Pays Plat First Nation raised concerns related to the Project resulting in negative impacts on fish productivity, namely Yellow Perch and Spottail Shiner.

6.6.4.1.2 Summary of Proponent's Assessment of Impacts to Water and Fishing

The Proponent states in [Section 6.2.12](#) of the EIS that Pays Plat First Nation asserts a right to fish in their traditional territory, which includes the Project area. The Proponent indicated that Pays Plat First Nation will be completing reviews of updated EA documentation with their technical experts and providing feedback once submitted. In [Section 6.2.4](#), the Proponent indicates that Traditional knowledge and Traditional Land and Resource Use (TLRU) information that contributes to fish and fish habitat was provided by Indigenous communities.

Specifically, that Indigenous peoples with an interest in the Project identified fish species of importance which were incorporated into the effects assessment, mitigation, and monitoring. However, given the confidentiality of this material, explicit details are not included nor are communities identified. Additionally, the Proponent did acknowledge Pays Plat First Nation's concerns that their Traditional Knowledge and TLRU was not fully incorporated in the EIS Addendum and supporting documents in [Section 6.2.12](#).

On November 23, 2012, Pays Plat First Nation provided a summary of their Land Claim to the Panel ([CIAR #333](#)) stating the historic evidence assembled is to establish both its Aboriginal Title Claim and Specific Land Claim. The SSA and adjacent area are within Pays Plat First Nation's traditional overlapping territory and is not alleged to be exclusively used by Pays Plat First Nation. The Proponent shared that Pays Plat First Nation have indicated they fish in the lower reaches of Angler Creek (near the outlet at Sturdee Cove), in Hare Creek, Hare Lake, Bamooos Lake, Pic River, and other waterbodies in or close to the study area. The Proponent indicated that Pays Plat First Nation has identified use areas outside of SSA, but nothing specifically within the SSA. Furthermore, Pays Plat First Nation stated they have used Angler Creek and indicated use of ground and water travel routes from Hare Creek to Hare Lake and further northeast to Bamooos Lake.

More generally, the Proponent noted that Project-related activities have the potential to result in the loss of fish habitat, loss of access to fish harvesting locations, and to indirectly affect water quality and benthic invertebrate community habitats used by fish, which will have the potential to affect traditional fish harvesting. During construction, Project activities would result in the direct overprinting of fish habitat and loss of riparian areas due to infilling/dewatering, which will may result in loss of fish habitat. For construction, operations and closure stages of the Project, activities can indirectly affect water quality and quantity.

Additionally, the Proponent described the primary adverse residual effect resulting from direct physical fish habitat loss is through overprinting of fish habitat by mine infrastructure within SSA; however that the Proponent stated no direct Project effect is predicted in areas used for fishing by Indigenous peoples, as such activities are largely focused on locations outside of the SSA (i.e., Bamoos Lake, Hare Lake, and the lower reaches of its outlet creek, Lake Superior {near shore area) including the lower reaches of Stream 6 {Angler Creek{ and the Pic River and Claw Lake {L19) for Bait Fishing). Indirect effects to water quality and quantity are predicted to remain below criteria for the protection of aquatic biota (see [Section 6.2.3](#) of this EIS Addendum [Vol 2]).

The primary means of mitigation will be through avoidance and management of water quality. The secondary means is through the implementation of fish habitat offsetting in consultation with DFO and other interested parties.

It has been determined that a HADD of 12.33 ha will be created by the Project, which is the minimum area of offset that will be required. [Section 6.2.4.6](#) of this EIS Addendum (Vol 2) includes an assessment of Project residual effects on fish and fish habitat, which are applicable to assessing change to traditional fish harvesting.

The Proponent notes that the planned access road into the proposed mine site will require the installation of three crossings of tributaries of sub watershed 101. A road and pipeline crossing will be necessary at sub watershed 106 immediately west of the PSMF for the Hare Lake discharge pipeline / maintenance road to Hare Lake (See Figure 1.5.1 of the EIS Addendum (Vol 1)) ([CIAR #727](#)). An additional, yet small area, associated with fish habitat loss will be associated with the Hare Lake Discharge pipeline and outfall, at its direct outlet to Hare Lake. The Proponent indicates the design of these elements will be consistent with applicable best practices and standard codes with works below the high-water mark and projects near water.

Bamoos Lake, which is known to support a local Lake Trout and Brook Trout recreational fishery, was avoided as part of the conceptual mine design included in the original [EIS \(2012\)](#) based on input received from Indigenous communities and the public at that time. The avoidance of Bamoos Lake within the footprint of the Project and as a receiver of mine discharge has continued to be a part of the updated Project design. As such, direct and indirect effects on Bamoos Lake and its fish and fish habitat are not anticipated.

The loss of habitat will be realized through the construction and early operation phases dependent on the schedule of the construction infrastructure and implementation of mine site water balance. Additional effects are not expected during the remainder of operation or closure phases. Construction and implementation of offsetting measures are to occur during the phased closure when the PSMF will be reclaimed, and surface water features will be created to restore the natural drainage patterns in Stream 6 (106 sub watershed). The restoration of natural drainage patterns in Stream 6 are further discussed in [Section 6.2.4.6.3](#) of this EIS Addendum (Vol 2). Portions of the MRSA will be reclaimed and surfaces re-graded as necessary to improve drainage for Streams 2 and 3 will be restored.

During site preparation and construction, changes to surface water quality because of Project-related activities (e.g., vegetation clearing and grading) primarily relate to the mobilization of suspended materials into natural surface water features, are expected. These impacts are mitigatable through the adoption of standard erosion and sediment control methods. During operations, discharge of excess water is considered to be the primary potential water quality effect. This discharge would be from the site water management system to Hare Lake. Effluent discharged to Hare Lake is expected to meet benchmarks, within 150 m (or less) of the discharge point, for the protection of aquatic biota and therefore will be protective of fish and fish habitat.

Following the cessation of mining operations, the discharge to Hare Lake will cease. Once acceptable water quality has been confirmed, it is expected that natural surface water drainages will be restored. No exceedances of water quality benchmarks in the Pic River as the result of closure scenario drainages are predicted.

In summary, the Proponent's assessment indicates that the Project is not predicted to have residual effects on water quality, quantity and fish and fish habitat.

The Proponent responded to several information requests submitted by the JRP, which were informed by sufficiency comments on the EIS. The responses relevant to impacts on fishing are summarized below.

With respect to potential Project-related effects to the Pic River, [IR 5-9 \(CIAR #950\)](#) indicates that no direct effects (i.e., physical effects or overprinting of aquatic habitats) will result from the implementation of any of the phases of the Project. The Proponent notes that water quality effects on the aquatic environment are not expected. Water management practices will divert potentially site-influenced water away from the Pic River during construction and operations and no discharge from the site to the Pic River will occur. During closure, drainage from the MRSA and overflow from the open pit directed to the Pic River is also predicted to result in only small, incremental changes in constituent concentrations, with no concentrations exceeding relevant water quality thresholds.

The Proponent's response to [IR 5-14](#) on Potential Effects to Fish, more specifically Table 3, highlights that blasting will have no residual effects on the area.

The Proponent's response to [IR 5-15](#) Fish and Fish Habitat Offsetting Plan indicates that the "Development of the Project's Fish Habitat Compensation and Offsetting Plan (FHCOP) is ongoing and includes Indigenous, Provincial (MNDMNR), Federal (DFO/ECCC) and public engagement to identify suitable candidate compensation and offsetting opportunities." On January 14, 2022, the Proponent submitted his response to the IR on [Fisheries Offset and Water Quality Modelling Information](#)

In [IR 6-33 \(CIAR #950\)](#), the Proponent indicates that the updated human health risk assessment (HHRA) ([Ecometrix, 2021, Appendix D10 of the EIS Addendum \[CIAR #727\]](#)) concluded that air and water emissions from the Project are not expected to adversely affect the environment (including country foods) or human health based on a screening approach applied to predicted air and water quality.

6.6.4.1.3 Summary of the Crown Consultation Team's Views of Impacts to Water and Fishing

The CCT notes that Pays Plat First Nation's updated Traditional Knowledge was not provided in time to inform the assessment presented in the EIS and IR responses. As such, the CCT acknowledges that the Proponent's assessment may be partially incomplete. The CCT acknowledges the considerable volume of technical concerns and information provided by Pays Plat First Nation both in submissions to the JRP and the CCT regarding the Project's effects on water quality, quantity, fish and fish habitat. The CCT also acknowledges the considerable information brought forward regarding the potential cumulative impacts on fish and fish habitat from a history of previous development in Pays Plat First Nation's asserted traditional territory.

The CCT relies on the advice of DFO through the consultation process to help inform the assessment of impacts on fish and fish habitat in the context of s. 35 rights to fish. DFO has been actively providing the JRP with their views and information through the process. Although DFO acknowledged that through the information requests and site visit (September 2021) some outstanding issues related to fish presence/absence have been resolved from their perspective, some uncertainties remain. The Proponent has determined that 12.33 ha of fish habitat will be impacted by the Project, which is the minimum area of offset that will be required. As a result of the remaining uncertainties surrounding the quantification of Project impacts, the proposed size for this offset area has not been confirmed by DFO.

A draft offsetting and compensation plan was submitted by the Proponent on January 14, 2022 ([CIAR #983](#)). In its assessment, DFO specifically recommends that further development of the offsetting plan should be done in collaboration with Indigenous communities. Furthermore, DFO notes that although the draft offsetting plan represents substantial progress, there is still a lot of work required to determine the viability and appropriateness of the proposed offsetting measures.

For a detailed summary of DFO's assessment of the Project's potential effects on fish and fish habitat, please refer to DFO's hearing submissions.

Regarding Pays Plat First Nation's concerns related to potential Project effects on areas of concern in Lake Superior, ECCC understands that there will not be any discharges from the Project or activities within Peninsula Harbour (AOC). It is understood that the Proponent is proposing to discharge mine site effluent via Hare Lake, where it will ultimately discharge into Lake Superior, outside of the boundary of the Peninsula Harbour Area of Concern (AOC). If these discharges are maintained within regulatory limits, no impacts on the AOC are anticipated. Given the Proponent's plans to transport concentrate by rail and not by vessel via Peninsula Harbour at the Town of Marathon, ECCC is of the view that the proposed mining activity should not impact the thin layer cap and contaminated sediment it is designed to remediate. If the Proponent decides to transport the concentrate by vessel from the harbour at a later date, dredging with the thin layer cap may be required. If so, dredging would require appropriate regulatory approvals and ECCC should be consulted as part that process due to its role in the Peninsula AOC Remedial Action Plan.

For a detailed summary of ECCC's assessment of the Project potential effects on water quality and quantity, please refer to ECCC's hearing submissions.

Regarding Pays Plat First Nation's concerns related to mercury, MECP notes that the Proponent has committed to additional baseline sampling and is in the process of collecting additional baseline data. MECP indicates that the additional baseline sampling should include surface water sampling of the Pic River using low-level mercury concentrations. The Proponent also proposes to carry out additional geochemical testing of waste rock and source material to assess the potential for mercury releases in the effluent and from site drainage. ECCC notes that background mercury at PR1 and PR2 in the Pic River were both listed as having a concentration of 0.0001 mg/L which exceeds CCME guidelines (please see ECCC's submission for further discussion on this topic).

The Proponent's results from water quality modelling identified that maximum predicted concentrations of constituents of potential concern are not expected to exceed proposed water quality benchmarks, as such the Proponent has predicted there to be minimal increases in fish tissue contaminant concentrations. The CCT notes that the Proponent has proposed to carry out a comprehensive monitoring program to investigate potential changes in mercury and methylmercury in the aquatic environment, and that part of this investigation involves ongoing collection and analysis of fish tissue from large-bodied and small-bodied fish. The purpose of sampling of large-bodied fish is to assess the suitability for human consumption by comparing results the Ontario Fish Consumption Guidelines, and to evaluate the impact of mine discharges. Small-bodied fish are collected to assess the potential for mercury releases and/or the methylation/mobilization of mercury over a defined time period. This data is used as an early indicator for biological uptake of contaminants.

MECP also commented that the fish sample size was too small to establish statistically significant baseline data. The Proponent has collected additional fish tissues from Hare Lake and the Pic River in 2021 and additional collections are expected to include other species and

locations during the open water period of 2022. This data will need to be compiled, statistically analyzed and included to define baseline fish tissue concentrations. MECP recommends additional baseline fish tissue collection and analysis in order to properly characterize baseline, while ongoing fish tissue sampling should occur during the life of the mine.

Regarding potential contaminants in fish, HC noted that potential accumulation of Project contaminants in country foods such as fish and the associated health risks are not sufficiently considered by the Proponent. Additional concerns were raised by HC about possible exposure pathways to consuming contaminated fish. HC noted that it is unclear how COPCs in mining and metal processing effluents will be monitored and how results will inform adaptive management during mine operation (Hare Lake) and post-closure (Pic River) phases. To adequately address uncertainties associated with the predicted Project impacts on human health via consumption of contaminated water, the proposed surface water monitoring program should include contaminants that were screened using inadequate methods. HC noted that the EIS addendum does not provide the predicted concentrations in receiving waterbodies (e.g., Hare Lake) of i) mining by-products of palladium and other platinum group metals (PGM)¹^[1] and ii) the chemicals that will be used for on-site processing of PGM²^[2] during operations ([Appendix D11, CIAR #727](#)). As such, treated effluent quality for these substances was not compared against drinking water quality standards, where available, and they were not considered as COPCs in the HHRA. For more information, please refer to Section 3 of HC's written submission to the Panel.

The CCT notes that Pays Plat First Nation have provided a number of technical concerns associated with the Project's potential effects on fish and fish habitat and, while the Proponent has referenced that Pays Plat First Nation conducts fishing activities at Angler Creek (near the outlet at Sturdee Cove), in Hare Creek, Hare Lake, Bamooos Lake, Pic River, and other waterbodies in or close to the study area, Pays Plat First Nation have not provided direct information related to Project impacts on preferred sites used for fishing. The CCT notes that Pays Plat First Nation have indicated this level of detail may be included in their Traditional Knowledge report, which has not been shared through the consultation process. Based on information received to date, the CCT understands that Pays Plat First Nation members may avoid the area in the future, due to the perceived risk of contamination from the Project. However, no information has been provided regarding Project components or activities compromising access to specific sites or areas used for fishing. This information is necessary to support the CCT in accurately assessing the Project's potential impacts on Pays Plat First Nation's right to fish.

The CCT acknowledges the information provided by Pays Plat First Nation regarding the cultural importance of Angler Creek. The cultural importance described was related to the importance

^[1] For example, platinum, ruthenium, rhodium, osmium, and iridium.

^[2] For example, potassium amyl xanthate (PAX), methyl isobutyl carbinol (MIBC), AEROfroth, carboxymethyl cellulose (CMC), Drewfloc 2279 polymer, lime (calcium hydrated).

of the site to community members as a former semi-permanent community and not necessarily as an area currently used or relied upon to exercise Pays Plat First Nation's rights associated with fishing. The cultural importance of the former settlement is further described in Section 6.6.4.2 below.

The CCT maintains that future opportunities exist to potentially address a number of the concerns raised by Pays Plat First Nation. These opportunities include DFO's commitment to consult Pays Plat First Nation through the regulatory process, should the Project proceed. NDMNRF has also committed to continue working with Pays Plat First Nation through the mine Closure Plan and will be directing the Proponent to consult with Pays Plat First Nation on the Closure Plan prior to submission for filing.

Furthermore, it is worth noting Pays Plat First Nation's involvement in the ECCC Great Lakes Protection Initiative. Pays Plat First Nation has been working with ECCC since 2018/19 conducting monitoring initiatives in coastal bays and estuaries on Lake Superior near Pays Plat First Nation. The monitoring program includes water, soil, and sediments sampling, as well as fieldwork-based shoreline and aquatic vegetation surveys. Such monitoring provides a baseline understanding of environmental conditions that may help address the concerns raised by Pays Plat First Nation.

Finally, the CCT acknowledges the Proponent's efforts and commitment to continue working with Pays Plat First Nation to address their concerns through the Environmental Committee, ongoing negotiations on their IBA and through regulatory processes should the Project proceed. The Proponent has also committed to implementing a fish habitat offsetting in consultation with DFO and other interested parties.

6.6.4.2 Preliminary Assessment of Potential Impacts to Pays Plat First Nation's Established or Asserted s. 35 Rights Associated with Water and Fishing

Based on the information provided by Pays Plat First Nation and the Proponent's analysis, the CCT identifies the potential for LOW to MODERATE negative impacts from the Project on Pays Plat First Nation's established or asserted s.35 rights associated with water and fishing.

6.6.4.3 Potential Measures to Address Concerns Associated with Water and Fishing

Based on the potential impacts on Pays Plat First Nation's established or asserted s. 35 rights to fish, the CCT suggests that the JRP consider making the following recommendations:

- The Proponent provide a more developed fish habitat offsetting and monitoring plan using appropriate methodology for the quantification of impacts, particularly surrounding the assessment of hydrology impacts. This information is required for a fulsome assessment of the Project's potential impacts on Pays Plat First Nations rights to fish.
- As per DFO's recommendation, the Proponent is to continue working directly with DFO, provincial regulators and Indigenous communities to provide a final version of an offsetting plan that adequately balances fish habitat losses caused by Project activities.

- The Proponent consult Pays Plat First Nation in the development of mitigation measures, which incorporates traditional knowledge, to protect fish and fish habitat.
- The Proponent consult Pays Plat First Nation and include traditional knowledge in the development and implementation an offsetting plan in relation to fish and fish habitat.
- The Proponent involve the Pays Plat First Nation in the development and implementation of monitoring and follow-up programs related to water quality in the Project area, specifically the discharge location, Hare Lake.
- HC stated a need to develop and implement a comprehensive surface water quality monitoring program that includes i) monitoring of the mining by-products of palladium and PGM and metal processing chemicals in Hare Lake during operations, and ii) monitoring of Pic River water quality for the complete list of surface water contaminants used in the EIS addendum before and after water overflow from the open pits.
- Should opportunities exist, Pays Plat First Nation should continue monitoring the Lake Superior bays and estuaries in collaboration with ECCC and other potential partners under programs tied to Great Lakes management.

6.6.4.4 Potential Impacts to Pays Plat First Nation’s Established or Asserted s. 35 Rights Associated with Culture

6.6.4.4.1 Summary of Pays Plat First Nation Views – This Represents the Views of Pays Plat First Nation
 Pays Plat First Nation explained that approximately one third of Pays Plat First Nation members have a grandparent that were born at Angler Creek, a site of cultural significance to Pays Plat First Nation. As mentioned above, Pays Plat First Nation had a semi-permanent community in Angler. Community members traveled to the area for work during rail construction and at Japanese and later German PoW camps (1941). This area is about 2 Km from the discharge effluent from the Project.

Pays Plat First Nation described concerns about the Project being a “hole in mother earth” in sacred rocks that lie within their land claim area. Pays Plat First Nation indicated that their people “lived and died there” at Angler Creek.

Pays Plat First Nation noted that the EIS does not include a cultural assessment of the Project area. Pays Plat First Nation stated that they require access to the proposed mine site to share their knowledge of the land and their TLRU. Pays Plat First Nation has raised concerns that they had not visited to Project site to see how it has changed though the years and to see how the Project may affect the environment.

Pays Plat First Nation confirmed they were not involved in the Archeological assessment (stage 1 and 2). Serious concerns were expressed with this omission. Pays Plat First Nation shared there are old gravesites at Angler Creek and many grandparents of Pays Plat First Nation’s current band members were born there, along with Biigtigong Nishnaabeg who have many community members from there. Pays Plat First Nation noted that the proposed water treatment facility discharge pipeline at Hare Lake would be under 2 km from Angler Creek. Pays

Plat First Nation raised concerns associated with the risk this Project component could have on an area with potential burial sites and artifacts. Pays Plat First Nation stated the need for a fulsome archeological assessment that would include older knowledgeable community members' participation to identify specific sites as nature has taken over. Pays Plat First Nation noted the importance of developing an agreement that suspension should be put in place in the event that cultural items are identified.

Pays Plat First Nation noted a general lack of integration of Traditional Knowledge from Pays Plat First Nation in the EIS. Pays Plat First Nation indicated they had not shared its traditional knowledge with the Proponent, despite a claim in the EIS Addendum that "Pays Plat First Nation approved the VECs and TLRU/TK studies completed in 2013." Thus, Traditional Knowledge from Pays Plat First Nation has not been incorporated in assessing the impacts of the Project on the rights of Pays Plat First Nation.

Pays Plat First Nation recommended that their TK be integrated into the assessment of the Project potential effects and the clear need for a complete archeological assessment.

[6.6.4.4.2 Summary of the Proponent's Assessment of Impacts to Culture](#)

In Section 6.2.12 the Proponent acknowledged concerns expressed by Pays Plat First Nation that further consultation with the community was required to further incorporate their TK and TLRU information into the EIS Addendum and supporting documents.

The Proponent further notes in Section 6.2.12 that although they have received comments from Pays Plat First Nation (and other Indigenous groups) related to heritage resources and potential areas of spiritual / cultural importance, no specific locations identified were within the SSA. The Proponent shared that Pays Plat First Nation has stated they have used Angler Creek, Hare Creek and Hare Lake corridor for travel routes of cultural importance. More specifically, as identified in [IR 16.7 \(CIAR #489\)](#), "*Pays Plat First Nation have historically used an area alongside the lower reaches of Angler Creek as a camp/transient accommodation site and for related purposes in connection with past travel back and forth to Pic River First Nation to collect payments under the Robinson-Superior Treaty*".

A subsequent letter to the JRP on June 6, 2013 ([CIAR #466](#)) stated that there was a confusion in stream names due to error in signage on the highway but in recent conversations with Pays Plat First Nation, it was clear that the Stream 6, known as Angler Creek is the location of the camp. The Proponent shared the documented history of Angler Creek, including the following quote from the History of the Pic River Area (Nute 1946):

"During the last Great War, German prisoners of war were employed in bush operations in the Thunder Bay District. To serve as a distribution point for these men, the Dominion Government built an internment camp on the sand flat behind Angler section house five miles west of Peninsula. This camp was in operation from 1942 to 1946, and only recently has been demolished."

In Section 6.2.11 of the EIS the Proponent indicated that there were no changes to the potential effects, effects pathways or measurable parameters for Physical and Cultural Heritage Resources. The Proponent reiterated that the findings of no residual effects to Physical and Cultural Heritage Resources in the original EIS (2012) were unchanged.

Based on the Stage 1 and 2 AA ([CIAR #227](#)), as well as responses to IR16.6 ([CIAR #377](#)), four sites were identified as having high potential on the shores of Hare Lake, including one within the SSA. The Proponent indicated that the end of the Hare Lake discharge pipeline is situated in proximity to an area identified as having a high potential for archaeological resources (as identified in Woodland Heritage Services Ltd., 2008 (SID#27) ([CIAR #227](#)) which was identified for further Stage 2 archaeological investigation. Areas identified as having high archaeological potential on Bamooos Lake are outside of the SSA.

In its response to [JRPs IR 7-2](#), the Proponent recognized the cultural importance of Hare Lake as a travel corridor to Bamooos Lake but indicated the presence and operation of the discharge pipeline is not anticipated to adversely affect water access to or through Hare Lake. The Proponent indicated that although no detailed drawings were reviewed with communities, the discharge line corridor was illustrated on maps and figures presented to communities during consultation and engagement activities. The Proponent stated that no Indigenous community identified an explicit site of high cultural value or any contemporary use of the site of the proposed discharge pipeline for cultural purposes.

The Proponent confirmed its awareness that Angler Creek was an area that was characterized as having high archaeological potential (Section 6.2.11, EIS Addendum [[CIAR #727](#)]); however, any actual use of this specific area or the existence of any archaeological resources at this location have not been identified at this time.

As part of the detailed design process and permitting, Indigenous communities will continue to be engaged to better understand the location and use of areas of cultural value in proximity to the discharge location and to explore opportunities to reduce or avoid such areas as much as feasible. Avoiding this area would eliminate the need for further archaeological assessment. However, should avoidance of this area of high archaeological potential not be feasible, the Proponent has committed to complete a Stage 2 archaeological assessment (AA) to inform detailed design and prior to ground disturbance in accordance with the Ministry of Heritage, Sport, Tourism and Cultural Industries (MHSTCI) Standards and Guidelines for Consultant Archaeologists. If archaeological resources are identified, additional archaeological assessments (i.e., Stage 3 and/or Stage 4 Mitigation) would be conducted following the MHSTCI's Standards and Guidelines for Consultant Archaeologists (MHSTCI, 2011). Additional archaeological work that may be necessary is proposed to be completed in 2022 to inform detailed design.

As part of the archaeology resources and monitoring program, a protocol will be developed to identify procedures to follow in accordance with the Ontario Heritage Act should archaeological resources be encountered. Additionally, a separate cultural protection protocol, including the

immediate suspension of work, will be put in place. Additional details on the protocol are provided in Section 6.2.11 and 7.3 of the EIS Addendum (Vol 2).

In conclusion, to date, the Proponent indicates that no archaeological resources have been identified that would be affected by the Project. Therefore, no residual adverse effect on archaeological resources is anticipated.

6.6.4.4.3 Summary of the Crown Consultation Team's Views of Impacts to Culture

The CCT recognizes the information provided by Pays Plat First Nation regarding their history in the Project area, including the semi-permanent community at Angler. Through consultation activities, several Pays Plat First Nation members shared stories and memories of having visited the site with family. These members also provided anecdotal evidence about their grandparents use and partial occupancy of Angler.

The CCT acknowledges that although no Project components will directly overlap with this culturally significant site, there is potential for the cultural value and experience at the site of the semi-permanent community settlement to be diminished for Pays Plat First Nation and its members. This is due primarily to the fact that the source of the effluent from the Project is approximately 2km upstream from the site. It is understood that despite the fact that the effluent will meet established guidelines, Pays Plat First Nation members use and cultural connections to area could be compromised due to the perception that the site as "spoiled".

The CCT is concerned by the lack of consultation the Proponent has undertaken to inform its assessment of Project effects on physical and cultural heritage. More specifically, the fact that Pays Plat First Nation's updated Traditional Knowledge study did not inform the EIS addendum or IR responses, leads the CCT to consider that the Proponent's analysis is incomplete. As per the Agency's [Technical Guidance for Assessing Physical and Cultural Heritage or any Structure, Site or Thing](#), "Aboriginal spiritual and cultural practices are often integrally linked to specific locations and landscape features. Environmental effects resulting from a designated project may impact these places, which may in turn limit the ability of Aboriginal peoples to engage in their spiritual and cultural practices." The Proponent did not present information regarding how the Project may impact these practices.

Regarding Pays Plat First Nation concerns about potential Project impacts on archeological resources, the MHSTCI noted that a Stage 1-2 archaeological assessment (AA) and a Stage 1-partial Stage 2 AA were undertaken in 2008 and 2009, respectively. The Stage 1-partial Stage 2 AA report identified the Hare Lake area as having archaeological potential and recommended further assessment be undertaken for that area, prior to any ground disturbing activities including mining activities. Both reports have been accepted into the Ontario Public Register of Archaeological Reports. In 2020, MHSTCI confirmed that these reports are still valid. There is no requirement under the *Ontario Heritage Act* to engage with Indigenous communities at these early stages although MHSTCI recommends it as a best practice. Indigenous engagement by a licensed archaeologist may not have happened in 2008 and 2009.

The MHSTCI did confirm that an archaeological site was identified in the Hare Lake area requiring further work (i.e. Stage 3 AA) if it were to be impacted by development activity, and additional areas of archaeological potential on the lake were also identified but not tested. Therefore, a Stage 2 AA is required for the discharge pipeline Project component area and other Project component that may be located in that area. Further stages of archaeological assessment may be required, depending on the findings of the Stage 2. All archaeological fieldwork must be completed prior to construction and in compliance with the *Ontario Heritage Act*.

Under the [Standards and Guidelines for Consultant Archaeologists \(MHSTCI, 2011\)](#) Indigenous engagement by the licensed archaeologist is required at the end of Stage 3 archaeological assessment, if mitigation is required and the archaeological site is Indigenous in nature.

Indigenous groups have identified the area as high cultural value and provided information regarding contemporary use of the site for cultural purposes. The Proponent has not reflected this information or feedback from Indigenous groups about the cultural significance of the area in its assessment. This information is important for the effects assessment.

6.6.4.5 Preliminary Assessment of Potential Impacts to Pays Plat First Nation's Established or Asserted s. 35 Rights Associated with Culture

Based on the information provided by Pays Plat First Nation and the Proponent's analysis, the CCT identifies the potential for LOW to MODERATE negative impacts from the Project on Pays Plat First Nation's established or asserted s.35 rights associated with culture.

6.6.4.6 Potential Measures to Address Concerns Associated with Culture

Based on the potential impacts on Pays Plat First Nation's established or asserted s. 35 rights associated with culture, the CCT suggests that the JRP consider making the following recommendations:

- The Proponent implement recommendations from the previous Stage 1 & 2 Archaeological Assessment.
- The Proponent commit to a further Stage 2 Archaeological Assessment with engagement with Pays Plat First Nation, and the development of the protocol to respond to "chance finds" with Indigenous-field monitors to be present.
- The Proponent, in consultation with Pays Plat First Nation, develop an awareness training program about the procedures related to the discovery and protection of archaeological resources.
- The Proponent, develop a Cultural Heritage Plan that incorporates protocol deemed appropriate by Pays Plat First Nation, to mitigate impacts of the Project on physical and cultural resources.

6.6.4.7 Potential Impacts to Pays Plat First Nation's Established or Asserted s. 35 Rights Associated with Harvesting

6.6.4.7.1 Summary of Pays Plat First Nation's Views – This Represents the Views of Pays Plat First Nation
Pays Plat First Nation's (Pays Plat First Nation) has several questions and concerns regarding the Projects potential effects on the terrestrial environment. Pays Plat First Nation is concerned about the Project leaving a “hole in mother earth” and Pays Plat First Nation's land claim area where their people lived and died.

As indicated in Pays Plat First Nation's October 25, 2021 [letter to the JRP \(CIAR #943\)](#), “*when you come to Pays Plat First Nation, you will see both the past and the present. Our community members live in an ancient cradle of forest, water, mountains, and oral tradition. While our houses, services and commercial businesses are new, we have been here since time immemorial*”.

Pays Plat First Nation wants the JRP to see “*the clean waters where we fish, and the places where we pick blueberries. We want the panel to understand that these things are not just hobbies, or what the government calls “Aboriginal Rights”. For us, these things are our identity*”. Pays Plat First Nation have shared some of the wildlife species of interest to the community and has requested Project-specific data pertaining to Species at Risk and furbearers. Pays Plat First Nation have the following concerns regarding harvesting:

- General lack of integration of Traditional Knowledge from Pays Plat First Nation;
- Characterizations of wildlife habitat based on flawed methodologies;
- Concerns regarding sturgeon, moose, deer, fish, beaver, water quality and how effects will be mitigated;
- EIS does not include an evaluation of the adequacy of its surveys
- EIS does not recognize the occurrence of plant species with cultural significance
 - Pays Plat First Nation indicated the list of plant species in Appendix D10 of the EIS Addendum is insufficient and requires many additions. The current information is outdated, with lots of changes that happened over the past 10 years.
 - Old TK studies weren't available in 2012 and new ones (3 years old) have not been shared with the Proponent's resulting in an insufficient list of plant species used by Indigenous people.
 - Pays Plat First Nation would like to have more information with regard to how many plants will be destroyed and where the discharge will be.

In [Pays Plat First Nation's July 23, 2021 submission to the JRP \(CIAR #894\)](#), Pays Plat First Nation mentions there is a significant deficiency in the methodology used to quantify the habitat available for terrestrial species within the local and regional study areas, including a misunderstanding of the ecological meaning of what is being modeled. Pays Plat First Nation requests the Proponent to:

- Provide a rationale and a quantitative analysis to justify the sufficiency of the survey efforts;
- Justify the selection of the methodology to estimate the availability of habitat for Canada warbler. If an expert opinion-based approach is used, a sound rationale should be presented to justify the choice;
- Validate the habitat suitability models, for instance, by using independent empirical data to test their predictions.

Pays Plat First Nation wants to continue working with the Proponent during the development of environmental monitoring programs and consider the participation of its members during the potential implementation of the programs.

[6.6.4.7.2 Summary of the Proponent's Assessment on Impacts to Harvesting](#)

As indicated at [Section 6.2.12.4.3 of the EIS](#), the Proponent recognizes that Pays Plat First Nation has records documenting occupation on the north shore of Lake Superior dating to back to 1777. As previously identified in [IR 16.7 \(CIAR #489\)](#), "Pays Plat First Nation have historically used an area alongside the lower reaches of Angler Creek as a camp/transient accommodation site and for related purposes in connection with past travel back and forth to Pic River First Nation to collect payments under the Robinson-Superior Treaty".

The Proponent recognises that Pays Plat First Nation continues to report trapping, fishing, hunting, gathering, picking, and harvesting in the SSA and LSA and throughout the Robinson-Superior Area.

In [Section 6.2.12.6.1 of the EIS](#), the Proponent indicates that Potential wildlife harvesting is affected by the ability to access areas for hunting and the availability of wildlife to hunt in those areas. Access to areas to perform traditional wildlife harvesting activities generally follows established travel routes via existing access locations. The Pays Plat First Nation has not provided specific hunting locations within the SSA but have stated general use of the area for wildlife harvesting.

[Section 6.2.12.6.1 of the EIS](#) indicates that the Project has the potential to result in localized reduction and ability to forage for traditional plants and harvest other materials such as timber within the SSA. Access to gather traditional plants and materials will be restricted during construction and operations. Potential environmental effects to vegetation communities during Project construction are primarily associated with vegetation clearing and removal activities and are considered direct effects on vegetation communities.

The Proponent notes that, during operations, the potential Project effects on traditional plant and material harvesting, in addition to access restrictions, are associated with indirect effects (e.g., from dust). Potential Project effects during decommissioning and active closure are associated with land reclamation and re-vegetation activities and are considered direct and indirect effects on vegetation and traditional plant and material harvesting.

In [IR 7-8 on Plants of Interest to Indigenous Groups](#), the Proponent indicates that the potential abundance of each species of Indigenous interest in the SSA and LSA was assessed using an ecosite-based approach. Approximately 60 plant species identified by the Indigenous communities as of interest and potentially present in the SSA were carried through in the analysis of abundance.

Although relatively widespread, blueberries are typically not that abundant in the SSA due to the lack of recent disturbance, such as fire or logging, which creates the open habitats preferred by this shrub species (Buse and Bell 1992; Mallik 2003; Soper and Heimburger 1982). In the SSA, they are mainly found on rock barrens or open forest on well-drained areas; rock barrens are relatively limited in the SSA, however, and much less abundant in the RSA where cutovers and other disturbance (fire, rights-of-way) provide suitable habitat.

Based on the more detailed assessment of changes to plants of interest to Indigenous communities, no additional mitigation is warranted and the conclusion that there will be no significant residual effects on traditional land and resources remains unchanged.

In [IR 6-33 on Human Health Risk Assessment for Country Foods](#), the Proponent indicates it is developing and implementing a country food monitoring program in collaboration with Indigenous groups, including Pays Plat First Nation. The Country Food Monitoring Program will include sampling of country food that will be conducted to set a baseline, once during construction, and every three years during operation. A minimum of five (5) samples will be collected for each blueberries, moose tissues and fish at each sampling location during a sampling campaign. Sampling locations will be coordinate with local hunters and harvesters.

The Proponent has committed to ongoing engagement and information sharing with potentially affected Indigenous groups and to work together with Indigenous groups, through a collaborative regional Environmental Committee to encourage transparency and build trust which will help resolve negative perceptions associated with the Project. As described in Section 5.2.4.3.3 of the EIS Addendum ([CIAR #727](#)), the Proponent's goal is to foster collaboration wherever possible, including seeking direct community participation in environmental management and monitoring

[6.6.4.7.3 Summary of the Crown Consultation Team's Views on Impacts to Harvesting](#)

The CCT notes that the Proponent's assessment on potential Project effects on Pays Plat First Nation's harvesting rights is limited due to the confidential nature of the information. Furthermore, as Pays Plat First Nation's updated Traditional Knowledge was not provided in time to inform the assessment presented in the EIS and IR responses, the CCT is of the view that the Proponent's assessment is partially incomplete.

Despite the issues raised regarding Project effects, the CCT notes the lack of information provided by Pays Plat First Nation about the Project's potential impacts on its s. 35 harvesting rights. For example, minimal information has been received that clearly connects Project impacts on resources of concern or practices in the vicinity of the Project. Additionally, Pays

Plat First Nation have not identified Project components or activities that would compromise access to key areas used for trapping, hunting or harvesting activities or important cultural practices such as transfer of knowledge. The CCT notes that Pays Plat First Nation have indicated this level of detail may be included in their Traditional Knowledge report, which has not been shared through the consultation process. This information is necessary to support the CCT in accurately assessing the Project's potential impacts on Pays Plat First Nation's harvesting rights. The CCT does acknowledge the information provided by Pays Plat First Nation regarding the cultural importance of the former semi-permanent community at Angler Creek as described by Pays Plat First Nation members. These concerns are further described in subsection 6.6.4.4.

The CCT does note that should Pays Plat First Nation provide additional information regarding impacts on the Project on harvesting activities, it will be included in the final assessment on impacts to rights. The CCT also maintains that future opportunities exist to potentially address a number of the concerns raised by Pays Plat First Nation, which includes the Proponent's commitment to continue working with Pays Plat First Nation in a collaborative regional Environmental Committee. This committee has the potential to help resolve negative perceptions associated with the Project and provide an opportunity for Pays Plat First Nation to inform their participation in the Proponent's environmental management and monitoring activities. Furthermore, the CCT notes that the Proponent's ongoing efforts with Pays Plat First Nation to negotiate an IBA and commitments to implement a Harvester Training Fund may be candidates to address outstanding issues.

6.6.4.8 Preliminary Assessment of Potential Impacts to Pays Plat First Nation's Established or Asserted s. 35 Rights Associated with Harvesting

Based on the limited information provided by Pays Plat First Nation and the Proponent's analysis the CCT identifies the potential for LOW to MODERATE negative impacts from the Project on Pays Plat First Nation's established or asserted s.35 rights associated with harvesting.

6.6.4.9 Potential Measures to Address Concerns Associated with Harvesting

Based on the potential impacts on Pays Plat First Nation's established or asserted s. 35 rights to harvest, the CCT suggests that the JRP consider making the following recommendations:

- The Proponent consult Pays Plat First Nation in the development of the environmental management, monitoring and follow-up programs.
- The Proponent consult Pays Plat First Nation in the development of a Harvester Training Fund Initiative to mitigate impacts.
- The Proponent consult Pays Plat First Nation in the selection of plant species for the re-vegetation activities.
- The Proponent consult the Pays Plat First Nation in monitoring of country foods as part of the mitigation and enhancement measures.
- HC recommends the Proponent develop and implement a comprehensive traditional food monitoring program for all phases of the Project, that considers community-specific or representative food types/species, harvesting/fishing/hunting/trapping

grounds, and consumption patterns of traditional foods. Demonstrate how Indigenous engagement is used to inform the monitoring program.

- HC recommends the Proponent assess the human health risks based on the results of the traditional food monitoring program and communicate the findings to Indigenous peoples who may be impacted by Project activities.
- The Proponent consult Pays Plat First Nation in the development of the mine closure plan.

6.6.5 Outstanding Concerns and Interests of Pays Plat First Nation

The CCT notes the following outstanding concerns raised by Pays Plat First Nation:

- Pays Plat First Nation raised a number of questions and concerns regarding the potential development of nearby exploration sites (Sally, Boyer, etc) adding to cumulative effects of the Project. Pays Plat First Nation questioned if the proposed tailings and water treatment facility will be able to accommodate the development of the aforementioned exploration sites.
- Concerns regarding the Proponent's consultation efforts and the need to further incorporate Pays Plat First Nation's TK and TLRU information into the EIS Addendum and supporting documents.
- Potential contamination of waterbodies and fisheries resources affecting the ability to safely exercise the right to fish.
- Concerns regarding the EA process administered by the JRP including but not limited to timing, inability of the community to participate in the EA process during the COVID-19 pandemic.
- Timing of EA Process with concurrent land claim negotiations.

6.7 Red Sky Métis Independent Nation

6.7.1 Introduction

The information Red Sky Métis Independent Nation has submitted on the JRP record and shared with the Crown through consultation meetings regarding their asserted rights and values potentially impacted by the Project form the basis of the Crown's understanding of the context in which impacts on Red Sky Métis Independent Nation's rights would occur.

This submission was shared with Red Sky Métis Independent Nation on February 10, 2022 for validation and comment. The Red Sky Métis Independent Nation provided comments on February 16, 2022, which were subsequently integrated into this document.

The Crown acknowledges that the community raised concerns about the Project during the consultation process in 2012 ([CIAR #313](#)). The EA for the Project was suspended in 2014 and recommenced in 2019. It is understood that the Proponent addressed some of these concerns prior to the suspension, and that others have not been raised by the Red Sky Métis Independent Nation since the recommencement of the EA. Concerns that have been previously addressed, as well as those not raised by the Red Sky Métis Independent Nation since the recommencement of the EA, are not assessed in this document.

The CCT met with the Red Sky Métis Independent Nation five times between September 2020 and September 2021, one of those meetings was in person. The community submitted comments to the registry on their statement of support for the Marathon Palladium Project [CIAR #872](#) on July 5, 2021.

6.7.2 Background

The following background information was provided by the Red Sky Métis Independent Nation on October 15, 2021 and does not necessarily reflect the views of Canada or Ontario:

Red Sky Métis Independent Nation (RSMIN) consists of descendants of the 84 "half-breeds" who were recognized by the Crown as beneficiaries and annuitants under the Robinson Superior Treaty of 1850, in concurrence with the First Nation peoples. However, Red Sky Métis Independent Nation is distinct from the First Nation peoples, by ways of their traditional lands, traditions, customs, and practices. The Red Sky Métis Independent Nation People are Aboriginal people as defined by the [Constitution Act of 1982](#), and descendent of the beneficiaries to the Robinson Superior Treaty of 1850. Red Sky Métis Independent Nation citizens continue to actively engage in a range of traditional land use practices as well as contemporary adaptations of those traditional land use practices on the Traditional Territory (Figure) including for hunting, fishing, trapping, recreational uses, gathering and consumption of country foods. Red Sky Métis Independent Nation citizens continue to occupy and use land for these purposes across the Robinson Superior Treaty area of 1850. Approximately 8,000 Red Sky Métis Independent Nation citizens reside in communities throughout the Robinson-Superior Treaty area as well as throughout Canada and the World.

The northern shore of Lake Superior in Northwestern Ontario enjoys a proud Métis history unique to the area. French Métis fur traders settled in the area in the 1600's. The land was considered uncivilized and unsuitable for living. These people survived and grew to build a railroad, establish mining and forestry industries. Over the centuries the Red Sky Métis Independent Nation people survived through great hardship and discrimination. The attitudes over the last 150+ years acted as constant erosion trying to wash off their true identity. This has only strengthened the Red Sky Métis Independent Nation community's resolve to preserve and maintain the unique history, traditions, and practices.

As stewards of the land and natural resources the Red Sky Métis Independent Nation Community share a common interest for safe and sustainable harvesting, education, health and wellbeing, and environment protection. These commitments are for the benefit of future generations and the preservation of our historic place in the world.

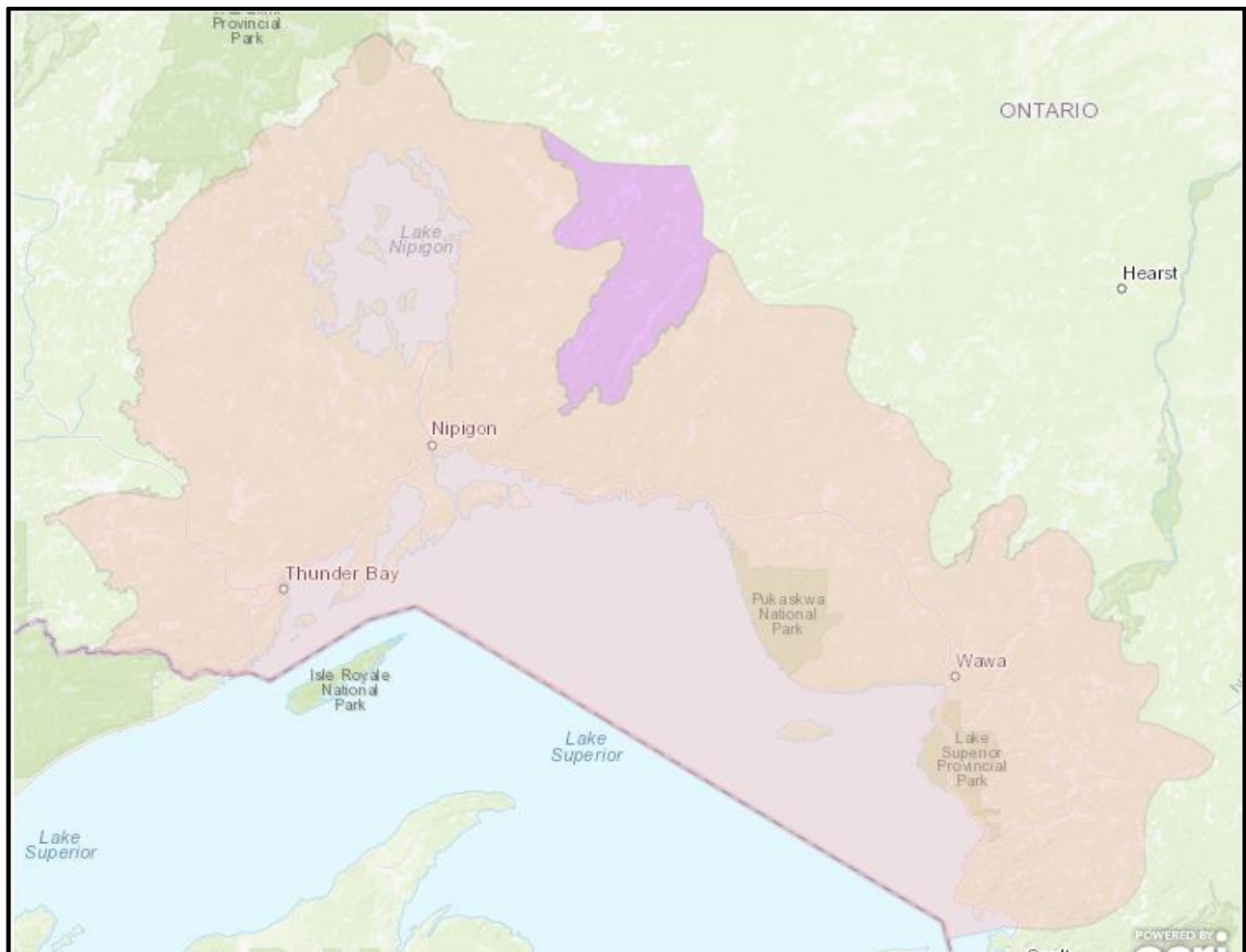


Figure 8: Red Sky Métis Independent Nation's website includes the map inserted above describing "the Robinson Superior Treaty of 1850's land region and areas of current and traditional land use by the [Red Sky Métis Independent Nation Community](#)"

6.7.3 Red Sky Métis Independent Nation Rights, Values and Interests

Based on what the Crown has heard from Red Sky Métis Independent Nation members on the Project record and throughout the consultation process, below is a summary of key concerns and priorities Red Sky Métis Independent Nation has raised related to the Project.

6.7.3.1 Economic Opportunities

The Red Sky Métis Independent Nation indicated that jobs would provide economic development for the Red Sky Métis Independent Nation community. The Red Sky Métis Independent Nation is interested in its ability to acquire work and bid on contracts.

6.7.3.2 Local Plant Life

The Red Sky Métis Independent Nation indicated that healers use local plants. Citizens are concerned about the effects of mining on these plants.

6.7.3.3 Water and Fish

The Red Sky Métis Independent Nation indicated that members fish in Bamooos Lake, Hare Lake and Seeley Lake. Red Sky Métis Independent Nation citizens are concerned about how they will be notified if, for example, there is a tailings spill or another environmental issue that affects the quality of water, land or air. Water discharge and unintentional release of tailings can occur throughout the mine life.

6.7.4 Preliminary Assessment on Impacts to Red Sky Métis Independent Nation established or asserted s. 35 Rights and Interests

6.7.4.1 Socio-Economic Conditions

6.7.4.1.1 Summary of Red Sky Métis Independent Nation Views – This Represents the Views of Red Sky Métis Independent Nation

The Red Sky Métis Independent Nation has shared both positive and negative socio-economic potential impacts, mostly focusing on employment opportunities and increased cost of living.

Given the lack of employment opportunities in the region, the Red Sky Métis Independent Nation sees the financial benefits of this Project as positive for the Red Sky Métis Independent Nation and its members, since it will increase job opportunities in the region. The Red Sky Métis Independent Nation is interested in economic opportunities through business contracts and jobs at the proposed mine. The Red Sky Métis Independent Nation believes that jobs would provide economic development for the Red Sky Métis Independent Nation community employment, including the ability to acquire work and bid on contracts, creating jobs and training opportunities for the Red Sky Métis Independent Nation citizens.

The Red Sky Métis Independent Nation is concerned about how the Project may affect other Marathon citizens as mining families look to buy or rent in the Town of Marathon. This impact is already being experienced in the Town of Marathon with other mining work that has been recently approved. Although the Red Sky Métis Independent Nation remains very pleased with the Proponent's responsiveness to concerns, the Red Sky Métis Independent Nation is still concerned for members that live in Marathon may experience housing insecurity due to

increases in housing and renting costs. There may also be other negative social aspects such as increase in drugs and crime, increase in the cost of groceries and financial strain for people on fixed incomes. There is also concern for the mental, social, and spiritual well-being of individuals and families due to the changing socio-economic environment.

On July 5, 2021, the Red Sky Métis Independent Nation stated its support for the Project in a [Letter to the JRP \(CIAR # 872\)](#). The community notes in this letter that questions raised by them since 2011 have been answered in multiple meetings, presentations, and dialogues with the company representatives. The Red Sky Métis Independent Nation stated that it is satisfied with the responses provided by the Proponent. An agreement with the Proponent is currently in negotiation (as of February 15, 2022), which may result in Red Sky Métis Independent Nation's member retention in the region, joint ventures, training for youth and filling gaps in the skills needed for the workforce.

6.7.4.1.2 Summary of the Proponent's Assessment on Impacts to Socio-economic Conditions

According to the Proponent's EIS, socio-economics are anticipated to be impacted in a positive way as a result of the Project. As described in Section [1.5.2 of EIS Addendum Vol 1 \(CIAR #727\)](#), a workforce of approximately 900 workers will be required during site preparation and construction and approximately 375 workers will be required for mine operation. The Proponent provides the Red Sky Métis Independent Nation economic development corporation with regular Project updates and is committed to ongoing collaboration to maximize benefits for Indigenous communities. In [Chapter 8 of the EIS](#), the Proponent indicates that with regard to Indigenous communities potentially affected by the Project, the Proponent will: Offer education and training programs to build capacity and increase employability and job ready skills to support Indigenous workers and offer employment opportunities to Indigenous workers, as well as work with economic development groups of Indigenous communities to increase contracting opportunities for qualified and cost-competitive bids.

Ongoing work with local communities and Project stakeholders will allow for adaptive management as needed. Mental health and addictions services, which are included in the community service VEC, have been identified as potential areas of concern due to operational capacity. The establishment by the Proponent of health services on the Project site including an employee assistance program should help mitigate Project effects on mental, social, and spiritual well-being of individuals and communities.

As described at [section 6.2.9.6.1 of the EIS](#), the Proponent has proposed the following mitigation measures to address potential Project impacts on the Economic and Employment conditions:

- "Establishing measures to encourage and recruit employees from the existing populations in local communities."
- "Providing opportunities for training to facilitate employment by residents of the LSA and RSA and supporting initiatives to train local youth and members of Indigenous groups. The Proponent will establish measures to encourage and recruit employees

from existing populations in local communities and will provide opportunities for training such that local residents can acquire the skills necessary to participate in the Project. “

- “During decommissioning, implementing strategies to help transition the workforce. The skills, experience, and qualifications that workers gained while employed on the Project will help offset the loss of employment, as these improved qualifications will aid with securing employment on future projects within the LSA, RSA or other parts of Ontario.”
- “Work with economic development groups to increase contracting opportunities for local businesses”

In [IR 7-10 \(CIAR #950\)](#), the Proponent indicates that in the EIS Addendum ([CIAR #727](#)), the socio-economic environment includes economy and employment, infrastructure and services, and land and resource use. The vulnerable and diverse sub-groups within Indigenous communities who are most likely to experience disproportionate effects of the Project with respect to socio-economic environment are members of low-income households, women, and youth. This determination is based on feedback from engagement, a literature review on socio-community impacts from mining and linear resource projects, and on the professional experience and knowledge of the socioeconomic technical team.

With respect to access to housing, the use of the Accommodations Complex for construction and operations workers whose homes are outside the RSA, will help reduce demands on permanent and rental accommodations. The Project is therefore not anticipated to result in changes to the availability and costs of existing housing, which could have disproportionate adverse effects on sub-groups within the LSA, including members of Indigenous groups (e.g., persons on fixed incomes and marginally-housed persons). Additionally, the use of the Accommodations Complex, along with cultural sensitivity training for Project employees, will reduce adverse social interactions between Project workers and local residents, which typically affect women disproportionately.

In [IR 6-36 \(CIAR #950\)](#), the Proponent indicates that at this stage in its planning process, it has yet to identify targeted skill sets or training methods or establish the timeline for training programs. Such information will be developed once the Project proceeds into detailed planning and will also depend on the knowledge gained from early recruitment activities that will commence after the Project moves closer to the commencement of construction.

As the Proponent progresses through the planning process and into detailed planning and recruitment, the Proponent will work with educational institutes, Indigenous communities and the Town of Marathon. The Proponent is committed to exploring opportunities that advance the objectives that were identified by [IR 16.1 \(CIAR #489\)](#), including developing programs focused on underrepresented populations (e.g. Indigenous peoples or females) within the mining sector.

In [IR 7-9 \(CIAR #950\)](#), the Proponent indicates that it is currently negotiating Community Benefits Agreements (CBA) with Indigenous communities that may be affected by the Project. Such agreements include provisions for employment opportunities for members, including for members that are under-represented in the mining sector.

[6.7.4.1.3 Summary of the Crown Consultation Team's Views on Impacts to Socio-economic Conditions](#)

The CCT notes the Red Sky Métis Independent Nation's socio-economic concerns, potential benefits and overall support for the Project. The CCT understands that the Red Sky Métis Independent Nation has indicated that the Proponent has adequately answered the Red Sky Métis Independent Nation's questions and will continue to work on an Agreement with the Red Sky Métis Independent Nation. This may help with Red Sky Métis Independent Nation's member retention in the region, joint ventures, training for youth and filling any gaps in the skills needed for the workforce.

The Proponent has importantly identified vulnerable and diverse sub-groups within Indigenous communities who are most likely to experience disproportionate effects of the Project with respect to socio-economic environment, including members of low-income households, women, and youth. The Proponent's mitigation measures will help address Red Sky Métis Independent Nation's concerns, including a proposed Accommodations Complex to help reduce demands on permanent and rental accommodations.

The Proponent also identified further discussions needed in these planning stages, namely regarding targeted skill sets, training methods and training programs.

ESDC shared that based on the information provided by the Proponent related to "training initiatives" ([IR 7-9](#)), further analysis could demonstrate potential social and/or economic effects on the local labour market. Moreover, ESDC indicates that the project could benefit from a further GBA Plus analysis. Indicating whether and how the project will support participation of women and Indigenous people would demonstrate a commitment to diversity and inclusion in labour market participation. With 80% to 90% of the workforce expected to be local, developing and implementing a labour market development strategy would give a better understanding of the potential impact of the project on the local labour force skills development and training initiatives.

ESDC indicates that demographic shifts in the region will have an impact on the availability of labour for this project. [Section 6.3.5 \(CIAR #722\)](#) notes that "the average age of the Hemlo workforce in November 2019 was reported to be 57 (McGee 2019)," and [Section 6.3.4 \(CIAR #722\) Regional Trends in Mining Labour Demand](#) references that the "Aging workforce – an estimated 25% of the industry's current workforce are set to retire by 2027". ESDC indicates that a labour market development strategy to address the ageing workforce in this sector with specific investments in skills and training of youth and the upskilling or reskilling of workers from other sectors would be beneficial. Supporting greater participation of women and Indigenous persons, visible minorities, recent immigrants and other under represented groups

in the mining industry would alleviate some of the demographic pressures that may come to bear on the human resource needs of the project.

ESDC also finds that more information on the human resource needs, based on occupational information, wages and duration of work would give a better understanding of the impact of the project on the local communities. Such information could provide insight as to the quality of the mining employment for this project. For example, in [Table 6.2.9-4 on page 6.420 of the EIS Addendum \(CIAR #727\)](#) indicates that the mine would directly employ 419 full-time equivalents per year while it operates, leading to \$60 million in labour income per year. Clarification on the mean annual income of workers as well as wages and benefits for a Full Time Equivalent (FTE) is an important consideration that should be highlighted, as it would be an important socio-economic indicator of the potential impact of the mine to the surrounding communities.

6.7.4.2 Preliminary Assessment of the potential Impacts to Red Sky Métis Independent Nation's Interests Related to Socio-economic Conditions

Based on the Proponent's proposed mitigation measures and additional discussions with the Red Sky Métis Independent Nation for jobs, training and programs, the CCT there is a potential for a POSITIVE impact to Red Sky Métis Independent Nation's interests with respect to socio-economic conditions.

6.7.4.3 Potential Measures to Address Concerns Associated with Socio-economic Conditions

The Crown recommends that the Proponent provide information on its commitments to contracts and training opportunities for Indigenous peoples. This information is required to better understand how Indigenous peoples may qualify for higher paying long-term job opportunities and ensure equal employment opportunities that would align with the commencement of the Project.

6.7.4.4 Local Plant Life

6.7.4.4.1 Summary of Red Sky Métis Independent Nation Views – This Represents the Views of Red Sky Métis Independent Nation

Red Sky Métis Independent Nation healers use the local plants and are concerned that the Project will have lasting negative impacts on these plants. Red Sky Métis Independent Nation has asserted harvesting rights in the SSA and LSA and throughout the Robinson-Superior-Treaty Area. Access along Camp 19 Road is one of the few north-south corridors that provide direct access to plant harvesting and alternative access is available to lands within the LSA along an alternate travel corridor currently used by some communities, including the Red Sky Métis Independent Nation between Hare Lake and Bamooos Lake. Red Sky Métis Independent Nation members harvest plants including medicines in the vicinity of the Project.

Despite the Proponent's proposed mitigation measures, Red Sky Métis Independent Nation is of the view that the Project will result in a loss of access to plants of interest. The Red Sky Métis Independent Nation wants wild berry plants such as saskatoons and blueberries, and medicinal plants to be included in the re-vegetation approach at the closure phase. The Red Sky Métis

Independent Nation is concerned that some plants selected for revegetation, such as sweetgrass, may not be suitable given the impacts from the operations of the mine. The Red Sky Métis Independent Nation indicated that fruit trees used in revegetation for other mines in the region have been successful since they can survive in poor soil conditions. The Red Sky Métis Independent Nation is concerned about harvesting the plants around the mine due to the effects of mining on the plants. The Red Sky Métis Independent Nation is concerned about how they will be notified should the Project affect these plants. For example, the Red Sky Métis Independent Nation needs to know if there is a tailings spill or another environmental issue that impacts the water, land or air at any point in the life of the mine. A decrease in the standard of the environment could potentially affect the Red Sky Métis Independent Nation's asserted rights.

[6.7.4.4.2 Summary of the Proponent's Views on Impacts to Local Plant Life](#)

The Proponent indicated that plants and fungi species of interest to Indigenous communities from the SSA are relatively common in the RSA.

The Project has the potential to result in localized reduction and ability to forage for traditional plants and harvest other materials such as timber within the SSA. The Proponent considered the potential environmental effects to vegetation from clearing and removal activities as direct effects. No vegetation removal is anticipated during operation and closure. Indirect effects on traditional plant and material harvesting are anticipated during operation due to dust and access restrictions. Potential Project effects during decommissioning and active closure are associated with land reclamation and re-vegetation activities and are considered direct and indirect effects on vegetation and traditional plant and material harvesting. Substantial portions of the habitats that will be disturbed to accommodate the development of the mine will be restored through reclamation.

The Proponent noted that access to gather traditional plants and materials will be restricted during construction and operations. Based on the review of available information provided by Indigenous communities, changes to access and travel routes located in the SSA could result from both direct and indirect effects. Potential effects include changes to use of current travel routes on land and changes to use of travel routes by water. Changes in land features in the SSA associated with the development of site infrastructure will directly impact a roughly 6 km section of an access trail that provides a travel route north towards areas such as Bamoo's Lake. The development of the site can also impact navigable waters and those water travel routes directly through the removal of the waterways or changes in water quantity in the SSA both for short-term and in the longer term, after closure. Potential changes to access and travel routes would occur at the start of site preparation and construction and continue throughout the life of mine. After closure and with installation of safety structures to protect the public, access would be restored and travel routes by land and water would be available.

The Proponent responded to several information requests submitted by the JRP, which were informed by sufficiency comments on the EIS. The responses relevant to impacts on harvesting are summarized below.

- In response to [IR 6-30 \(CIAR #950\)](#) “Noise Disturbance - Species at Risk & Migratory Birds”, the Proponent stated there is potential for indirect impact as result of sensory disturbances that could deter traditional land users from travelling in areas due sensory disturbances. IR# 30 from Package 6
- In response to [IR 7-10 \(CIAR #950\)](#) “Community Well-Being and Indigenous Health”, the Proponent has stated that, “social, psychological, and emotional effects of the Project on Indigenous peoples were considered indirectly in the assessment of Indigenous Considerations.”
- In response to [IR 7-8 \(CIAR #950\)](#) “Plants of Interest to Indigenous Group”, the Proponent has stated that, “[b]ased on the more detailed assessment of changes to plants of interest to Indigenous communities, no additional mitigation is warranted and the conclusion that there will be no significant residual effects on traditional land and resources remains unchanged.”
- In response to Information [IR 6-16 \(CIAR #950\)](#) “Closure Landscape”, the Proponent has stated that, “As is typical of this stage of a mining project planning process, the Proponent has only prepared a conceptual closure plan to date. The conceptual plan is included and discussed in Section 1.5.2.3 of the EIS Addendum ([CIAR #727](#))” and “Indigenous communities will continue to be engaged in the development of the closure plan and country foods monitoring program. Through this dialog, additional details regarding the potential to incorporate plant species of interest to Indigenous communities will be provided, including the identification of suitable locations.”
- In response to Information [IR 6-33 \(CIAR #950\)](#) “Human Health Risk Assessment for Country Food”, the Proponent has stated that, “Plant samples were collected at two reference locations and five locations in the vicinity of the Project where baseline air and soil samples were previously collected... The country food monitoring program will provide opportunities for ongoing engagement and assessments directed by the feedback received from Indigenous groups.”

[6.7.4.4.3 Summary of the Crown Consultation Team’s Views on Impacts to Local Plant Life](#)

In relation to Red Sky Métis Independent Nation’s concern about Project effects to plants harvested in the Project area and the risks associated with consuming these plants, the CCT has sought the advice of federal departments and provincial ministries. There is uncertainty surrounding the Proponent’s ability to measure the potential increase in contaminants in the air, soil, water and plant life if the baseline reference points are not congruent with the current environment. The reference point used was an urban environment rather than a rural

environment; therefore, measurable changes in environmental conditions may not be detected as the levels already demonstrate exceedance.

The CCT acknowledges that Red Sky Métis Independent Nation's concerns will likely remain outstanding should the Proponent's country foods monitoring plans not detect measurable changes in the quality of plants of interest to the Red Sky Métis Independent Nation. As noted in HC's submission, they state that the methods used to screen out the traditional food consumption pathway from the HHRA were not adequately supported. To address the uncertainties associated with the predicted Project impacts on human health via consumption of traditional foods, the proposed traditional food monitoring program should include contaminants that were screened using inadequate methods and be informed by Indigenous engagement input. The results from follow-up monitoring should be assessed for potential health risks associated with consumption of traditional foods. For more analysis on this issue, please refer to Section 3 of HC's written submission to the Panel.

Concerns remain regarding human health risks to harvesters associated with air quality in the Project site and surrounding area. Several federal departments and provincial ministries raised concerns with the criteria/standards used in the Proponent's air quality assessment. For example, the use of some provincial standards to assess potential impacts to human health is not appropriate. The more stringent air quality criteria/standards should be used for assessing the Project's impact on human health. For example, the Proponent should compare NO₂ concentrations from the Project against the more stringent Canadian Ambient Air Quality standard for NO₂ to inform the human health risk assessment. Please refer to Section 3 of Health Canada's Written Submission to the Panel for further information. If the assessment does not adopt appropriate air quality assessment standards, Red Sky Métis Independent Nation citizens may be exposed to high-levels of air borne contaminants and/or avoid the area altogether which may result in a potential impact to Red Sky Métis Independent Nation's asserted s. 35 right to plant harvesting.

The CCT recognizes that potential impacts to the quality, quantity or experience of plants harvested may impact Red Sky Métis Independent Nation citizens differently.

6.7.4.5 Preliminary Assessment of the Project Impacts on Red Sky Métis Independent Nation's Asserted s. 35 Rights and Interests Associated with Local Plant Life

Based on the limited information provided by Red Sky Métis Independent Nation and the Proponent's analysis the CCT identifies the potential for LOW negative impacts on Red Sky Métis Independent Nation's asserted rights and interests related to plant harvesting from the Project.

6.7.4.6 Potential Solutions and Proposed Mitigation Measures for Impacts to Local Plant Life

Based on the potential impacts on Red Sky Métis Independent Nation asserted rights to harvest plants, the CCT suggests that the JRP consider making the following recommendations:

- The Proponent consult the Red Sky Métis Independent Nation in the development of a detailed monitoring plan related to Project impacts on vegetation, which would incorporate appropriate air quality standards and accurately reflect the diet of local Indigenous groups. This could reduce the impacts to asserted rights from any real and perceived contamination of plants.
- HC recommends the Proponent develop and implement a comprehensive traditional food monitoring program for all phases of the Project, that considers community-specific or representative food types/species, harvesting/fishing/hunting/trapping grounds, and consumption patterns of traditional foods. Demonstrate how Indigenous engagement is used to inform the monitoring program.
- HC recommends the Proponent assess the human health risks based on the results of the traditional food monitoring program and communicate the findings to Indigenous peoples who may be impacted by Project activities.
- The Proponent establish a communication and engagement plan with Red Sky Métis Independent Nation throughout the Project's lifecycle to communicate results of monitoring and follow-up program.
- The Proponent consult the Red Sky Métis Independent Nation in the development of the mine closure plan.
- The Proponent consult the Red Sky Métis Independent Nation in the selection of plant species for the re-vegetation activities.
- The Proponent consult the Red Sky Métis Independent Nation in monitoring of country foods as part of the mitigation and enhancement measures.

6.7.4.7 Water and Fish

6.7.4.7.1 Red Sky Métis Independent Nation's Views – This Represents the Views of Red Sky Métis Independent Nation

The Red Sky Métis Independent Nation is concerned about the Project's impacts on fish as well as cumulative impacts to fish and water quality in the Robinson Superior Treaty area. The Red Sky Métis Independent Nation notes they have many citizens who fish in the area, specifically Bamoo's Lake, Hare Lake and Seeley Lake. The Red Sky Métis Independent Nation is aware that the Proponent intends to maintain access to Bamoo's Lake via the existing trail through Hare Lake (Values Chart via Email). The Red Sky Métis Independent Nation raised concerns regarding how its members will be notified should the Project affect water and fish. For example, the Red Sky Métis Independent Nation needs to know if there is a tailings spill or another environmental issue that impacts the water, land or air at any point in the life of the mine. A decrease in the quality of the environment could potentially affect Red Sky Métis Independent Nation's asserted rights related to water and fish.

6.7.4.7.2 Summary of the Proponent's Assessment on Impacts to Water and Fish

In [Section 6.2.12 of the EIS addendum](#), the Proponent indicated that the Red Sky Métis Independent Nation has asserted fishing rights in the SSA and LSA and throughout the Robinson-Superior Area. The Proponent noted that Project-related activities have the potential

to result in the loss of fish habitat and access to fish harvesting locations and to indirectly effect water quality and benthic invertebrate communities in habitats used by fish that have the potential to affect traditional fish harvesting.

No Indigenous, recreational, or commercial fishery has been identified in the SSA. The Proponent indicates that any loss of fish habitat will be compensated for through the implementation of fish habitat offsetting in consultation with DFO and other interested parties. They note that fishing by Indigenous peoples are largely focused on locations outside of the SSA (i.e., Bamoos Lake, Hare Lake, and the lower reaches of its outlet creek, as well as Lake Superior (near shore area) including the lower reaches of Stream 6 (Angler Creek) and the Pic River, with bait fishing reported in Claw Lake (L19). Indirect effects to water quality and quantity are predicted to remain below criteria for the protection of aquatic biota (see [Section 6.2.3 of the EIS](#)). Communities have indicated they fish and consume fish from Hare Lake, Hare Creek, Bamoos Lake, Stream 6 (Angler Creek) and Pic River, and want to ensure the safety of human consumption of fish from those waterbodies. Even with updated predictions for human health effects indicating minimal risks, Indigenous communities have stated they are concerned with background levels of CoPCs and potential pathways in country foods that can influence human health.

The Proponent noted that the Red Sky Métis Independent Nation shared information about its members travelling from Hare Creek to Hare Lake and further northeast to Bamoos Lake via travel routes on land and water. The Hare Lake to Bamoos corridor has been identified by the Red Sky Métis Independent Nation as a location for traditional activities in past and current use, including as a navigable water corridor. The Red Sky Métis Independent Nation has also discussed access and travel route on Camp 19 Road to reach Bamoos Lake, which would be restricted by the mine, and which includes an existing gate. More specifically, the Project would directly impact a ~6 km section of an access trail that provides a travel route north towards areas such as Bamoos Lake. Substantial portions of the habitats that will be disturbed will be restored through reclamation, including restoring access to travel routes by land and water. The Proponent did note that an alternative travel corridor has been identified by Indigenous communities from Hare Lake north to Bamoos Lake. Indirect effects would include any change in access that may preclude Indigenous communities from accessing locations where traditional fish harvesting occurs. Access to Bamoos Lake would be temporarily affected but the lake would continue to be accessible through a “trail” identified by Indigenous communities from Hare Lake to Bamoos Lake and by means other than the existing site access road, and specific arrangements to permit continued access for Indigenous peoples were to be arranged.

Through the consultation process with the Proponent, the Red Sky Métis Independent Nation provided or restated key comments, which have been stated in general terms in this report. Comments received on heritage resources and potential areas of spiritual / cultural importance do not identify specific locations within the SSA, but associate spiritual / cultural importance to the Pic River (as a travel corridor for harvesting, traditional activities, and fishing) and access to

land and waterways for current and future members for hunting, fishing, hunt and conduct ceremonies. There is potential for indirect impact as a result of sensory disturbances that could deter traditional land users from travelling in specific areas.

The Proponent recognizes the traditional relationship that Indigenous communities have with the land and associated spiritual and cultural connection to the land that is part of their way of life. Inherent in this assessment is a consideration that adverse effects on the ability of Indigenous communities to practice traditional land and resources uses, such as harvesting (wildlife, fish, plants, materials) may also affect the health of Indigenous communities.

The Proponent responded to several information requests issued by the JRP, which were informed by comments received on the EIS Addendum. The responses relevant to impacts on fishing are summarized below.

- Response to [IR 5-14](#) “Potential Effects to Fish”
- Response to [IR 5-15](#) “Fish and Fish Habitat Offsetting Plan”
- Response to [IR 6-33](#) “Human Health Risk Assessment for Country Foods”

In response to [IR 7-1](#) “Assessment of Effects of Valued Ecosystem Components of Indigenous Interest”, the Proponent has stated that, the Proponent’s ongoing efforts to engage Indigenous communities include the establishment of an Environmental Committee that commenced in March 2021 that meets on a monthly basis. Invitations to join the committee were sent to communities identified by the Crown as having potential interest in the Project. Thus far, meetings have been attended by the Red Sky Métis Independent Nation, MNO, Michipicoten First Nation, OCIP/JMA and Ginoogaming First Nation. The meetings provide opportunities for community representatives to discuss environmental topics of concern, including the assessment and mitigation details related to VECs of interest to Indigenous communities. These meetings also enable the Proponent to share updated Project information and to solicit feedback around mitigation measures and environmental planning that can inform Project design. Topics discussed at these meetings thus far have included closure planning, fisheries offsetting, wildlife management, human health risk assessment, and land use.”

[6.7.4.7.3 Summary of the Crown Consultation Team’s Views on Impacts to Water and Fish](#)

The CCT notes the Proponent’s commitments to mitigating the Project’s effects on water quality through avoidance and water quality management and subsequently the effect on fish and fish habitat. Also, the Proponent has committed to implementing a fish habitat offsetting in consultation with DFO and other interested parties. It has been determined that a 13.22 ha of fish habitat will be impacted by the Project, which is the minimum area of offset that will be required. DFO noted that notwithstanding effective avoidance and mitigation measures, the Project will have residual impacts to fish and fish habitat. The Proponent calculates that 3.43 ha of fish-frequented lake habitat and 4.65 ha of fish-frequented stream habitat will be destroyed, in addition to 4.26 ha of fish-frequented stream habitat that will be harmfully altered as a result

of decreases in flow. DFO stated that additional work is needed to confirm that these impacts are adequately accounted for. For more information regarding this potential effect, please refer to Recommendation #9 of DFO's Written Submission to the Panel. For example, the Project may impact water flow, which may impact fish and fish habitat. Based on the Proponent's effects assessment and assuming any sub-watershed is affected in some way, fish resources may be affected as well. The Pic River and Hare Lake have been identified by DFO as the area where there is greatest risk of effects to fish resources due to water quality concerns. A Fisheries Act Authorization (DFO) or Schedule 2/MDMER (ECCC) and Habitat compensation will be needed for streams that will be overprinted by mine infrastructure.

The CCT acknowledges that Bamooos Lake has been identified as an important fish harvesting lake for Red Sky Métis Independent Nation members. DFO noted that they could not comment on the potential effects to fish resources in Bamooos Lake because the Proponent's methodology for assessing hydrology impacts is insufficient.

In relation to fish as a country food, the Proponent has identified lethal effects to fish in different phases of the Project (see [Table 6.2.4-1 of the EIS](#)). HC raised concern about possible exposure pathways to consuming contaminated fish. MECP submitted comments to the JRP regarding the Proponent's methods for fish tissue sampling and presentation of the data. MECP commented that the fish sample size was too small to establish statistically significant baseline data. The Proponent has collected additional fish tissues from Hare Lake and the Pic River in 2021 and additional collections are expected to include other species and locations during the open water period of 2022. This data will need to be compiled, statistically analyzed and included to define baseline fish tissue concentrations. MECP recommends additional baseline fish tissue collection and analysis in order to properly characterize baseline, while ongoing fish tissue sampling should occur during the life of the mine. HC also noted that potential accumulation of Project contaminants in country foods (e.g., fish) and the associated health risks are not sufficiently considered. HC noted that it is unclear how COPCs in mining and metal processing effluents will be monitored and how results will inform adaptive management during mine operation (Hare Lake) and post-closure (Pic River) phases. To adequately address uncertainties associated with the predicted Project impacts on human health via consumption of contaminated water, the proposed surface water monitoring program should include contaminants that were screened using inadequate methods. For more information regarding this potential effect, please refer to Section 2 of HC's written submission to the Panel. HC noted that it is hard to assess potential effects to human health when they have not presented those results appropriately.

6.7.4.8 Preliminary Assessment of the Project Impacts on Red Sky Métis Independent Nation's Asserted s. 35 Rights and Interests Associated with Water and Fishing

Based on the limited information from the Red Sky Métis Independent Nation and the ongoing Development of the Project's Fish Habitat Compensation and Offsetting Plan (FHCOP) the CCT

believes that there is a potential for LOW negative impacts on Red Sky Métis Independent Nation's asserted rights related to water and fishing.

6.7.4.9 Potential Measures to Address Concerns Associated with Water and Fish

Based on the potential impacts on Red Sky Métis Independent Nation asserted rights and interests associated with fishing, the CCT suggests that the JRP should consider making the following recommendations:

- The Proponent provide a more developed fish habitat offsetting and monitoring plan using appropriate methodology for the quantification of impacts, particularly surrounding the assessment of hydrology impacts. This information is required for a fulsome assessment of the Project's potential impacts on Red Sky Métis Independent Nation's rights to fish.
- As per DFO's recommendation, the Proponent is to continue working directly with DFO, provincial regulators and Indigenous communities to provide a final version of an offsetting plan that adequately balances fish habitat losses caused by Project activities.
- HC stated a need to develop and implement a comprehensive surface water quality monitoring program that includes i) monitoring of the mining by-products of palladium and PGM and metal processing chemicals in Hare Lake during operations, and ii) monitoring of Pic River water quality for the complete list of surface water contaminants used in the EIS addendum before and after water overflow from the open pits.
- The Proponent consult the Red Sky Métis Independent Nation in the development of mitigation measures, which incorporates traditional knowledge, to protect fish and fish habitat.
- The Proponent consult the Red Sky Métis Independent Nation and include traditional knowledge in the development and implementation an offsetting plan in relation to fish and fish habitat.

6.7.5 Outstanding Concerns and Interest of the Red Sky Métis Independent Nation

While the Red Sky Métis Independent Nation indicated its support for the Project, there are still outstanding concerns that the Red Sky Métis Independent Nation is hoping to work with the Proponent to resolve. These are listed here:

- The Red Sky Métis Independent Nation wants to finalise an Agreement with the Proponent, potentially including learning and development opportunities including joint training programs, preparedness training, and on-the-job training opportunities.
- The Red Sky Métis Independent Nation wants to continue participating in the Proponent's environmental monitoring meetings and work with the Proponent on a country food monitoring program and Fish Habitat Compensation and Offsetting Plan.
- The Red Sky Métis Independent Nation wants to continue working with the Proponent on a comprehensive closure plan.
- The Red Sky Métis Independent Nation wants to be part of any Indigenous communications plan.

7.0 Jackfish Métis Association Participation and Input

7.1 Introduction

Information the Jackfish Métis Association has submitted on to the JRP and shared with the CCT through consultation meetings regarding the values and interests potentially impacted by the Project. This forms the basis of the CCT's understanding of the context in which impacts on the Jackfish Métis Association's values and interests would occur, including Jackfish Métis Association's priority values and interests to be assessed. Based on information provided and discussions with the Jackfish Métis Association, the CCT has identified three values and priorities that could potentially impacted by the Project to be assessed.

This submission was shared with the Jackfish Métis Association on February 11, 2022 for validation and comment. Due to extenuating circumstances the Jackfish Métis Association was unable to provide comments.

The EA for the Project was suspended in 2014 and recommenced in 2019. It is understood that the Proponent addressed some of the Jackfish Métis Association's concerns prior to the suspension, and that others have not been raised by the Jackfish Métis Association since the recommencement of the EA. Those concerns that have been previously addressed, as well as those not raised by the Jackfish Métis Association since the recommencement of the EA, are not assessed in this document.

The CCT met with Jackfish Métis Association four times between October 2020 and May 2021. The community submitted comments to the registry on July 24, 2021 ([CIAR #839](#)).

7.1.2 Background

Jackfish Metis Association (JMA) is a member of the Ontario Coalition of Indigenous Peoples (OCIP). The OCIP is an advocacy organization in Ontario that represents the interests of off-reserve Aboriginal peoples (Métis, Status, non-Status and Inuit) living in urban, rural and remote areas throughout the province. It is an incorporated, not-for-profit, and membership-based coalition of Ontario Aboriginal peoples. OCIP is an affiliate member of the Congress of Aboriginal Peoples (CAP).

The Jackfish Métis Association has identified that they have interests in an area spanning from White River and the Montizambert/Mobert area to Thunder Bay.

The Jackfish Métis Association indicate they are located approximately 87 km west from the Project in Schreiber (Terrace Bay), Ontario and have expressed interests in the area, which includes the Pic River, the Pic Forest and Bamooos Lake.

The following map (Figure) identifies three traplines of interest currently held by Jackfish Métis Association members in relation to the Project site:

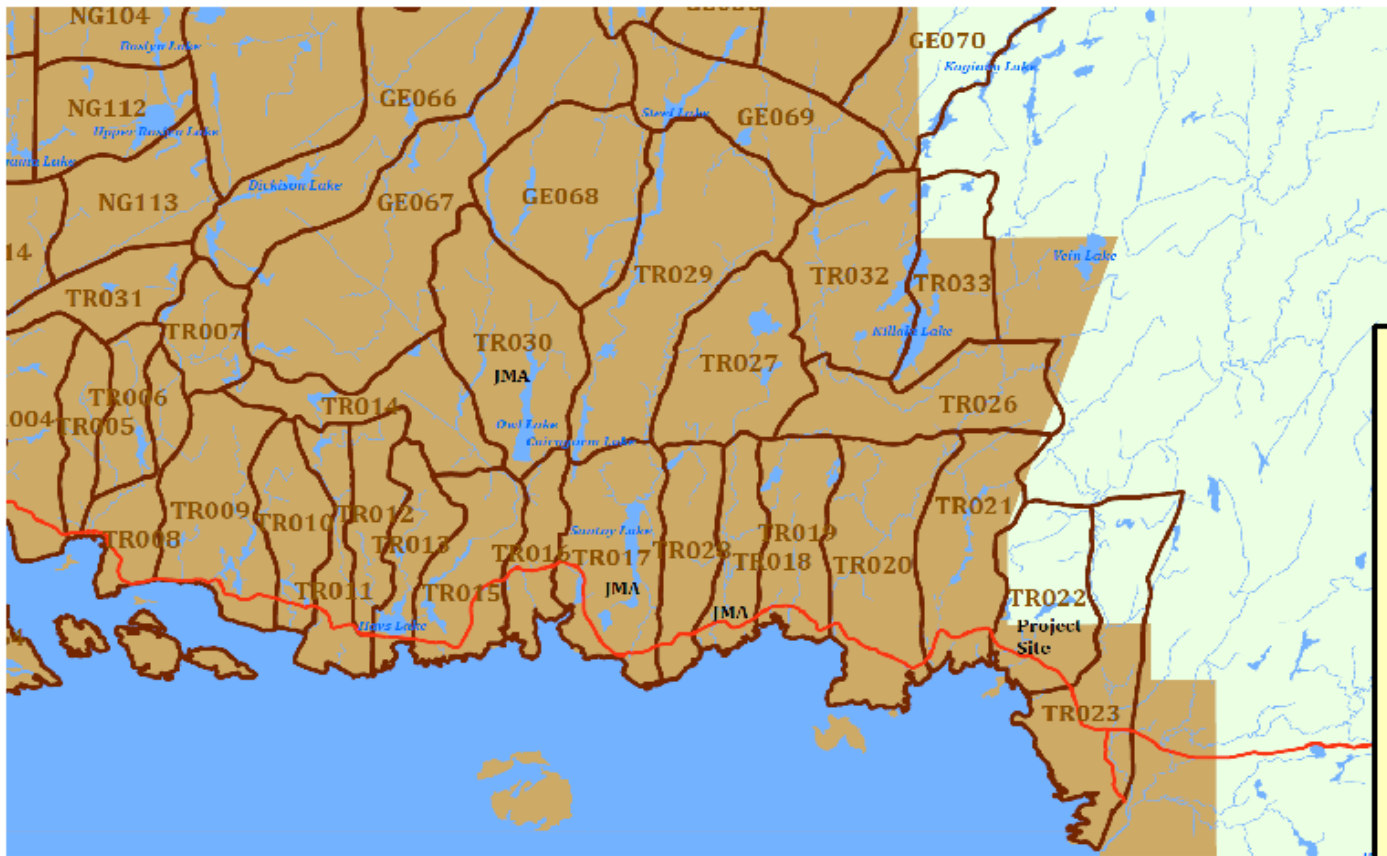


Figure 9: Jackfish Métis Association homeland. This map does not reflect the Crown's current understanding of the title area.

To understand and assess the potential effects of the Project on the interests of the Jackfish Métis Association community members, it is important to understand and consider the Jackfish Métis Association core values and interests, which are stated in their submission to the JRP (CIAR #839):

“The concerns of the Jackfish Metis Community, in association with the Ontario Coalition of Indigenous Peoples, in effect, is a three pronged belief and expression of our indigenous lifestyle. The lands, lakes and all waters along with the precious air which we all need has been here for us and given by a higher power, or as some citizens believe “By our Creator”. Each one of these elements is dependent on the others to be a condition for our survival, and cannot be taken for granted. We approach each industry as a potential positive under certain conditions in our region and as the past has shown, most industries up until just a few generations ago, have been an example of failure on the three principles which we have always lived by. Each of the elements from above, when cared for, will produce life on the lands, from the vegetation to the

animals and birds and reptiles. That is principal one. The water, when kept pure, is the main ingredient for the creatures and vegetation on this land, as well as the multiple life forms, including the fish which we rely upon for food. Principal two has been broken many times before and can be examined at old mine sites and other abandoned enterprises in our region. We, as inhabitants of this land, along with the First Nations and all other mankind have a responsibility to this land which points out that under care, we can have both enterprise and clean waters and lands. Our third belief is that we need access and co-operation from the big companies who have become “visitors” on this land because the alternative to this leaves all of us with a huge loss of potential and way of life that our fathers and mothers have left to us and also with hope for us. Although our community trappers do not have a direct claim to the mine area, it is important to treat potential trappers with respect and help for the loss of the lifestyle which they now have, We realize that there are some who take advantage of big business and produce claims for their own gain, but the JMA has always only wanted a continuance of a way of life in this region, and that does point to a care and protection of our traditional lands which we have used for our sustenance as well as the fact that we are one with nature. Access to this region will become restricted because of safety and is accepted as fact, but we do rely on access to “reasonable” regions when the mine starts up. Over the years, first “Stillwater” and now “Generation” mining company representatives have always treated our Community and provincial affiliate with respect and friendship. Because of this openness we do not see why the company now engaged as the Proponent, would change its approach to us.”

7.1.3 Jackfish Métis Association’s Priority Values and Interests

Based on information provided by the Jackfish Métis Association members on the JRP record and to the CCT through consultation activities, the following sections list the interests and values raised by the Jackfish Métis Association in and around the Project.

7.1.3.1 Summary of Socio-economic Conditions

The Jackfish Métis Association frequently referenced interests in jobs, apprenticeships, and training opportunities the Project may offer. The Jackfish Métis Association community members are primarily retired or elderly individuals, with only a few younger members.

7.1.3.2 Summary of Fishing - Fish and Fish Habitat

The Jackfish Métis Association expressed concerns regarding the Project’s potential effects to surface water quality and fish habitat in Hare Lake, Bamooos Lake and Lake Superior. Additional concerns regarding disturbance of the Pic River bed due to blasting was also raised. The protection of Lake Superior’s water quality is of the utmost importance to the Jackfish Métis Association.

7.1.3.3 Summary of Trapping - Land, Land Use and Accessibility

The Jackfish Métis Association has identified that there are five family operated registered traplines held by their members near the Project site; the closest being approximately 32 kilometers (20 miles) from the site of the Project. The Jackfish Métis Association does not

foresee issues with their members' registered trapline interests given the distance between the mine site and registered traplines.

7.1.4 Preliminary Assessment of Potential Impacts to Jackfish Métis Association's Related Interests

7.1.4.1 Potential Impacts to Jackfish Métis Association's Interests with Socio-economic Conditions

7.1.4.1.1 Summary of Jackfish Métis Association's Views – This Represents the Views of the Jackfish Métis Association

The Jackfish Métis Association has shared that due to the lack of employment opportunities in the region most of the youth have left to find work elsewhere. The Jackfish Métis Association sees the financial benefits of this Project as positive for the Jackfish Métis Association's and their members, since it will increase job opportunities in the region. The Jackfish Métis Association has shared during meetings that the financial benefit of the Project would impact the Jackfish Métis Association and its members in a positive way by allowing youth retention/youth return in Marathon from increase of job opportunities. An agreement with the Proponent is currently in negotiation, which may result in youth retention in the region.

7.1.4.1.2 Summary of the Proponent's Assessment of Socio-economic Conditions

Information relevant to the assessment of socio-economic conditions as described by the Proponent were found in section [2](#), [4](#) and [6.2.9](#) of the EIS Addendum.

As described by the Proponent, job opportunities and revenue in the LSA are low. For revenue to be higher, an increase in job opportunities is necessary.

The Proponent has proposed the following mitigation measures to address potential Project impacts on the Economic and Employment conditions as described in section [6.2.9](#):

- Establishing measures to encourage and recruit employees from the existing populations in local communities.
- Providing opportunities for training to facilitate employment by residents of the LSA and RSA and supporting initiatives to train local youth and members of Indigenous groups. The Proponent will establish measures to encourage and recruit employees from existing populations in local communities and will provide opportunities for training such that local residents can acquire the skills necessary to participate in the Project.
- During decommissioning, implementing strategies to help transition the workforce. The skills, experience, and qualifications that workers gained while employed on the Project will help offset the loss of employment, as these improved qualifications will aid with securing employment on future projects within the LSA, RSA or other parts of Ontario.
- Work with economic development groups to increase contracting opportunities for local businesses

Demographic impact inequity are identified in the EIS when it comes to workforce in the mining industry. The EIS demonstrates that the workforce in the area is aging and set to retire, as such the majority of the workforce is expected to be within the RSA. "The Proponent suggests that the majority of the workforce (80-90%) will be composed of workers from RSA communities.

The remaining workforce (10-20%) will be comprised of transient workers.” The EIS demonstrate the mining industry and mining-related sectors and occupations is skewed toward non-Indigenous males.

Proposed mitigation measures on demographic inequity:

- As stated in the response to [IR 6-36](#) training, training methods and timeline is yet to be determined as the skill sets required are not known at this time. The Proponent foresees the training to be mostly on-the-job and preparedness training in the form of a joint training program. These training will be focused on minorities in the mining industry such as women and Indigenous peoples in the area.
- The Proponent is also considering offering scholarships or support for apprenticeships or other training opportunities for local workers.

The Proponent also provided relevant information in its response to [IR 6-35](#) on labour market profile.

[7.1.4.1.3 Summary of the Crown Consultation Team’s Views on Socio-economic Conditions](#)

Based on the information provided by the Proponent, the level of employment during construction and operation will vary significantly. The construction phase will result in a high demand of workers for a short period of time, compared to lower demand of workers during the operation phase. Based on the information provided, the CCT is uncertain about the implication this influx of workers may have on the Indigenous communities in the area. The long-term effects of worker demand in the area may increase the population in Marathon and in Indigenous communities. An increase of workers in the area for the operation of the mine (12.7 years) may lead to new families and growth in population in Indigenous communities. Post closure, unemployment rates could be increase in the region.

The CCT needs more information about the Proponents’ strategy to help the Indigenous workforce position itself for Project employment, and opportunities for local Indigenous owned businesses. The Proponent suggests the Project will enhance transferable skills for other work in the LSA and RSA. Most of the skills gained on this Project are in relation to labor during mine operation. The CCT acknowledges that a more detailed Indigenous workforce strategy would be helpful to the Jackfish Métis Association as it tries to slow the trend of youth leaving the region to pursue work opportunities.

The CCT is of the view that the Project will result in moderate positive impacts on the economic conditions of the Jackfish Métis Association. The Project will likely have an overall positive benefit on the socio-economic conditions of the Jackfish Métis Association. Project residual effects on the economic and employment conditions will be dependent on the mitigation measures at post-closure and decommissioning.

The CCT notes the demographic discrepancy in the mining industry between men and women as well as Indigenous and non-Indigenous population. As shown in the EIS, jobs in the mining industry are more available for non-Indigenous individuals. The EIS Addendum also

demonstrates a gender impact inequity when it comes to the representation of women in the mining industry. The Proponent does not indicate how this inequity will be resolved. Additional detail on the Proponent's response to [IR 7-9](#) which includes the following text would be helpful for a more complete assessment.

Based on its review of the EIS, the CCT notes the volatility associated with the workforce in the mining industry. At this stage, the plan for employee retention is not clear. Specifically, as the mining industry is a more male dominated industry, it is important to better understand how female workers will be retained.

The CCT reviewed the information provided by the Proponent in the EIS and in [IR 6-35](#), [IR 6-36](#) and [IR 7-9](#). Based on this review, the mitigation measures proposed by the Proponent on the economic and employment conditions do not contain sufficient detail. More information is required regarding the nature of the training proposed and when it will be available. The CCT is of the view that appropriate training be provided prior to mine operation in order to better enable Indigenous peoples access employment opportunities.

ESDC shared that based on the information provided by the Proponent related to "training initiatives" ([IR 7-9](#)), further analysis could demonstrate potential social and/or economic effects on the local labour market. Moreover, the Project could benefit from a further GBA Plus analysis. Indicating whether and how the Project will support participation of women and Indigenous people would demonstrate a commitment to diversity and inclusion in labour market participation. With 80% to 90% of the workforce expected to be local, developing and implementing a labour market development strategy would give a better understanding of the potential impact of the Project on the local labour force skills development and training initiatives.

ESDC indicated that demographic shifts in the region will have an impact on the availability of labour for this Project. [Section 6.3.5 \(CIAR #722\)](#) notes that "the average age of the Hemlo workforce in November 2019 was reported to be 57 (McGee 2019)," and [Section 6.3.4 Regional Trends in Mining Labour Demand](#) references that the "Aging workforce – by 2027 an estimated 25% of the industry's current workforce are set to retire by 2027". A labour market development strategy to address the ageing workforce in this sector with specific investments in skills and training of youth and the upskilling or reskilling of workers from other sectors would be beneficial. Supporting greater participation of women and Indigenous persons, visible minorities, recent immigrants and other under represented groups in the mining industry would alleviate some of the demographic pressures that may come to bear on the human resource needs of the Project.

As such, ESDC notes that more information on the human resource needs, based on occupational information, wages and duration of work would give a better understanding of the impact of the Project on the local communities. Such information could provide insight as to the quality of the mining employment for this Project. For example, in [Table 6.2.9-4 on page 6.420 of the EIS Addendum \(CIAR #727\)](#) indicates that the mine would directly employ 419 full-time equivalents per year while it operates, leading to \$60 million in labour income per year. Clarification on the mean annual income of workers as well as wages, benefits etc for a FTE is

important consideration that should be highlighted, as it would be an important socio-economic indicator of the potential impact of the mine to the surrounding communities.

7.1.4.1.5 Preliminary Assessment of Potential Impacts to Jackfish Métis Association's Interests with Socio-economic Conditions

Considering the information provided by the Jackfish Métis Association and the Proponent, the CCT's preliminary assessment is that the Project will likely have a POSITIVE impact on the socio-economic interests of the Jackfish Métis Association.

7.1.4.1.6 Potential Measures to Address Concerns Associated with Socio-economic Conditions

In an effort to further minimize any potential negative impacts on the Jackfish Métis Association's interests associated with socio-economic conditions, the CCT suggests that the JRP consider the following for all Indigenous communities:

- The Proponent provide information on its commitments to contracts and training opportunities for Indigenous peoples. This information is required to better understand how Indigenous peoples may qualify for higher paying long-term job opportunities and ensure equal employment opportunities that would align with the commencement of the Project.
- The Proponent commit to continue to assessing and reporting on the potential residual socio-economic effects of the Project throughout the Project's lifecycle and post-closure phases.
- The Proponent provide information regarding its policies or measures to facilitate opportunities available to local Indigenous owned businesses.
- The Proponent conducts a more rigorous labour market analysis of publicly available information to provide a better understanding of the opportunities arising from the Project.
- The Proponent updates and revises its analysis of the demographic composition of the available workforce in the region and develops and implements a labour market strategy to support human resources development.
- The Proponent develop targeted training initiatives for Indigenous People and women along with other underrepresented groups to help address the ageing workforce in the mining industry. The Proponent engages with local community organizations to provide details about opportunities for training so that local residents, including Indigenous peoples and women to assist in acquiring the skills necessary to participate in the Project and gain employment. This should include details regarding the type of training initiatives, incorporate information on ESDC's Indigenous Skills and Employment Training programs; and training and apprenticeship benefits available to the general population and targeted programs for Indigenous peoples, women, youth and two-spirited peoples.

7.1.4.2 Potential Impacts to Jackfish Métis Association's Interests Associated with Fishing

7.1.4.2.1 Summary of Jackfish Métis Association's Views – This Represents the Views of the Jackfish Métis Association

The Jackfish Métis Association have provided information regarding their spiritual and physical bond to the land in the Project area, and have indicated they access fisheries resources in the area. The Jackfish Métis Association have stated that they have used Bamoos Lake for generations to harvest lake trout. The Jackfish Métis Association noted the Project's effect on their ability to access to Bamoos Lake as an important concern, in addition to concerns regarding potential impacts on water quality. The Jackfish Métis Association shared that access to Bamoos Lake occurs both via an existing access road from Highway 17 into Hare Lake and via Camp 19 road. They note that since the Project would curtail the use of Camp 19 Road, this would make it more difficult for the Jackfish Métis Association to access Bamoos Lake and could affect their fishing interests. The Jackfish Métis Association also raised concerns regarding the Project's proximity to Bamoos Lake and its potential effects on water quality, namely as it pertains to Lake Trout populations which require pristine cold water conditions. General concerns regarding water quality also extend to Lake Superior. The Jackfish Métis Association did however state that discussions are ongoing regarding agreements with the Proponent for continued access and other mitigation measures that would minimize these impacts.

The Jackfish Métis Association noted concerns regarding fish populations in Bamoos Lake being impacted due to increased fishing pressure precipitated by the influx of mine workers and general population growth in the region. The Jackfish Métis Association had additional concerns related to mercury and chemical leaching from the Project affecting water quality. The water quality at Hare Lake, the discharge point for the water treatment facility is also of concern, even if it is simply used as a travel route by the Jackfish Métis Association. The Jackfish Métis Association raised the importance of the Project being sustainable and noted the importance of viable closure planning and regulatory processes to protect the area for present and future uses for Jackfish Métis Association's members.

7.1.4.2.2 Summary of the Proponent's Assessment on Fishing Interests

The Proponent evaluates the use of water bodies that could be impacted by the Project. The use of Hare Creek and Hare Lake to travel north to access Bamoos Lake is identified. The Hare Lake to Bamoos corridor has been identified by all communities, including the Jackfish Métis Association, for traditional activities in the past and currently including as a navigable water corridor. OCIP (Jackfish Métis Association) have also discussed access and travel route on Camp 19 Road to reach Bamoos Lake. The footprint of the proposed mine location is roughly bounded by Highway 17 and the Marathon Airport to the south, the Pic River and Camp 19 Road to the east, Hare Lake to the west, and Bamoos Lake to the north. Access is currently gained through Camp 19 Road. Throughout the development of mine infrastructure, access north of the existing gate will be restricted. Bamoos Lake will however remain accessible via other existing, albeit less convenient, routes including hiking or snow mobile in winter.

The Proponent notes that the Project location will affect access to Bamoos Lake which is important for the Jackfish Métis Association's harvesting of Lake Trout. Navigability between Hare Lake, Bamoos Lake, and Pic River is expected to remain the same. The Jackfish Métis Association has expressed concern regarding access to land and waterways for current and future members. Potential effects include social, cultural, and spiritual importance and a way of living for the community.

The Proponent noted that the most convenient travel route to access to Bamoos Lake will be temporarily affected by the Project's location. However, Indigenous communities shared that another less convenient path is available to access Bamoos Lake. The Proponent alludes to permits for certain necessary access may be arranged with Indigenous communities, however, no detail is shared on what these permits entail.

The Proponent indicated that Bamoos Lake is a diverse coldwater community inhabited by the following fish species: Burbot, Cisco, Lake trout, Northern Pike, Rainbow Trout, Slimy Sculpin and White Fish. These fish species are indicated to be of particular interest to Indigenous communities. Bamoos Lake is also noted as a tributary to Lake Superior. The Hare Lake fish community is comprised primarily of coolwater species, including Northern Pike.

The Proponent has stated that no direct Project effect is predicted in areas used for fishing by Indigenous peoples, as such activities are largely focused on locations outside of the SSA (i.e., Bamoos Lake, Hare Lake, and the lower reaches of its outlet creek, as well as Lake Superior (near shore area) including the lower reaches of Stream 6 (Angler Creek) and the Pic River.

Regarding effects on water quality, the Proponent stated: "Indirect effects to water quality and quantity are predicted to remain below criteria for the protection of aquatic biota. Reported use for fishing by Indigenous peoples largely focused on Bamoos Lake, Hare Lake and the lower reaches of its outlet creek, as well as Lake Superior (near shore area) including the lower reaches of Stream 6 (Angler Creek) and the Pic River."

The Proponent indicated that one of the considerable mitigation measures proposed was informed by consultations with Indigenous communities and the public. This consultation resulted in avoiding Bamoos Lake as a discharge location/process solids storage option in the Project redesign. As a result, the Proponent maintains that direct and indirect effects on Bamoos Lake and its fish and fish habitat are not anticipated.

Additionally, the JRP submitted an information request to the Proponent on the fish and fish habitat offsetting plan [IR 5-15](#). The Proponent responded that the development of the Project's Fish Habitat Compensation and Offsetting Plan (FHCOP) is ongoing. The draft FHCOP will utilize the mine plan, the baseline fish community and fish habitat data to ensure compensation and offsetting measures are developed to account for the area of fish habitat directly impacted (overprinted) or indirectly impacted (flow loss) by the Project." On January 14, 2022, the Proponent submitted its response to the IR on [Fisheries Offset and Water Quality Modelling Information](#).

7.1.4.2.3 Summary of the Crown Consultation Team's Views on Fishing Interests

The CCT acknowledges the information provided by the Jackfish Métis Association regarding the physical and spiritual bond and interests to the land and waterways near the Project related to fish and fish harvesting that are dependent on water quality and access to waterbodies. The CCT notes that the Jackfish Métis Association's information presented indicates that members use the area. The CCT also notes that the Jackfish Métis Association shared information about the importance of Bamoos Lake both in a cultural sense and for fishing activities. Furthermore, the CCT recognizes that the Project will compromise the Jackfish Métis Association members' access to Bamoos Lake, where the Jackfish Métis Association notes that generations of its membership have harvested fish.

The Proponent has indicated that, where access to Bamoos Lake via Camp 19 Road would be curtailed by the Project, the Jackfish Métis Association can still maintain access to their fishing interests via an existing trail from Hare Lake. It is understood that both additional time and/or resources would be required for the Jackfish Métis Association to pursue their interests in the area through this form of access. Therefore, it's the CCT's view that the Jackfish Métis Association's access to the fishery could be negatively impacted.

A number of issues were identified by DFO through the EA process, including but not limited to a need for more information regarding sampling methods and data, information on all waterbodies/courses that will be impacted using a pathways of effects methodology, detailed maps, a detailed quantification of impacts to fish and fish habitat related to changes in flow using the referenced DFO guideline and a monitoring plan that can effectively verify environmental assessment effects predictions, assumptions, effectiveness of mitigation measures.

Regarding impacts on fish, the CCT requires further information on how the Proponent will mitigate the potential increase of chemical concentrations in fish species, namely in reference to the existing baseline data and Ontario consumption guidelines. HC indicates it is unclear how COPCs in mining and metal processing effluents will be monitored and how results will inform adaptive management during mine operation (Hare Lake) and post-closure (Pic River) phases. To adequately address uncertainties associated with the predicted Project impacts on human health via consumption of contaminated water, the proposed surface water monitoring program should include contaminants that were screened using inadequate methods.

The Proponent's results from water quality modelling identified that maximum predicted concentrations of constituents of potential concern are not expected to exceed proposed water quality benchmarks, as such the Proponent has predicted that minimal increases in fish tissue contaminant concentrations. The Proponent has proposed to carry out a comprehensive monitoring program to investigate potential changes in mercury and methylmercury in the aquatic environment, part of this investigation involves ongoing collection and analysis of fish tissue from large-bodied and small-bodied fish. The purpose of sampling of large-bodied fish is

to assess the suitability for human consumption by comparing results the Ontario Fish Consumption Guidelines, and to evaluate the impact of the mines' discharges. Small-bodied fish are collected to assess the potential for mercury releases and/or the methylation/mobilization of mercury over a defined time period. This data is used as an early indicator for biological uptake of contaminants.

Additionally, Lake and Brook Trout are fish of value to the Jackfish Métis Association and direct or indirect effects on the populations from the Project are of concern. The Ministry of Northern Development, Mines, Natural Resources and Forests has the technical expertise to address effects to these species.

The Proponent will be required by the *Fisheries Act*, through DFO, to develop, implement, and monitor a fish habitat offsetting plan.

A draft offsetting and compensation plan was submitted by the Proponent on January 14th, 2022. In its assessment, DFO specifically recommends that further development of the offsetting plan should be done in collaboration with Indigenous communities. Furthermore, DFO notes that although the updated offsetting plan represents substantial progress towards adequacy, there is still a lot of work required to determine the viability and appropriateness of the proposed offsetting measures.

Please refer to DFO's submission for more information regarding habitat alterations and changes to flow and water quality.

The CCT recognizes that should the Project proceed, some concerns raised by the Jackfish Métis Association could be addressed through the regulatory process.

[7.1.4.2.4 Preliminary Assessment of Potential Impacts to Jackfish Métis Association's Interests with Fishing](#)

Considering the information provided by the Jackfish Métis Association and the Proponent, the CCT's preliminary assessment is that the Project will likely have LOW to MODERATE negative impacts on the Jackfish Métis Association's interest associated with fishing.

[7.1.4.2.5 Potential Measures to Address Concerns Associated with Fishing](#)

In an effort to further minimize potential impacts on the Jackfish Métis Association's interests associated with fishing, the CCT believes that the JRP should consider making the following recommendations:

- The Proponent establish a communication and engagement plan with the Jackfish Métis Association throughout the Project's lifecycle to communicate results of monitoring and follow-up program. This communication and engagement plan would also facilitate an opportunity to discuss potential mitigation and adaptive measures that may be required to address unforeseen effects to water quality and quantity and fish and fish habitat that hold cultural and spiritual significance.

- As per DFO’s recommendation, the Proponent is to continue working directly with DFO, provincial regulators and Indigenous communities to provide a final version of an offsetting plan that adequately balances fish habitat losses caused by Project activities.
- HC stated need to develop and implement a comprehensive surface water quality monitoring program that includes i) monitoring of the mining by-products of palladium and PGM and metal processing chemicals in Hare Lake during operations, and ii) monitoring of Pic River water quality for the complete list of surface water contaminants used in the EIS addendum before and after water overflow from the open pits.

7.1.4.3 Potential Impacts to Jackfish Métis Association’s Interests Associated with Trapping

7.1.4.3.1 Summary of Jackfish Métis Association’s Views – This Represents the Views of the Jackfish Métis Association

The Jackfish Métis Association initially shared that the Project would affect five family traplines in vicinity of Project. The Jackfish Métis Association stated that their nearest trap lines are approximately twenty miles from the Project site. Through the resumption of the EA process and after further review of the EIS Addendum, the Jackfish Métis Association shared that they do not foresee issues associated with the Projects impacts on their interests in trapping. The Jackfish Métis Association noted that they do not expect a detrimental effect to these family trappers.

If unforeseen effects were to occur during the construction (shocks from blasting) or operation of the mine, including any noticeable impacts to the natural flow of animal patterns in the area, the Jackfish Métis Association indicated a preference to discuss with the Proponent. The Jackfish Métis Association noted that although their community trappers do not have a direct claim to the mine area, it is important to treat potential trappers with respect and help for the loss of the lifestyle that may occur.

7.1.4.3.2 Summary of the Proponent’s Assessment on Trapping Interests

The Proponent stated that OCIP (Jackfish Métis Association) have reported general traditional and current resource use within the region, including the SSA and LSA. OCIP (Jackfish Métis Association)) stated general use of the area for wildlife harvesting. The members of OCIP (Jackfish Métis Association)) state they practice traditional activities and share traditional knowledge with their families and members in the area of the SSA and LSA. The members of OCIP (Jackfish Métis Association)) indicate they trap, gather, pick, fish, and harvest in the area of the SSA and LSA.

As described by the Proponent in [section 4](#) and [6.2.12](#) of the EIS Addendum:

“Within the WMU 21A and 21B, a variety of furbearing species are available for trapping, including beaver, otter, bobcat and lynx, mink, muskrat, fisher and marten, raccoon, fox, skunk, red squirrel, weasel, black bear, wolf, and coyote. Most furbearers will be displaced from the SSA through site development and construction. Some species that are more tolerant of human

disturbance (e.g., red fox) may become accustomed to human activity and move back to the periphery of the site, particularly portions of the SSA where at least some vegetation remains (e.g., understory vegetation or uncut pockets of overstory).”

Following completion of mining activities and restoration of the areas disturbed by the Project, many of the mammal / furbearers are expected to return to the SSA. Displaced beaver, river otter, and American mink may recolonize riparian and aquatic habitats in the SSA or LSA.

The Proponent has indicated that no mitigation measures are necessary for wildlife as they maintain that, although habitat fragmentation will reduce local connectivity within the LSA and SSA during the life of the Project, the fragmentation will not substantially alter the broad-scale landscape connectivity in the RSA.

The residual effects of the Project arise from the loss of approximately 1,116 ha of wildlife habitat and corresponding vegetation in the SSA. With remediation at closure, at least some of this loss will be mitigated. The residual environmental effect of a change in wildlife habitat quantity is predicted not to threaten the long-term viability of wildlife in the RSA. Wildlife habitat is abundant and widespread in the RSA and the Project-associated loss is well within the range of annual disturbance considered sustainable in boreal ecosystems. The residual effects on wildlife from the Project are deemed as not significant.

The LSA is located within, and portions of the RSA compromise, WMU 21A and 21B. In Ontario, trapping is also subject to regulations under the *Fish and Wildlife Conservation Act* and policies, which are administered by NDMNRF. The Proponent listed the following mitigation measures related to the Project effects on trapping.

- Limit trapping to traplines on public lands or obtain written permission from the landowner if trapping on private property.
- Provide limited access to areas of the SSA that are outside of the primary areas of mining activity for Indigenous communities, to the extent possible.

The effects presented in the EIS Addendum on access to traplines from the Project were deemed to not be significant.

Furthermore, in their response to [IR 7-7](#), the Proponent also reiterated that it is currently in negotiations with several Indigenous communities, including the Jackfish Métis Association (OCIP) with the intent of signing individual community benefit agreements, which would take into account into consideration and are intended to mitigate residual or perceived effects on trapping opportunities.

[7.1.4.3.3 Summary of the Crown Consultation Team’s Views on Trapping Interests](#)

The CCT acknowledges the cultural and physical bond to the land and its resources which were expressed by the Jackfish Métis Association as being crucial for the way of life of the Jackfish

Métis Association. Based on information provided by the Proponent and the Jackfish Métis Association, The Jackfish Métis Association's interests associated with trapping will likely not be impacted due to the distance of the Project from trapline of interest. The Jackfish Métis Association described that their interests in trapping are 20 miles away, as such, the Project would not interact with the traplines or compromise access to them. Furthermore, Jackfish Métis Association's trappers provided information which illustrated little to occasional use of the SSA for trapping and harvesting purposes.

Additionally, the Proponent has verbally agreed to the Jackfish Métis Association's request to ensure there is open communication through the lifespan of the mine. The Proponent has also indicated that the Jackfish Métis Association's individual community benefit agreements are intended to mitigate residual or perceived effects on trapping opportunities. The Jackfish Métis Association have indicated that the negotiations with the Proponent on the agreements are proceeding in a positive direction.

7.1.4.3.4 Preliminary Assessment of Potential Impacts to Jackfish Métis Association's Interests with Trapping and Harvesting

Considering the information provided by the Jackfish Métis Association and the Proponent, the CCT's preliminary assessment is that the Project will likely have NEGLIGIBLE to LOW negative impacts on the Jackfish Métis Association's interests associated with Trapping and Harvesting.

7.1.4.3.5 Potential Measures to Address Concerns Associated with Trapping

Despite the predicted negligible impacts on the Jackfish Métis Association's interests associated with trapping and harvesting, the CCT believes that the JRP should consider making the following recommendations:

- The Proponent establish a communication and engagement plan with the Jackfish Métis Association throughout the Project's lifecycle to communicate results of monitoring and follow-up program. This communication and engagement plan would also facilitate an opportunity to discuss potential mitigation and adaptive measures that may be required to address unforeseen effects on trapping and land use.

7.1.5 Outstanding Concerns and Interests of t Jackfish Métis Association

- The Jackfish Métis Association did not share any other outstanding concerns.

8.0 Next Steps and Path Forward

The preliminary assessment provided for each group will be updated with new information that is presented by the respective Indigenous groups through the remaining steps in the EA and consultation processes. The remaining steps include the public hearings, closing remarks, consultation on the recommendations in the JRP Report and the draft EA Conditions.

The public hearings, scheduled for March 14 – April 14, 2022 ([CIAR #1018](#)) will allow participants to share concerns, solutions, and additional information that may help the JRP complete its report. Information shared during the hearing will also be used to update the CCT's assessment of impacts on established or asserted s. 35 rights assessment.

At the end of the public hearing the JRP will prepare and submit the report to the federal and provincial Ministers of the Environment which outlines the JRP process rationale, conclusions and recommendations (i.e., mitigation, follow-up programs), and a summary of information received by participants. The CCT will prepare a Crown Consultation and Accommodation Report (CCAR) based on the JRP recommendations and the outcomes of the Crown consultation process. The CCT will continue to consult and collaborate with Indigenous groups, the Proponent, and expert departments to finalize the Crown's assessment of severity of potential impacts from the Project on established or asserted s. 35 rights and interests. This CCAR will be provided to the provincial and federal Ministers to assist in their respective decisions regarding the Project.

Appendix

Values	Preliminary Assessment	Recommendation
Biigtigong Nishnaabeg		
Aquatic Environment	MODERATE to HIGH negative impacts	<ul style="list-style-type: none"> • The Proponent provide a more developed fish habitat offsetting and monitoring plan using appropriate methodology for the quantification of impacts, particularly surrounding the assessment the Project’s impacts on hydrology. This information is required for a fulsome assessment of the Project’s potential impacts on Biigtigong Nishnaabeg’s rights to fish. • The Proponent consult Biigtigong Nishnaabeg in the development of mitigation measures, which incorporates traditional knowledge, to protect fish and fish habitat. • The Proponent consult Biigtigong Nishnaabeg and include traditional knowledge in the development and implementation an offsetting plan in relation to fish and fish habitat. • The Proponent involve Biigtigong Nishnaabeg in the development and implementation of monitoring and follow-up programs related to water quality in the Project area, specifically in the Pic River and the effluent discharge location at Hare Lake. • As per DFO’s recommendation, the Proponent is to continue working directly with DFO, provincial regulators and Indigenous communities to provide a final version of an offsetting plan that adequately balances fish habitat losses caused by Project activities. • HC stated a need to develop and implement a comprehensive surface water quality monitoring program that includes i) monitoring of the mining by-products of palladium and (PGM) and metal processing chemicals in Hare Lake during operations, and ii) monitoring of Pic River water quality for the complete

Terrestrial Environment	HIGH (significant) negative impacts	<p>list of surface water contaminants used in the EIS addendum before and after water overflow from the open pits.</p> <ul style="list-style-type: none"> • NDMNRF, UGLMU and Biigtigong Nishnaabeg engage each other directly in further discussions with respect to Biigtigong Nishnaabeg’s request for a dedicated Micro-hatchery project and examine the applicability of CORDA or other sources of funding. • The CCT to continue exploring the potential need with Biigtigong Nishnaabeg for a Principles Based Monitoring Committee to address potential impacts on their asserted or established s. 35 rights concerns that cannot be addressed by the Proponents proposed monitoring committees. The Principles Based Monitoring Committee would be distinct from the requirement for monitoring led by the Proponent as part of a follow-up program. Should the need be confirmed, the committee may include the participation of other Indigenous groups. <hr/> <ul style="list-style-type: none"> • The Proponent work with Biigtigong Nishnaabeg to collaboratively develop and implement a Harvester Training Fund that mitigates impacts to Biigtigong Nishnaabeg trapping, harvesting and the cultural connection to the land base. This fund would provide, in part, means for Biigtigong Nishnaabeg to pivot to suitable areas where the community can continue to undertake these activities <ul style="list-style-type: none"> ○ The CCT understands that Biigtigong Nishnaabeg is actively seeking to work with interested third parties to acquire an alternate community trapline, including the potential purchase of improvements on a suitable trapline, should one become available to the community. It is strongly encouraged that discussions continue between the Proponent and Biigtigong Nishnaabeg, through the Harvester Training Fund or otherwise, to identify potential solutions. • The Proponent collaborate with Biigtigong Nishnaabeg to examine other supports for land-based cultural, social and knowledge transmission that can offset the cultural, social, and spiritual impacts resulting from the Project footprint on the community trapline.
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- Where appropriate, details of the above arrangements should be made known to the Panel and the Crown to contribute to as fulsome an assessment of the potential residual impacts to the Biigtigong Nishnaabeg community trapline and identification of associated mitigation measures.
 - The NDMNRF to continue to work directly with Biigtigong Nishnaabeg to identify a suitable alternate community trapline and support Biigtigong Nishnaabeg through the allocation process.
 - The NDMNRF to continue working with Biigtigong Nishnaabeg to better understand the request for a new access road and work together to identify/explore potential options.
 - The NDMNRF to continue to engage with Biigtigong Nishnaabeg on WMU 21A moose management and continue to look for ways to address Biigtigong Nishnaabeg’s interests and concerns.
 - The CCT to continue to explore existing government funding programs that may serve as compensation for the cultural impacts associated with the loss of the community trapline, such as the *Canada Ontario Resource Development Agreement (CORDA)* program.
 - The Proponent consult Biigtigong Nishnaabeg in the development of the environmental management, monitoring and follow-up programs related to the terrestrial impacts.
 - The Proponent consult Biigtigong Nishnaabeg in the development of on-site and off-site restoration and monitoring activities related to caribou.
 - The Proponent consult Biigtigong Nishnaabeg in the development of monitoring and follow-up programs related to Project effects on caribou.
 - The Proponent consult Biigtigong Nishnaabeg in the development of the mine closure plan.

Socio-Economic Values and Conditions	MODERATE to HIGH negative impacts
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- The Proponent consult Biigtigong Nishnaabeg in the selection of plant species for the re-vegetation activities.

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- The Proponent consult the Biigtigong Nishnaabeg in monitoring of country foods as part of the mitigation and enhancement measures.
 - The Proponent consult the Biigtigong Nishnaabeg in the development of a detailed monitoring plan related to Project impacts on vegetation, which would incorporate appropriate air quality standards and accurately reflect the diet of local Indigenous groups. This could reduce the impacts to asserted rights from any real and perceived contamination of plants.
 - HC recommends the Proponent develop and implement a comprehensive traditional food monitoring program for all phases of the Project, that considers community-specific or representative food types/species, harvesting/fishing/hunting/trapping grounds, and consumption patterns of traditional foods. Demonstrate how Indigenous engagement is used to inform the monitoring program.
 - HC recommends the Proponent assess the human health risks based on the results of the traditional food monitoring program and communicate the findings to Indigenous peoples who may be impacted by Project activities.
 - The Proponent develop and deliver mandatory, advanced cultural sensitivity training for all mine workers to mitigate potential incidents of racism. The training curriculum should include, but not be limited to an understanding of Residential Schools, Truth and Reconciliation Commission, Missing and Murdered Indigenous Women and Girls, etc.).
 - The Proponent and relevant government agencies explore options related to Biigtigong Nishnaabeg's requests for health and wellness services. This would be required to mitigate both
 - the potential further strain on community infrastructure and services from Biigtigong Nishnaabeg members moving back for employment opportunities mine;
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○ the impacts associated with an influx of workers on further straining services in the region .

- The Proponent develop, in collaboration with Biigtigong Nishnaabeg, a targeted health services plan that would dovetail with their existing community wellness plan.
- The CCT to continue to support Biigtigong Nishnaabeg in navigating the approval process associated with the water treatment facility.
- The Proponent develop, in collaboration with Biigtigong Nishnaabeg, a socio-economic management and monitoring plan (SEMMP) to measure and mitigate the socio-economic impacts of the Project on Biigtigong Nishnaabeg.
- The Proponent consult Biigtigong Nishnaabeg in the development of Emergency Response Plan relating to the mine.
- The CCT to continue to explore existing government funding that could align with the request to support outdoor classrooms on the land.

Cumulative Impacts	Based on the information provided by Biigtigong Nishnaabeg and the Proponent analysis, the CCT is of the view that there is a HIGH potential for the Project to contribute to
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cumulative effects
on BN's
established or
asserted s. 35
rights.

Ginoogaming First Nation

Water Quality

NEGLIGIBLE to
LOW negative
impacts

- The Proponent establish a communication and engagement plan with Ginoogaming First Nation throughout the Project's lifecycle to communicate results of monitoring and follow-up program. This communication and engagement plan would also facilitate an opportunity to discuss potential mitigation measures that may be required to address unforeseen effects on water quality and quantity and fish and fish habitat.
- As per DFO's recommendation, the Proponent is to continue working directly with DFO, provincial regulators and Indigenous communities to provide a final version of an offsetting plan that adequately balances fish habitat losses caused by Project activities.

Harvesting

NEGLIGIBLE to
LOW negative
impacts

- The Proponent establish a communication and engagement plan with Ginoogaming First Nation throughout the Project's lifecycle to communicate results of monitoring and follow-up program. This communication and engagement plan would also facilitate an opportunity to discuss potential mitigation measures that may be required to address unforeseen effects on trapping and land use.
- The Proponent continue to consult with Ginoogaming First Nation on Closure Planning activities.

Métis Nation of Ontario (MNO) – Region 2

Harvesting	LOW to MODERATE negative impacts	<ul style="list-style-type: none"> • The Proponent involve the Métis Nation of Ontario in the development of mitigation measures, environmental management, and monitoring and follow-up programs related to areas of their interest. Involvement in the form of an Environmental Committee has commenced and further development of on-the-land Métis environmental monitors is recommended. • The Proponent consult the Métis Nation of Ontario in the development of a detailed monitoring plan related to Project impacts on vegetation, which would incorporate appropriate air quality standards and accurately reflect the diet of local Indigenous groups. • The Proponent consult the Métis Nation of Ontario in the development of the mine closure plan. • The Proponent consult the Métis Nation of Ontario in the development of a Harvester Training Fund Initiative to mitigate potential impacts. • HC recommends the Proponent develop and implement a comprehensive traditional food monitoring program for all phases of the Project, that considers community-specific or representative food types/species, harvesting/fishing/hunting/trapping grounds, and consumption patterns of traditional foods. Demonstrate how Indigenous engagement is used to inform the monitoring program. • HC recommends the Proponent assess the human health risks based on the results of the traditional food monitoring program and communicate the findings to Indigenous peoples who may be impacted by Project activities.
Water Quality, Fish Health, and Fish Harvesting	NEGLIGIBLE to LOW negative impacts	<ul style="list-style-type: none"> • The Proponent involve the Métis Nation of Ontario in the development and implementation environmental monitoring programs and follow-up programs related to water, sediment, and soil quality in the Project area, specifically the discharge location, Hare Lake. • The Proponent provide a more developed fish habitat offsetting and monitoring plan using appropriate methodology for the quantification of impacts,

particularly surrounding the assessment of hydrology impacts. This information is required for a fulsome assessment of the Project’s potential impacts on the Métis Nation of Ontario’s rights to fish.

- The Proponent consult the Métis Nation of Ontario in the development of mitigation measures, which incorporates traditional knowledge, to protect fish and fish habitat.
- The Proponent consult the Métis Nation of Ontario and include traditional knowledge in the development and implementation an offsetting plan in relation to fish and fish habitat.
- HC stated need to develop and implement a comprehensive surface water quality monitoring program that includes i) monitoring of the mining by-products of palladium and PGM and metal processing chemicals in Hare Lake during operations, and ii) monitoring of Pic River water quality for the complete list of surface water contaminants used in the EIS addendum before and after water overflow from the open pits.
- As per DFO’s recommendation, the Proponent is to continue working directly with DFO, provincial regulators and Indigenous communities to provide a final version of an offsetting plan that adequately balances fish habitat losses caused by Project activities.

Michipicoten First Nation

Water Quality	NEGLIGIBLE to LOW negative impacts	<ul style="list-style-type: none"> • The Proponent continue to include Michipicoten First Nation in Environmental Committee meetings throughout the Project’s lifecycle and engage with Michipicoten First Nation to ensure concerns associated with mercury and phosphorous are appropriately addressed. • The Proponent establish a communication and engagement plan with Michipicoten First Nation throughout the Project’s lifecycle to communicate results of monitoring and follow-up program. This communication and engagement plan would also facilitate an opportunity to discuss potential
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		<p>mitigation measures that may be required to address unforeseen effects on water quality and quantity and fish and fish habitat.</p> <ul style="list-style-type: none"> • HC stated a need to develop and implement a comprehensive surface water quality monitoring program that includes i) monitoring of the mining by-products of palladium and PGM and metal processing chemicals in Hare Lake during operations, and ii) monitoring of Pic River water quality for the complete list of surface water contaminants used in the EIS addendum before and after water overflow from the open pits. • The Proponent consult Michipicoten First Nation in the development of the mine closure plan.
Caribou	NEGLIGIBLE to LOW negative impacts	<ul style="list-style-type: none"> • The Proponent consult Michipicoten First Nation in the development of on-site and off-site restoration and monitoring activities related to caribou. • The Proponent consult Michipicoten First Nation in the development of monitoring and follow-programs related to Project effects on caribou.
Pays Plat First Nation		
Water and Fishing	LOW to MODERATE negative impacts	<ul style="list-style-type: none"> • The Proponent provide a more developed fish habitat offsetting and monitoring plan using appropriate methodology for the quantification of impacts, particularly surrounding the assessment of hydrology impacts. This information is required for a fulsome assessment of the Project's potential impacts on Pays Plat First Nations rights to fish. • As per DFO's recommendation, the Proponent is to continue working directly with DFO, provincial regulators and Indigenous communities to provide a final version of an offsetting plan that adequately balances fish habitat losses caused by Project activities. • The Proponent consult Pays Plat First Nation in the development of mitigation measures, which incorporates traditional knowledge, to protect fish and fish habitat.

		<ul style="list-style-type: none"> • The Proponent consult Pays Plat First Nation and include traditional knowledge in the development and implementation an offsetting plan in relation to fish and fish habitat. • The Proponent involve the Pays Plat First Nation in the development and implementation of monitoring and follow-up programs related to water quality in the Project area, specifically the discharge location, Hare Lake. • HC stated a need to develop and implement a comprehensive surface water quality monitoring program that includes i) monitoring of the mining by-products of palladium and PGM and metal processing chemicals in Hare Lake during operations, and ii) monitoring of Pic River water quality for the complete list of surface water contaminants used in the EIS addendum before and after water overflow from the open pits. • Should opportunities exist, Pays Plat First Nation should continue monitoring the Lake Superior bays and estuaries in collaboration with ECCC and other potential partners under programs tied to Great Lakes management.
Culturally Important Sites	MODERATE negative impacts	<ul style="list-style-type: none"> • The Proponent implement recommendations from the previous Stage 1 & 2 Archaeological Assessment. • The Proponent commit to a further Stage 2 Archaeological Assessment with engagement with Pays Plat First Nation, and the development of the protocol to respond to “chance finds” with Indigenous-field monitors to be present. • The Proponent, in consultation with Pays Plat First Nation, develop an awareness training program about the procedures related to the discovery and protection of archaeological resources. • The Proponent, develop a Cultural Heritage Plan that incorporates protocol deemed appropriate by Pays Plat First Nation, to mitigate impacts of the Project on physical and cultural resources.

Harvesting	LOW to MODERATE negative impacts	<ul style="list-style-type: none"> • The Proponent consult Pays Plat First Nation in the development of the environmental management, monitoring and follow-up programs. • The Proponent consult Pays Plat First Nation in the development of a Harvester Training Fund Initiative to mitigate impacts. • The Proponent consult Pays Plat First Nation in the selection of plant species for the re-vegetation activities. • The Proponent consult the Pays Plat First Nation in monitoring of country foods as part of the mitigation and enhancement measures. • HC recommends the Proponent develop and implement a comprehensive traditional food monitoring program for all phases of the Project, that considers community-specific or representative food types/species, harvesting/fishing/hunting/trapping grounds, and consumption patterns of traditional foods. Demonstrate how Indigenous engagement is used to inform the monitoring program. • HC recommends the Proponent assess the human health risks based on the results of the traditional food monitoring program and communicate the findings to Indigenous peoples who may be impacted by Project activities. • The Proponent consult Pays Plat First Nation in the development of the mine closure plan.
Red Sky Métis Independent Nation		
Economic Opportunities	POSITIVE impacts	<ul style="list-style-type: none"> • The Proponent provide information on its commitments to contracts and training opportunities for Indigenous peoples. This information is required to better understand how Indigenous peoples may qualify for higher paying long-term job opportunities and ensure equal employment opportunities that would align with the commencement of the Project.
Local Plant Life	LOW negative impacts	<ul style="list-style-type: none"> • The Proponent consult the Red Sky Métis Independent Nation in the development of a detailed monitoring plan related to Project impacts on vegetation, which would incorporate appropriate air quality standards and

		<p>accurately reflect the diet of local Indigenous groups. This could reduce the impacts to asserted rights from any real and perceived contamination of plants.</p> <ul style="list-style-type: none"> • HC recommends the Proponent develop and implement a comprehensive traditional food monitoring program for all phases of the Project, that considers community-specific or representative food types/species, harvesting/fishing/hunting/trapping grounds, and consumption patterns of traditional foods. Demonstrate how Indigenous engagement is used to inform the monitoring program. • HC recommends the Proponent assess the human health risks based on the results of the traditional food monitoring program and communicate the findings to Indigenous peoples who may be impacted by Project activities. • The Proponent establish a communication and engagement plan with Red Sky Métis Independent Nation throughout the Project's lifecycle to communicate results of monitoring and follow-up program. • The Proponent consult the Red Sky Métis Independent Nation in the development of the mine closure plan. • The Proponent consult the Red Sky Métis Independent Nation in the selection of plant species for the re-vegetation activities. • The Proponent consult the Red Sky Métis Independent Nation in monitoring of country foods as part of the mitigation and enhancement measures.
Water and Fish	LOW negative impacts	<ul style="list-style-type: none"> • The Proponent provide a more developed fish habitat offsetting and monitoring plan using appropriate methodology for the quantification of impacts, particularly surrounding the assessment of hydrology impacts. This information is required for a fulsome assessment of the Project's potential impacts on Red Sky Métis Independent Nation's rights to fish. • As per DFO's recommendation, the Proponent is to continue working directly with DFO, provincial regulators and Indigenous communities to provide a final version of an offsetting plan that adequately balances fish habitat losses caused by Project activities.

- HC stated a need to develop and implement a comprehensive surface water quality monitoring program that includes i) monitoring of the mining by-products of palladium and PGM and metal processing chemicals in Hare Lake during operations, and ii) monitoring of Pic River water quality for the complete list of surface water contaminants used in the EIS addendum before and after water overflow from the open pits.
- The Proponent consult the Red Sky Métis Independent Nation in the development of mitigation measures, which incorporates traditional knowledge, to protect fish and fish habitat.
- The Proponent consult the Red Sky Métis Independent Nation and include traditional knowledge in the development and implementation an offsetting plan in relation to fish and fish habitat.

Jackfish Métis Association

Socio-Economic Conditions	POSITIVE impacts	<ul style="list-style-type: none"> • The Proponent provide information on its commitments to contracts and training opportunities for Indigenous peoples. This information is required to better understand how Indigenous peoples may qualify for higher paying long-term job opportunities and ensure equal employment opportunities that would align with the commencement of the Project. • The Proponent commit to continue to assessing and reporting on the potential residual socio-economic effects of the Project throughout the Project’s lifecycle and post-closure phases. • The Proponent provide information regarding its policies or measures to facilitate opportunities available to local Indigenous owned businesses. • The Proponent conducts a more rigorous labour market analysis of publicly available information to provide a better understanding of the opportunities arising from the Project. • The Proponent updates and revises its analysis of the demographic composition of the available workforce in the region and develops and implements a labour market strategy to support human resources development.
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		<ul style="list-style-type: none"> • The Proponent develop targeted training initiatives for Indigenous People and women along with other underrepresented groups to help address the ageing workforce in the mining industry. The Proponent engages with local community organizations to provide details about opportunities for training so that local residents, including Indigenous peoples and women to assist in acquiring the skills necessary to participate in the Project and gain employment. This should include details regarding the type of training initiatives, incorporate information on ESDC’s Indigenous Skills and Employment Training programs; and training and apprenticeship benefits available to the general population and targeted programs for Indigenous peoples, women, youth and two-spirited peoples.
Fishing - Fish and Fish Habitat	LOW to MODERATE negative impacts	<ul style="list-style-type: none"> • The Proponent establish a communication and engagement plan with the Jackfish Métis Association throughout the Project’s lifecycle to communicate results of monitoring and follow-up program. This communication and engagement plan would also facilitate an opportunity to discuss potential mitigation and adaptive measures that may be required to address unforeseen effects to water quality and quantity and fish and fish habitat that hold cultural and spiritual significance. • As per DFO’s recommendation, the Proponent is to continue working directly with DFO, provincial regulators and Indigenous communities to provide a final version of an offsetting plan that adequately balances fish habitat losses caused by Project activities. • HC stated need to develop and implement a comprehensive surface water quality monitoring program that includes i) monitoring of the mining by-products of palladium and PGM and metal processing chemicals in Hare Lake during operations, and ii) monitoring of Pic River water quality for the complete list of surface water contaminants used in the EIS addendum before and after water overflow from the open pits.

Trapping - Land Use and Accessibility	NEGLECTIBLE to LOW negative impacts	<ul style="list-style-type: none">• The Proponent establish a communication and engagement plan with the Jackfish Métis Association throughout the Project's lifecycle to communicate results of monitoring and follow-up program. This communication and engagement plan would also facilitate an opportunity to discuss potential mitigation and adaptive measures that may be required to address unforeseen effects on trapping and land use.
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Colin Hovi

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EDUCATION:

Sir Sandford Fleming College, Lindsay, ON.
Fish & Wildlife Technician
Diploma Graduate – *April 2003*

Confederation College, Thunder Bay, ON.
Law & Security Administration Diploma
Diploma Graduate - June 1998

WORK EXPERIENCE:

April 2019-
Present

Ministry of Northern Development and Mines, Natural Resources and Forestry
Thunder Bay, ON.
Mineral Exploration and Development Consultant – Early exploration applications,
Indigenous Consultation, Closure Plans, Closure Plan Amendments

Aug 2016-
March 2019

Ontario Ministry of Natural Resources – NW Region
Regional Aggregates Specialist – Co-ordination and implementation of the aggregates
program within the region.

May 2007-
Aug 2016

Ontario Ministry of Natural Resources – Thunder Bay, ON.
Aggregate Technical Specialist – Aggregate Permitting, Licensing,
Monitoring and Enforcement for the Thunder Bay District.

May 2006 –
May 2007

Ontario Ministry of Natural Resources – Thunder Bay, ON.
Land Management Program - *Land Management Intern*

April 2006 –
May 2006

Ontario Ministry of Natural Resources – Dorion, ON.
Dorion Fish Culture Station - *Fish Culture Technician*.

June 2004 –
Nov 2005

Ontario Ministry of Natural Resources – Nipigon, ON.
Area Technician – Compliance, work permits, water crossing reviews, aggregate
inspections, field equipment maintenance, and fish and wildlife research.

May 2003 -
April 2004

Department of Fisheries and Oceans -Thunder Bay, ON.
Habitat Technician – Project reviews, Site inspections/evaluations, compliance
monitoring, public relations, maintenance of office and field equipment, assist Senior
Biologist, and contribute technical experience to joint projects with the MNRF.

June 2002 -
Sept 2002

Department of Fisheries and Oceans -Thunder Bay, ON.
Assistant Habitat Technician - Field work, information gathering, assist Senior Biologist
with file reviews.

Luc S. Desroches

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EDUCATION

- Admitted to the New Brunswick Bar Association as a lawyer - June 2004
- Bachelor of Law (L.L.B.) - Spring 2003 (Université de Moncton)
- Bachelor of Kinesiology - Spring 2000 (Université de Moncton)

WORK EXPERIENCE

Crown Consultation Lead / Senior Indigenous Affairs Advisor – Impact Assessment Agency of Canada (April 2018 to present)

- Building and maintaining a wide breadth and depth of collaborative relationships and interactions with Indigenous communities during all phases of the impact assessments, including Major Review Panel Projects;

Acting Manager, Negotiations and Operational Policy - Impact Assessment Agency of Canada (November 2021 to January 2022)

- Managed Operational Policy and provided strategic advice and support, including presentations on guidance for impacts on rights and Free Prior and Informed Consent for SaskPower. I also gave advice on policy implications of the recent Desautel and Yahey court decisions

Regional Consultation Coordinator - Natural Resources Canada (July 2016 to March 2018)

- Building and maintaining positive relationships with Indigenous groups in the Atlantic region to lay a solid foundation for effective and meaningful Crown Consultation;

Senior Aboriginal Consultation Officer - Transport Canada (October 2007 to March 2012; September 2015 to July 2016)

- Planned, developed and implemented Indigenous consultation/engagement related to: environmental assessment, issuance of Navigation Protection Act (NPA) approvals, regulatory review of Major Projects under the Major Projects Management Office, land transfer, property management, regulatory changes and ensuring that Transport Canada has met the Federal Government of Canada's requirements for Indigenous engagement/consultation

Funded Programs (Senior Officer) - Transport Canada (Assignment from March 2012 to September 2015)

- Gained thorough and significant experience in the effective and efficient management/delivery of various funded programs including the Ferry Services Contribution Program, Airport Capital Assistance Program (ACAP), Labrador Coast Airstrip Restoration Program (LCARP) and the Confederation Bridge Policing Program;

Navigable Waters Protection Program (Officer) - Transport Canada (September 2004 to December 2005; May 2006 to October 2007)

- Interpreted and enforced the Navigable Waters Protection Act (NWPA) and other related acts, regulations and policies for various types of marine works;

Marine Safety Officer, Office of Boating Safety - Transport Canada (June 2004 to September 2004; December 2005 to May 2006)

- Interpreted and applied the Canada Shipping Act (CSA) including the Small Vessels Regulations, Boating Restriction Regulations, Pleasure Craft Sewage Prevention Regulations, Competency of Operators of Pleasure Craft Regulations, and several other acts and regulations;

Articling Student - Barry Spalding (Law Firm) - May 2003 to May 2004

- Attained knowledge of procedures and practices involved in conducting judicial trials, quasi-judicial inquiries and administrative investigations

Jason Boisvert		
160 Elgin Street, Ottawa, ON K1A 0H3		
Work phone:<Personal information removed>		
Email:<Email address removed>		
Education	Bachelor of Arts – Geography Carleton University, Ottawa, On	2004
Career History		
Manager, Crown Consultation – Impact Assessment Agency of Canada	<ul style="list-style-type: none"> • Manage and lead consultation with Indigenous groups on behalf of the federal Crown for major resource projects undergoing environmental assessments in compliance with the legal Duty to Consult, associated legislated timelines, federal consultation policies, and case law • Coordinate the involvement of expert federal departments, brief senior management on strategic options for addressing complex issues raised during consultation, including strategies to mitigate legal risk • Establish relationships with key stakeholders, including proponents and Indigenous peoples, harmonizing consultation requirements with all levels of government and providing functional direction 	<i>April 2017 to present</i>
A/Manager – Operational Support Directorate – Canadian Environmental Assessment Agency	<ul style="list-style-type: none"> • Provided expert level science-based interpretation and advice on the environmental assessment process, CEAA 2012 and the implementation of Agency training, research and development programs • Led subordinate staff and multi-sectorial project teams in policy, legal and operational staff in the technical reviews of operational policy instruments, products and services • Led the design and roll out of technical guidance pieces to support practitioners in the environmental assessment processes e.g. <i>Technical Guidance for Assessing Physical and Cultural Heritage or any Structure, Site or Thing that is of Historical, Archeological, Paleontological or Architectural Significance under the Canadian Environmental Assessment Act, 2012</i> Sept 2014 and <i>Technical Guidance for Assessing the Current Use of Lands and Resources for Traditional Purposes</i> Dec 2015 • Managed all aspects of the training program including contracts, delivery and program evaluation 	<i>Sept 2014 to March 2017</i>
Senior Operational Policy Officer – Operational Support Directorate - Canadian Environmental Assessment Agency	<ul style="list-style-type: none"> ▪ Synthesized information, research and knowledge into development of Operational Policy Instruments (OPIs) and technical guidance ▪ Developed and piloted course materials and delivered training sessions across Canada to EA practitioners representing all stakeholders 	<i>Jan 2014 to Aug 2014</i>
Project Assessment Analyst – Review Panels Directorate - Canadian Environmental Assessment Agency	<ul style="list-style-type: none"> • Provided procedural, methodological and in-depth science-based analysis and advice to Senior Agency executives, the review panel, proponents, other government (provincial, territorial or aboriginal), industry, public interest groups and Indigenous groups during the course of multiple Review Panel projects • Assessed the adequacy of information in the Environmental Impact Statement (EIS), and compiled related background information to inform panel members, prepared summaries of information received from stakeholders during consultations, drafted information requests (IRs) and letters to FAs for review of EIS and IRs. • Assisted in development of Panel Terms of Reference, Joint Review Panel 	<i>Sept 2012 to Dec 2013</i>

	Agreements, Panel Hearing and Confidentiality Procedures, site visit, hearing schedule and security procedures for a number of Review Panel projects	
Class Screening Program Officer/EA Trainer – Canadian Environmental Assessment Agency	<ul style="list-style-type: none"> ▪ Provided technical advice, science-based advice on the conduct of screening and class screening level environmental assessments. Reviewed and contributed to the development of technical class screening reports in support of declaration and/or re-declaration ▪ Compliance monitoring through site assessment, monitoring and follow-up programs ▪ Lead trainer for: Introduction to the <i>Canadian Environmental Assessment Act</i> and Conducting Screening Level Assessments under the <i>Canadian Environmental Assessment Act</i> ▪ Developed guidance, guidelines and training packages on the conduct of environmental assessments, namely of screening level environmental assessment 	<i>May 2010 to Aug 2012</i>
Program Administrator – Canadian Environmental Assessment Agency	<ul style="list-style-type: none"> ▪ Provided ongoing advice, guidance and support to responsible and regulated authorities on the operational and legal requirements of the Canadian Environmental Assessment Act related to the Registry ▪ Monitored compliance of information in the Registry Internet site according to related legislation and Treasury Board policies in performing data quality review and analysis ▪ Contributed to the development of training material, promotional items, presentations for the delivery of Registry training sessions ▪ Planned, organized, and delivered numerous training sessions in the National Capital region and across Canada 	<i>May 2008 - April 2010</i>
Assessment Center Coordinator - Personnel Psychology Center, Public Service Commission of Canada	<ul style="list-style-type: none"> ▪ Coordinated activities in the operational setting for Assessment Centers. ▪ Provided front-line client oriented services to incoming candidates ▪ Coordinated national recruitment campaigns 	<i>Dec 2005- April 2008</i>
Student – Geological Survey of Canada	<ul style="list-style-type: none"> ▪ Collected borehole geophysical logs across Canada ▪ Conducted tool calibration 	<i>2001-2004</i>