

Decision Statement
Issued under Section 54 of the *Canadian Environmental Assessment Act, 2012*

to

Marathon Gold Corporation
c/o James Powell, Vice-president, Regulatory and Government Affairs

36 Lombard Street, Suite 600
Toronto, Ontario
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for the
Valentine Gold Project

Description of the Designated Project

Marathon Gold Corporation is proposing the construction, operation, decommissioning, and reclamation of an open-pit gold mine located at Valentine Lake, approximately 55 kilometres southwest of Millertown in Newfoundland and Labrador. As proposed, the Valentine Gold Project would include three open pits, disposal piles, crushing and stockpiling areas, site infrastructure, a tailings management facility, and mine site haul and access roads. Production capacity is estimated at 10,960 tonnes per day of high- and low-grade ore, with an operation life of 14.4 years.

Conduct of the environmental assessment

The Canadian Environmental Assessment Agency (the Agency) conducted an environmental assessment of the Designated Project in accordance with the requirements of the *Canadian Environmental Assessment Act, 2012*. The Agency commenced the environmental assessment on May 31, 2019, and submitted its report to me in my capacity as Minister of Environment and Climate Change.

Decision on environmental effects referred to in subsection 5(1) of the *Canadian Environmental Assessment Act, 2012*

In accordance with paragraph 52(1)(a) of the *Canadian Environmental Assessment Act, 2012*, after considering the report of the Agency on the Designated Project and the implementation of mitigation measures that I consider appropriate, I have determined that the Designated Project is not likely to cause significant adverse environmental effects referred to in subsection 5(1) of the *Canadian Environmental Assessment Act, 2012*.

In accordance with subsection 53(1) of the *Canadian Environmental Assessment Act, 2012*, I have established the conditions below in relation to the environmental effects referred to in subsection 5(1) of the *Canadian Environmental Assessment Act, 2012*, with which the Proponent must comply.

Decision on environmental effects referred to in subsection 5(2) of the *Canadian Environmental Assessment Act, 2012*

The carrying out of the Designated Project may require the following federal authorities to exercise a power or perform a duty or function conferred on them under an Act of Parliament other than the *Canadian Environmental Assessment Act, 2012*:

- The Minister of Fisheries and Oceans may issue authorization(s) under paragraph 35(2)(b) of the *Fisheries Act*;
- The Minister of Environment and Climate Change may propose an amendment under Schedule 2 of the *Metal Mining Effluent Regulations*;
- The Minister of Natural Resources may issue a licence under subsection 7(1) of the *Explosives Act*.

In accordance with paragraph 52(1)(b) of the *Canadian Environmental Assessment Act, 2012*, after considering the report of the Agency on the Designated Project and the implementation of mitigation measures that I consider appropriate, I have determined that the Designated Project is not likely to cause significant adverse environmental effects referred to in subsection 5(2) of the *Canadian Environmental Assessment Act, 2012*.

In accordance with subsection 53(2) of the *Canadian Environmental Assessment Act, 2012*, I have established the conditions below in relation to the environmental effects referred to in subsection 5(2) of the *Canadian Environmental Assessment Act, 2012*, with which the Proponent must comply.

Decision Statement under the *Impact Assessment Act*

Pursuant to section 184 of the *Impact Assessment Act*, a Decision Statement issued by me under subsection 54(1) of the *Canadian Environmental Assessment Act, 2012* is deemed to be a Decision Statement issued under subsection 65(1) of the *Impact Assessment Act*, other than for the purposes of section 70.

Consultation with Indigenous groups

In establishing the conditions below in relation to the environmental effects referred to in subsections 5(1) and 5(2) of the *Canadian Environmental Assessment Act, 2012*, I took into account the concerns and interests identified in the consultation process with Indigenous groups. I also considered the measures to address these concerns and interests that have been identified in the environmental assessment and consultation processes. I am satisfied that the consultation process undertaken is consistent with the honour of the Crown and, with the conditions I have established, that the concerns and interests of Indigenous groups are appropriately accommodated for the purpose of issuing this Decision Statement.

1 Definitions

- 1.1 *Agency* means the Impact Assessment Agency of Canada.
- 1.2 *Baseline* means the environmental conditions prior to initiating construction of the Designated Project.

- 1.3 Berry pit expansion report means Marathon Gold's Berry Pit Expansion Environmental Registration / Environmental Assessment (Valentine Gold Project) Update (Canadian Impact Assessment Registry Reference Number 80169, Document Number 85).
- 1.4 *Construction* means the phase of the Designated Project during which the Proponent undertakes the site preparation, building or installation of any components of the Designated Project, including periods during which these activities may temporarily cease.
- 1.5 *Contact water* means water that has come into contact with any mine site components.
- 1.6 *Days* means calendar days.
- 1.7 *Decommissioning* means the phase of the Designated Project during which the Proponent permanently ceases commercial production and commences removal from service of any components of the Designated Project, and that continues until the Proponent completes the reclamation of the site of the Designated Project.
- 1.8 *Deleterious substance* means "deleterious substance" as defined in subsection 34(1) of the *Fisheries Act*.
- 1.9 *Designated Project* means the Valentine Gold Project as described in section 2 of the environmental assessment report prepared by the Impact Assessment Agency of Canada (Canadian Impact Assessment Registry Reference Number 80169, Document Number 75), and section 2 of the Agency's analysis report *Marathon Gold's Proposed Change to the Valentine Gold Project (communications tower)* (Canadian Impact Assessment Registry Reference Number 80169, Document Number 83), and Agency's analysis report *Marathon Gold's Proposed Change to the Valentine Gold Project (third pit)* (Canadian Impact Assessment Registry Reference Number 80169, Document Number 88).
- 1.10 *Designated Project area* means the geographic area occupied by the Designated Project, as defined by "mine site" in Figure 2 of the Agency's analysis report *Marathon Gold's Proposed Change to the Valentine Gold Project (third pit)* (Canadian Impact Assessment Registry Reference Number 80169, Document Number 88).
- 1.11 *Effluent* means "effluent" as defined in section 1(1) of the *Metal and Diamond Mining Effluent Regulations*.
- 1.12 *Environment and Climate Change Canada* means the Department of the Environment as established under subsection 2(1) of the *Department of the Environment Act*.
- 1.13 *Environmental assessment* means "environmental assessment" as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.14 *Environmental assessment report* means the report prepared by the Impact Assessment Agency of Canada pursuant to subsection 25(2) of the *Canadian Environmental Assessment Act, 2012*.
- 1.15 *Environmental effects* means "environmental effects" as described in section 5 of the *Canadian Environmental Assessment Act, 2012*.

- 1.16 *Environmental impact statement* means the September 2020 document entitled Valentine Gold Project Environmental Impact Statement (Canadian Impact Assessment Registry Reference Number 136521, Document Number 17).
- 1.17 *Fish* means “fish” as defined in subsection 2(1) of the *Fisheries Act*.
- 1.18 *Fish habitat* means “fish habitat” as defined in subsection 2(1) of the *Fisheries Act*.
- 1.19 *Fisheries and Oceans Canada* means the Department of Fisheries and Oceans as established under subsection 2(1) of the *Department of Fisheries and Oceans Act*.
- 1.20 *Fish passage* means the free transit of fish, upstream and downstream, associated with migration or localized movements that are necessary to complete their life cycle. Depending on the context, fish passage is also a route for fish to move between habitat types.
- 1.21 *Follow-up program* means “follow-up program” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.22 *Health Canada* means the Department of Health as established under subsection 2(1) of the *Department of Health Act*.
- 1.23 *Heritage value* means the aesthetic, historic, scientific, cultural, social or spiritual importance or significance for past, present or future generations.
- 1.24 *Indigenous groups* means the following Aboriginal Peoples: Miawpukek First Nation and Qalipu First Nation.
- 1.25 *In-water work activities* means any works associated with the Designated Project undertaken in water frequented by fish.
- 1.26 *Listed species at risk* means a species that is listed on the List of Wildlife Species at Risk set out in Schedule 1 of the *Species at Risk Act*.
- 1.27 *Migratory bird* means “migratory bird” as defined in subsection 2(1) of the *Migratory Birds Convention Act, 1994*.
- 1.28 *Mitigation measures* means “mitigation measures” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.29 *Monitoring* means observation of the environmental effects of the Designated Project, performed in the context of a follow-up program set out in these conditions in order to verify the accuracy of the environmental assessment and/or determine the effectiveness of any mitigation measure.
- 1.30 *Offsetting plan* means “offsetting plan” as described in Schedule 1 of the Authorizations Concerning *Fish and Fish Habitat Protection Regulations* and “compensation plan” as described in subsection 27.1 of the *Metal and Diamond Mining Effluent Regulations*.

- 1.31 *Operation* means the phase of the Designated Project starting when commercial production begins and continuing until the start of decommissioning. This phase includes periods when commercial production may temporarily cease.
- 1.32 *Progressive reclamation* means reclamation which is carried out by the Proponent concurrently with all phases of the Designated Project to progressively return any physically disturbed areas to a state as close to the baseline as possible, as soon after the disturbance as practical.
- 1.33 *Proponent* means Marathon Gold Corporation and its successors or assigns.
- 1.34 *Qualified individual* means someone who, through education, experience and knowledge relevant to a particular matter, provides the Proponent with advice within their area of expertise. Knowledge relevant to a particular matter may include community and Indigenous knowledge.
- 1.35 *Record* means “record” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.36 *Relevant authorities* means federal and/or provincial authorities that are in possession of specialist or expert information or knowledge, or that have a responsibility for the administration of a law or regulation, with respect to the subject matter of a condition set out in this Decision Statement.
- 1.37 *Reporting year* means January 1 to December 31 of the same calendar year.
- 1.38 *Structure, site or thing of historical, archeological, paleontological or architectural significance* means a structure, site or thing that is determined by a qualified individual, on the basis of heritage value, to be associated with an aspect of the history or culture of the people of Canada, including Indigenous groups.
- 1.39 *Water frequented by fish* means “water frequented by fish” as defined in subsection 34(1) and “Canadian fisheries waters” as defined in subsection 2(1) of the *Fisheries Act*.

Conditions

These conditions may be established for the sole purpose of the Decision Statement issued under the Canadian Environmental Assessment Act, 2012. They do not relieve the Proponent from any obligation to comply with other legislative or other legal requirements of the federal, provincial, or local governments. Nothing in this Decision Statement shall be construed as reducing, increasing, or otherwise affecting what may be required of the Proponent to comply with all applicable legislative or legal requirements.

2 General Conditions

- 2.1 The Proponent shall ensure that its actions in meeting the conditions set out in this Decision Statement during all phases of the Designated Project are considered in a careful and precautionary manner, promote sustainable development, are informed by the best information and knowledge including community and Indigenous knowledge, available at the time the Proponent takes action, are based on methods and models that are recognized by standard-

setting bodies, are undertaken by qualified individuals, and have applied the best available economically and technically feasible technologies.

- 2.2 The Proponent shall ensure that its actions in meeting the conditions set out in this Decision Statement are taken in a way that is consistent with any applicable recovery strategy and action plans for listed species at risk.

Consultation

- 2.3 The Proponent shall, where consultation is a requirement of a condition set out in this Decision Statement:
 - 2.3.1 provide a written notice of the opportunity for the parties being consulted to present their views and information on the subject matter of the consultation;
 - 2.3.2 provide all information available and relevant to the scope and the subject matter of the consultation and a period of time agreed upon with the parties being consulted, not to be less than 15 days, to prepare their views and information;
 - 2.3.3 undertake an impartial consideration of all views and information presented by the parties being consulted on the subject matter of the consultation; and
 - 2.3.4 advise in a timely manner the parties being consulted on how the views and information received have, or have not, been integrated into the subject matter of the consultation by the Proponent and provide a justification.
- 2.4 The Proponent shall, where consultation with Indigenous groups is a requirement of a condition set out in this Decision Statement, communicate with each Indigenous group with respect to the manner to satisfy the consultation requirements referred to in condition 2.3, including methods of notification, the type of information and the period of time to be provided when seeking input, the process to be used by the Proponent to undertake impartial consideration of all views and information presented on the subject of the consultation, and the period of time and the means to advise Indigenous groups of how their views and information were considered by the Proponent.

Follow-up programs

- 2.5 The Proponent shall, where a follow-up program is a requirement of a condition set out in this Decision Statement, determine, as part of the development of each follow-up program and in consultation with the parties being consulted during the development, the following information, unless otherwise specified in the condition:
 - 2.5.1 the methodology, location, frequency, timing and duration of monitoring associated with the follow-up program;
 - 2.5.2 the scope, content and frequency of reporting of the results of the follow-up program to the parties consulted for the development of the follow-up program;
 - 2.5.3 the minimum frequency at which the follow-up program must be reviewed and, if necessary, updated;

- 2.5.4 the levels of environmental change relative to baseline that would require the Proponent to implement modified or additional mitigation measure(s), including instances where the Proponent may require Designated Project activities to be stopped;
 - 2.5.5 the technically and economically feasible mitigation measures to be implemented by the Proponent if monitoring conducted as part of the follow-up program shows that the levels of environmental change referred to in condition 2.5.4 have been reached or exceeded; and
 - 2.5.6 the specific and measureable end points that must be achieved before the follow-up program can end. Those end points should indicate that the accuracy of the environmental assessment has been verified and/or that the mitigation measures are effective.
- 2.6 The Proponent shall update the information determined for each follow-up program pursuant to condition 2.5 during the implementation of each follow-up program, at the minimum frequency determined pursuant to condition 2.5.3 and in consultation with the parties consulted during the development of each follow-up program.
- 2.7 The Proponent shall provide the details of the follow-up programs referred to in conditions 3.17, 3.18, 4.8, 4.9 and 6.1, including the information determined for each follow-up program pursuant to condition 2.5, to the Agency and to the parties consulted during the development of each follow-up program prior to the implementation of each follow-up program. The Proponent shall also provide any update made pursuant to condition 2.6 to the Agency and to the parties consulted during the development of each follow-up program within 30 days of the follow-up program being updated.
- 2.8 The Proponent shall, where a follow-up program is a requirement of a condition set out in this Decision Statement:
- 2.8.1 implement the follow-up program according to the information determined pursuant to condition 2.5;
 - 2.8.2 conduct monitoring and analysis to verify the accuracy of the environmental assessment as it pertains to the particular condition and/or to determine the effectiveness of any mitigation measure;
 - 2.8.3 determine whether modified or additional mitigation measure(s) are required based on the monitoring and analysis undertaken pursuant to condition 2.8.2;
 - 2.8.4 if modified or additional mitigation measure(s) are required pursuant to condition 2.8.3, develop and implement these mitigation measure(s) in a timely manner and monitor them pursuant to condition 2.8.2. The Proponent shall notify the Agency within 24 hours of any modified or additional mitigation measure being implemented. If the Proponent implements any additional or modified mitigation measure not previously submitted to the Agency pursuant to condition 2.5, the Proponent shall submit a detailed description of the measure(s) to the Agency within 7 days of its implementation; and
 - 2.8.5 report all results of the follow-up program to the Agency no later than March 31 following each reporting year during which the follow-up program is implemented and, subject to information determined pursuant to 2.5.2, to the parties consulted during the development of the follow-up program.

- 2.9 Where consultation with Indigenous groups is a requirement of a follow-up program, the Proponent shall discuss the follow-up program with each group and shall determine, in consultation with each group, opportunities for their participation in the implementation of the follow-up program, including the conduct of monitoring, the analysis and reporting of follow-up results and whether modified or additional mitigation measure(s) are required, as set out in condition 2.8.

Annual reporting

- 2.10 The Proponent shall prepare an annual report that sets out, for each reporting year:
- 2.10.1 the activities undertaken by the Proponent to comply with each of the conditions set out in this Decision Statement;
 - 2.10.2 how the Proponent complied with condition 2.1;
 - 2.10.3 for conditions set out in this Decision Statement for which consultation is a requirement, how the Proponent considered any views and information that the Proponent received during or as a result of the consultation;
 - 2.10.4 the information referred to in conditions 2.5 for each follow-up program and any update to that information made pursuant to condition 2.6;
 - 2.10.5 the results of the follow-up program requirements identified in conditions 3.17, 3.18, 4.8, 4.9 and 6.1;
 - 2.10.6 for any plan that is a requirement of a condition set out in this Decision Statement, any update(s) to the plan that have been made during the reporting year; and
 - 2.10.7 any modified or additional mitigation measure implemented or proposed to be implemented by the Proponent, as determined pursuant to condition 2.8.
- 2.11 The Proponent shall submit to the Agency the annual report referred to in condition 2.10, including a plain language executive summary in both official languages, no later than March 31 following the reporting year to which the annual report applies.
- 2.12 The first reporting year for which the Proponent shall prepare an annual report pursuant to condition 2.10 shall start on the day the Minister of the Environment issues the Decision Statement pursuant to subsection 54 (1) of *the Canadian Environmental Assessment Act, 2012*.

Information sharing

- 2.13 The Proponent shall publish on the Internet, or any medium which is publicly available, the annual reports and the executive summaries referred to in condition 2.11 and 2.12, the reports related to accidents and malfunctions referred to in conditions 10.5.4 and 10.5.5, the communication plan for accidents and malfunctions referred to in condition 10.6, the schedules referred to in conditions 11.1 and 11.2, and any update or revision to the above documents, upon submission of these documents to the parties referenced in the respective conditions. The Proponent shall keep these documents publicly available for 25 years following the end of operation, or until the end of decommissioning of the Designated Project, whichever comes first. The Proponent shall notify the Agency and Indigenous groups of the availability of these documents within 48 hours of their publication.

- 2.14 When the development of any plan is a requirement of a condition set out in this Decision Statement, the Proponent shall submit the final plan to the Agency prior to construction, unless otherwise required through the condition.

Change of Proponent

- 2.15 The Proponent shall notify the Agency and Indigenous groups in writing no later than 30 days after the day on which there is any transfer of ownership, care, control or management of the Designated Project in whole or in part.

Change to the Designated Project

- 2.16 If the Proponent is proposing to carry out the Designated Project in a manner other than described in condition 1.8, the Proponent shall notify the Agency in writing in advance of carrying out those proposed activities. As part of the notification, the Proponent shall provide:
- 2.16.1 a description of the proposed change(s) to the Designated Project and the environmental effects that may result from the change(s);
 - 2.16.2 any modified or additional measure to mitigate any environmental effect that may result from the change(s) and any modified or additional follow-up requirement; and
 - 2.16.3 an explanation of how, taking into account any modified or additional mitigation measure referred to in condition 2.16.2, the environmental effects that may result from the change(s) may differ from the environmental effects of the Designated Project identified during the environmental assessment.
- 2.17 The Proponent shall submit to the Agency any additional information required by the Agency about the proposed change(s) referred to in condition 2.16, which may include the results of consultation with Indigenous groups and relevant authorities on the proposed change(s) and environmental effects referred to in condition 2.16.1 and the modified or additional mitigation measures and follow-up requirements referred to in condition 2.16.2.

3 Fish and fish habitat

- 3.1 The Proponent shall develop, prior to construction and to the satisfaction of Fisheries and Oceans Canada, and implement any offsetting plan related to any harmful alteration, disruption or destruction of fish and fish habitat associated with the carrying out of the Designated Project. The Proponent shall submit any offsetting plan approved by Fisheries and Oceans Canada to the Agency before implementing it.
- 3.2 The Proponent shall, for any fish habitat offsetting measure proposed in any offsetting plan referred to in condition 3.1 that may cause adverse environmental effects not considered in the environmental assessment, develop and implement, following consultation with relevant authorities, measures to mitigate those effects. The Proponent shall submit these measures to the Agency before implementing them.
- 3.3 The Proponent shall ensure, during all phases of the Designated Project, that existing fish passage is not removed in watercourses frequented by fish as a result of Designated Project activities,

including building and upgrading of stream crossings and those activities that may decrease minimum watercourse flows, with the exception of watercourses that will be removed for the construction of Designated Project components as authorized under the *Fisheries Act*.

- 3.4 The Proponent shall, during operation, withdraw water from lakes in such a way that water withdrawal does not cause adverse effects to fish and fish habitat, except if such adverse effects are otherwise authorized. In doing so, the Proponent shall:
 - 3.4.1 establish, prior to construction and in consultation with Fisheries and Oceans Canada, Environment and Climate Change Canada and other relevant authorities, criteria for determining maximum withdrawal rates taking into account natural flow rates and seasonality;
 - 3.4.2 calculate maximum withdrawal rates for each month that withdrawal will be necessary and provide them to the Agency; and
 - 3.4.3 implement water withdrawal, such that withdrawal rates remain below the maximum rates for each month calculated pursuant to condition 3.4.2.
- 3.5 The Proponent shall maintain, during all phases of the Designated Project, a buffer zone of undisturbed vegetation along the edge of any water body and watercourse of sufficient width to protect fish and fish habitat resulting from the construction of Designated Project components, unless such adverse effects are otherwise authorized under the *Fisheries Act*.
- 3.6 The Proponent shall undertake, in consultation with relevant authorities, progressive reclamation of areas disturbed by the Designated Project, including bank and riparian areas. In doing so, the Proponent shall:
 - 3.6.1 identify plant species native to the regional assessment areas identified in Figure 3 of the environmental assessment report; and
 - 3.6.2 use the plant species identified in 3.6.1 for use in establishing self-sustaining communities.
- 3.7 The Proponent shall develop prior to construction and implement during all phases of the Designated Project erosion and sediment control measures in a manner consistent with the fish and fish habitat protection provisions and the pollution prevention provisions of the *Fisheries Act* taking into account Fisheries and Oceans Canada's *Measures to Protect Fish and Fish Habitat*. The Proponent shall submit the measures to the Agency prior to implementing them. In doing so, the Proponent shall:
 - 3.7.1 develop, in consultation with relevant authorities, and implement measures that take into account future climate change scenarios, including periods of high water and wind, elevated snow pack, heavy rainfall and snowfall; and
 - 3.7.2 maintain and regularly inspect, subject to safety requirements, all erosion and sediment control measures installed within the Designated Project area and document and repair any defective or damaged control measure as soon as technically feasible.

- 3.8 The Proponent shall remove all vegetation from the tailings management facility containment zone during construction and prior to filling or flooding to reduce the potential generation of methylmercury.
- 3.9 The Proponent shall manage mine effluent before it is deposited into the receiving environment during all phases of the Designated Project. In doing so, the Proponent shall:
- 3.9.1 collect effluent, including seepage, from operation through decommissioning, including from the overburden stockpiles, ore stockpiles, waste rock piles, tailings management facility and open pits;
 - 3.9.2 when collecting effluent pursuant to condition 3.9.1, construct and maintain contact water collection ditches around overburden stockpiles, ore stockpiles and waste rock piles to collect seepage during all phases of the Designated Project; and
 - 3.9.3 treat effluent collected pursuant to condition 3.9.1 as required in accordance with the *Metal and Diamond Mining Effluent Regulations* and the pollution prevention provisions of the *Fisheries Act* prior to its release into the environment.
- 3.10 The Proponent shall, salvage and relocate fish in consultation with Fisheries and Oceans Canada prior to conducting any Designated Project activity requiring the removal of fish habitat in a manner that complies with any authorization issued under the *Fisheries Act*.
- 3.11 The Proponent shall conduct any in-water work activities, outside of restricted activity timing windows for fish species in accordance with Fisheries and Oceans Canada's *Timing Windows to Conduct Projects in or Around Water* for Newfoundland and Labrador, unless otherwise permitted by Fisheries and Oceans Canada.
- 3.12 If the Proponent must conduct any in-water work activities related to construction during the restricted activity timing windows, the Proponent shall develop and implement additional mitigation measures, in consultation with Fisheries and Oceans Canada, to protect fish during sensitive life stages, including migration and spawning. The Proponent shall submit these measures to the Agency prior to implementing them.
- 3.13 The Proponent shall, prior to construction, install screens on the water supply intake structures taking into account Fisheries and Oceans Canada's *Interim Code of Practice for End-of-Pipe Fish Protection Screens for Small Water Intakes in Freshwater* and in a manner that is consistent with any authorization issued under the *Fisheries Act* and its regulations.
- 3.14 The Proponent shall develop, in consultation with Fisheries and Oceans Canada and any other relevant authorities prior to the start of blasting activities in or near water and implement, during blasting activities in or near water, mitigation measures to avoid adverse effects to fish and fish habitat from the use of explosives taking into account Fisheries and Oceans Canada's *Guidelines for the use of explosives in or near Canadian fisheries waters* and implement the measures in a manner consistent with the *Fisheries Act* and its regulations. The Proponent shall provide these measures to the Agency before implementing them.
- 3.15 The Proponent shall develop procedures to identify and manage all mine rock that has the potential for or is already undergoing acid generation or metal leaching during all phases of the Designated Project in consultation with Environment and Climate Change Canada, Natural

Resources Canada and any other relevant authorities, taking into account the Mine Environment Neutral Drainage Program's *Prediction Manual for Drainage Chemistry from Sulphidic Geologic Materials*, and implement these procedures during all phases of the Designated Project. In doing so, the Proponent shall:

- 3.15.1 characterize, prior to construction, the acid rock drainage and metal leaching potential of the overburden and other mine rock to be used for construction;
 - 3.15.2 conduct geochemical testing of waste rock and tailings during operation to verify the magnitude and onset of potential acid rock drainage in waste rock and tailings;
 - 3.15.3 taking into account the geochemical testing in condition 3.15.2, develop procedures for segregation of potentially acid generating and metal leaching materials and additional mitigation for storage of waste rock, low-grade ore and other ore;
 - 3.15.4 cover all acid generating, potentially acid generating, and potentially metal leaching materials with an oxygen-limiting barrier prior to the onset of acid rock drainage unless not technically or economically feasible. If not technically or economically feasible, the proponent shall develop additional procedures to prevent the contamination of the receiving environment by acid generating, potentially acid generating, and potentially metal leaching materials, and implement these measures. The proponent shall submit these measures to the Agency prior to implementation; and
 - 3.15.5 not use any acid generating and potentially acid generating materials for construction purposes, including earthworks and grading.
- 3.16 The Proponent shall store fuel and hazardous materials a minimum of 200 metres from the tributaries of the Victoria River as identified under Fisheries and Oceans Canada's Newfoundland and Labrador Scheduled Salmon Rivers and 100 metres from all other waterbodies.
- 3.17 The Proponent shall develop, prior to construction and in consultation with Indigenous groups, Fisheries and Oceans Canada, Environment and Climate Change Canada and other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as they pertain to adverse environmental effects of the Designated Project on fish and fish habitat. The Proponent shall implement the follow-up program during all phases of the Designated Project, taking into account the Monitoring Framework in Section 7.9.1 of the environmental impact statement and section 8.8 of the Berry pit expansion report and including the environmental effects monitoring requirements set out in Schedule 5 of the *Metal and Diamond Mining Effluent Regulations*. As part of the follow-up program, the Proponent shall:
- 3.17.1 monitor open pits for the development of high hydraulic conductivity zones, as well as groundwater levels and groundwater flows associated with pit dewatering and pit filling to verify long-term hydraulic containment within the pits that may enhance groundwater flow;
 - 3.17.2 monitor, during all phases of the project, surface water and groundwater flows, levels and quality to verify the assessment predictions identified in Appendices 7A, 7B and 7C of the environmental impact statement and Appendix 8A and 8B of the Berry pit expansion report;

- 3.17.3 monitor, during all phases of the Designated Project, in consultation with relevant authorities, and taking into account the Canadian Council of Ministers of the Environment's *Canadian Water Quality Guidelines for Protection of Aquatic Life*, contaminants of concern prescribed by the *Metal and Diamond Mining Effluent Regulations* as well as mercury, chromium, nitrogen, and phosphorous at locations identified in Section 7.9.1 of the environmental impact statement, section 8.8 of the Berry pit expansion report, and at offshore locations on Valentine and Victoria lakes to confirm the zone of influence predicted in the assimilative capacity assessment in appendix 7C of the environmental impact statement and Appendix 8B of the Berry pit expansion report;
- 3.17.4 monitor, during decommissioning, and in consultation with Indigenous groups, Environment and Climate Change Canada and other relevant authorities, the water quality of the pit lake during filling to verify that it complies with the pollution prevention provisions of the *Fisheries Act* prior to connecting it to the receiving environment; and
- 3.17.5 if the results of the monitoring referred to in conditions 3.17.1, 3.17.2, 3.17.3 or 3.17.4 demonstrate that modified or additional mitigation measures are required to protect fish and fish habitat from changes to water quality, develop and implement modified or additional mitigation measures. The Proponent shall submit these measures to the Agency before implementing them.
- 3.18 The Proponent shall develop, prior to construction and in consultation with Indigenous groups, Fisheries and Oceans Canada, Environment and Climate Change Canada and other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and the effectiveness of the mitigation measures as they pertain to acid rock drainage and metal leaching into the receiving environment from the Designated Project area, including from the waste rock storage areas, low-grade ore and ore stockpiles, and the tailings management facility. The Proponent shall implement the follow-up program through all phases of the Designated Project.

4 Migratory birds

- 4.1 The Proponent shall carry out the Designated Project, including vegetation clearing and blasting, in a manner that protects migratory birds and avoids harming, killing or disturbing migratory birds or destroying, disturbing or taking their nests or eggs. In this regard, the Proponent shall take into account Environment and Climate Change Canada's *Guidelines to reduce risk to migratory birds*.
- 4.2 The Proponent shall conduct vegetation clearing outside of the applicable regional nesting periods for the Designated Project area, unless not technically feasible. If not technically feasible, the Proponent shall develop and implement additional mitigation measures, in consultation with Environment and Climate Change Canada, including the use of non-intrusive monitoring methods and setbacks. The Proponent shall submit these measures to the Agency prior to their implementation.
- 4.3 The Proponent shall delineate, prior to the start of tree clearing, the areas in the Designated Project area where tree clearing, including along roads, will take place and shall not undertake any tree clearing outside these areas, unless required for health and safety reasons.

- 4.4 The Proponent shall, during construction, operation and decommissioning, use and maintain noise-dampening technologies on all vehicles and heavy equipment used in the Designated Project area. In doing so the Proponent shall:
- 4.4.1 keep the technologies in good working order through the implementation of a regular inspection program.
- 4.5 The Proponent shall establish speed limits in accordance with provincial regulations on temporary and permanent roads located within the Designated Project area and require that all persons abide by these speed limits.
- 4.6 The Proponent shall control lighting required for the construction, operation and decommissioning of the Designated Project, including direction, timing and intensity, to avoid adverse effects on migratory birds including migratory birds that are listed species at risk, while meeting health and safety requirements.
- 4.7 The Proponent shall implement, during all phases of the Designated Project, measures to prevent the killing or harming of migratory birds including migratory birds that are listed species at risk, due to their use of the tailings management facility, including by:
- 4.7.1 maintaining embankments of the tailings management facility and the sedimentation ponds free of vegetation during operation; and
 - 4.7.2 installing and operating, during operations, a cyanide destruction circuit to minimize cyanide concentrations in mine effluent.
- 4.8 The Proponent shall develop, prior to construction and in consultation with relevant authorities and Indigenous Groups, a follow-up program to verify the accuracy of the environmental assessment as it pertains to the use by migratory birds, including migratory birds that are listed species at risk, of surface water facilities. As a part of the implementation of the follow-up program, the Proponent shall:
- 4.8.1 develop water quality objectives for the protection of migratory birds for surface water facilities in consultation with relevant authorities;
 - 4.8.2 monitor the use by migratory birds of open aquatic areas, including the tailings management facility during all phases of the Designated Project until such time that water quality in these structures meet legislative requirements and water quality objectives developed pursuant to condition 4.8.1; and
 - 4.8.3 if results of the monitoring pursuant to condition 4.8.2 indicate that migratory birds use these open aquatic areas, develop and implement mitigation measures including but not limited to deterrent measures and/or exclusionary measures.
- 4.9 The Proponent shall develop, prior to construction and in consultation with Environment and Climate Change Canada and other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and to determine the effectiveness of all mitigation measures to avoid harm to migratory birds, including migratory birds that are listed species at risk, their eggs and nests. The follow-up program shall include the mitigation measures used to comply with conditions 4.1 to 4.6. As part of the development of the follow-up program, the Proponent shall

identify performance indicators that shall be used by the Proponent to evaluate the effectiveness of mitigation measures. The Proponent shall implement the follow-up program during all phases of the Designated Project. As part of the follow-up program, the Proponent shall:

- 4.9.1 have a qualified individual conduct surveys within the Designated Project area, every year for three years, from the beginning of construction, to confirm the presence of migratory birds, including migratory birds that are listed as species at risk; and
- 4.9.2 after three years, determine, in consultation with Environment and Climate Change Canada, the frequency of additional surveys based on the results of the surveys conducted pursuant to 4.9.1.

5 Greenhouse Gas Emissions

- 5.1 The Proponent shall develop the Designated Project area and optimize activities associated with the operation of the Designated Project so as to minimize transportation and distances required to travel within the Designated Project area.
- 5.2 The Proponent shall ensure all equipment and vehicles associated with the Designated Project, including those equipment and vehicles operated by third-party contractors, are serviced and maintained in accordance with the manufacturer's maintenance guidelines.
- 5.3 The Proponent shall develop, prior to construction and in consultation with relevant authorities, measures to reduce the fuel consumption of equipment and vehicles associated with the Designated Project, including those operated by the Proponent and other third-party contractors. The Proponent shall apply the measures during all phases of the Designated Project. The measures shall include:
 - 5.3.1 the development of no-idling and cold start policies for equipment and vehicles operating in the Designated Project area; and
 - 5.3.2 procedures to ensure that any person complies with the policies developed pursuant to condition 5.3.1, unless there are technical constraints related to the operation of the equipment and vehicles or constraints related to health or safety.

6 Health and socio-economic conditions of Indigenous peoples

- 6.1 The Proponent shall develop, prior to construction and in consultation with Indigenous groups and Health Canada and any other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment as it pertains to adverse environmental effects of changes to the quality of air, water and country foods on the health of Indigenous Peoples, taking into account available traditional knowledge provided by Indigenous groups related to current use of lands and resources for traditional purposes. The Proponent shall implement the follow-up program during all phases of the Designated Project. As part of the implementation of the follow-up program, the Proponent shall:
 - 6.1.1 identify the fish species used by Indigenous groups for fish tissue sampling and the surface waters locations used by Indigenous groups where water quality testing and fish tissue sampling will occur;

- 6.1.2 monitor methylmercury, chromium and arsenic in surface water and fish tissue of species identified in 6.1.1 in locations determined pursuant to condition 6.1.1;
- 6.1.3 monitor ambient air concentrations of contaminants of concern, as described in section 5.9 of the EIS, taking into account the standards and criteria set out in the Canadian Council of Ministers of the Environment's Canadian Ambient Air Quality Standards and Newfoundland and Labrador's *Air Pollution Control Regulations*; and
- 6.1.4 identify additional country foods beyond fish that are being harvested within areas where Designated Project-related contamination of these country foods may occur, as indicated by available traditional knowledge and monitor for contaminants of concern in these country foods at locations identified in consultation with Indigenous groups.

7 Current use of lands and resources for traditional purposes

- 7.1 The Proponent shall develop, prior to construction and in consultation with Indigenous groups and relevant authorities, a communication plan to share information with Indigenous groups on the adverse environmental effects of Designated Project activities as they relate to the current use of lands and resources for traditional purposes. The Proponent shall implement and maintain the communication plan during all phases of the Designated Project. The communication plan shall include:
 - 7.1.1 identification of Designated Project activities that may affect the quality of experience of Indigenous uses of lands and resources for traditional purposes, including hunting, trapping, fishing and/or gathering;
 - 7.1.2 procedures, including timing and methods, for sharing information on the following:
 - 7.1.2.1 the location and timing of Designated Project activities identified pursuant to condition 7.1.1; and
 - 7.1.2.2 the results of the follow-up programs referred to in conditions 3.17, 3.18, 4.8, 4.9 and 6.1, and the modified or additional mitigation measures developed and implemented by the Proponent pursuant to condition 2.6 for each follow-up program.
- 7.2 The Proponent shall develop, as part of the communication plan referred to in condition 7.1 and in consultation with Indigenous groups, procedures for Indigenous groups to communicate to the Proponent their concerns or views about adverse environmental effects caused by the Designated Project related to the current use of lands and resources for traditional purposes, including issues of access, and procedures for the Proponent to document and respond in a timely manner to the concerns received and demonstrate how issues have been addressed, including through the implementation of additional or modified mitigation measures. The Proponent shall implement these procedures during all phases of the Designated Project.
- 7.3 The Proponent shall develop, prior to construction and in consultation with Indigenous groups, cultural awareness training for all employees and contractors associated with the Designated Project. The Proponent shall implement the training prior to the start of construction and during all phases of the Designated Project.

8 Physical and cultural heritage and structures, sites or things of historical, archaeological, paleontological or architectural significance

- 8.1 For any previously unidentified structures, sites or things of historical, archaeological, paleontological or architectural significance discovered within the Designated Project area by the Proponent or brought to the attention of the Proponent by an Indigenous group or another party during any phase of the Designated Project, the Proponent shall:
- 8.1.1 immediately halt work at the location of the discovery, except for actions required to be undertaken to protect the integrity of the discovery;
 - 8.1.2 delineate an area of at least 30 metres around the discovery as a no-work zone;
 - 8.1.3 inform the Agency and Indigenous groups within 24 hours of the discovery, and allow Indigenous groups to monitor archaeological works;
 - 8.1.4 have a qualified individual, whose expertise pertains to the requirements of Newfoundland and Labrador's *Historic Resources Act*, conduct an assessment of the discovery at the location of the discovery; and
 - 8.1.5 consult with Indigenous groups and relevant authorities on the manner by which to comply with all applicable legislative or legal requirements and protocols respecting the discovery, recording, transferring and safekeeping of previously unidentified structures, sites or things of historical, archaeological, paleontological or architectural significance.
- 8.2 The Proponent shall require all employees and contractors associated with the Designated Project to undertake, before they conduct any construction activity within the Designated Project area, an awareness training program about the procedures related to the discovery and protection of structures, sites or things of historical, archaeological, paleontological or architectural significance referred to in condition 8.1. The proponent shall develop the awareness training program in consultation with Indigenous groups.

9 Species at risk

- 9.1 The Proponent shall identify, prior to construction and in consultation with relevant authorities, time periods during which Designated Project activities that may adversely impact woodland caribou (*Rangifer tarandus caribou*) must be carried out in order to protect the species.
- 9.2 The proponent shall conduct the activities that may adversely impact woodland caribou (*Rangifer tarandus caribou*) during the time periods identified pursuant to condition 9.1, unless not technically feasible.
- 9.3 The Proponent shall, during all phases of the Designated Project in consultation with Environment and Climate Change Canada and other relevant authorities, mitigate adverse environmental effects on woodland caribou (*Rangifer tarandus caribou*) and its habitat, including by carrying out Designated project activities during time periods referred to in condition 9.2 for woodland caribou (*Rangifer tarandus caribou*). In doing so, the Proponent shall give preference to avoiding the destruction or alteration of habitat over minimizing the destruction or alteration of habitat, to minimizing the destruction or alteration of habitat over restoring altered or destroyed habitat on-site, and to restoring altered or destroyed habitat on-site over offsetting.

- 9.4 The Proponent shall, during all phases of the Designated Project in consultation with Environment and Climate Change Canada and other relevant authorities, mitigate adverse environmental effects on American marten (*Martes americana*) and its habitat. In doing so, the Proponent shall give preference to avoiding the destruction or alteration of habitat over minimizing the destruction or alteration of habitat, to minimizing the destruction or alteration of habitat over restoring altered or destroyed habitat on-site, and to restoring altered or destroyed habitat on-site over offsetting.

10 Accidents and malfunctions

- 10.1 The Proponent shall take all reasonable measures to prevent accidents and malfunctions that may result in adverse environmental effects and mitigate any adverse environmental effects from accidents and malfunctions that occur. In doing so the Proponent shall:
- 10.1.1 design, construct and operate the tailings management facility dams taking into account the Canadian Dam Association's *Dam Safety Guidelines* and the Mining Association of Canada's *Guide to the Management of Tailings Facilities*.
- 10.2 The Proponent shall consult with Indigenous groups and relevant authorities, prior to construction, on the measures to be implemented to prevent accidents and malfunctions referred to in condition 10.1 and provide these measures to the Agency prior to implementing them.
- 10.3 The Proponent shall develop, prior to construction and in consultation with Indigenous groups and relevant authorities, an accidents and malfunctions response plan in relation to the Designated Project. The accidents and malfunctions plan shall include:
- 10.3.1 a description of the types of accidents and malfunctions that may cause adverse environmental effects during any phase of the Designated Project, including spills, fires, explosions and accidental releases from the tailings management facility; and
- 10.3.2 the measures to be implemented in response to each type of accident and malfunction referred to in condition 10.3.1 to mitigate any adverse environmental effect caused by the accident or malfunction, including:
- 10.3.2.1 measures to conduct water and fish tissue monitoring following an accidental release from the tailings management facility into water; and
- 10.3.2.2 measures to advise the public if results of the monitoring referred to in 10.3.2.1 demonstrate that fish and/or water is not suitable for human consumption.
- 10.4 The Proponent shall maintain up-to-date the accidents and malfunctions response plan referred to in condition 10.3 during all phases of the Designated Project. The Proponent shall submit any updated accidents and malfunctions response plan to the Agency, Indigenous groups and relevant authorities involved in its implementation within 30 days of the plan being updated.
- 10.5 In the event of an accident or malfunction with the potential to cause adverse environmental effects, including an accident or a malfunction referred to in condition 10.3.1, the Proponent shall immediately implement the measures appropriate to the accident or malfunction, including any measure referred to in condition 10.3.2, and shall:

- 10.5.1 implement the communication plan referred to in condition 10.6;
- 10.5.2 notify relevant authorities with responsibilities related to emergency response (including environmental emergencies) in accordance with applicable legislative and regulatory requirements;
- 10.5.3 notify, as soon as possible and pursuant to the communication plan referred to in condition 10.6, Indigenous groups of the accident or malfunction, and notify the Agency in writing no later than 24 hours following the accident or malfunction. When notifying Indigenous groups and the Agency, the Proponent shall specify:
 - 10.5.3.1 the date and time when and location where the accident or malfunction occurred within the Designated Project area;
 - 10.5.3.2 a summary description of the accident or malfunction; and
 - 10.5.3.3 a list of any substance potentially released into the environment as a result of the accident or malfunction;
- 10.5.4 submit a written report to the Agency no later than 30 days after the day on which the accident or malfunction occurred. The written report shall include:
 - 10.5.4.1 a detailed description of the accident or malfunction and of its adverse environmental effects;
 - 10.5.4.2 a description of the measures that were taken by the Proponent to mitigate the adverse environmental effects caused by the accident or malfunction;
 - 10.5.4.3 any view from Indigenous groups and advice from relevant authorities received with respect to the accident or malfunction, its adverse environmental effects and the measures taken by the Proponent to mitigate these adverse environmental effects;
 - 10.5.4.4 a description of any residual adverse environmental effect and any modified or additional measure required by the Proponent to mitigate residual adverse environmental effects; and
 - 10.5.4.5 details concerning the implementation of the accident or malfunction response plan referred to in condition 10.3.
- 10.5.5 submit a written report to the Agency no later than 90 days after the day on which the accident or malfunction occurred that includes:
 - 10.5.5.1 a description of the changes made to avoid a subsequent occurrence of the accident or malfunction;
 - 10.5.5.2 the modified or additional measure(s) implemented by the Proponent to mitigate and monitor residual adverse environmental effects and to carry out any required progressive reclamation, taking into account the information submitted in the written report pursuant to condition 10.5.3; and
 - 10.5.5.3 all additional views from Indigenous groups and advice from relevant authorities received by the Proponent since the views and advice referred to in condition 10.5.3.3 were received by the Proponent.
- 10.6 The Proponent shall develop, in consultation with Indigenous groups, a communication plan for Designated Project accidents and malfunctions. The Proponent shall develop the communication

plan prior to construction and shall implement and keep it up to date during all phases of the Designated Project. The plan shall include:

- 10.6.1 the types of accidents and malfunctions requiring the Proponent to notify the Indigenous groups;
- 10.6.2 the manner by which Indigenous groups shall be notified by the Proponent of an accident or malfunction and of any opportunity for the Indigenous groups to assist in the response to the accident or malfunction; and
- 10.6.3 the names and contact information of the Proponent and Indigenous group representatives for the purposes of notifying pursuant to condition 10.6.2 and communicating about accidents and malfunctions.

11 Schedules

- 11.1 The Proponent shall submit to the Agency and Indigenous groups a schedule for all conditions set out in this Decision Statement no later than 30 days prior to the start of construction. This schedule shall detail all activities planned to fulfill each condition set out in this Decision Statement and the commencement and estimated completion month(s) and year(s) for each of these activities.
- 11.2 The Proponent shall submit to the Agency and Indigenous groups a schedule outlining all activities required to carry out all phases of the Designated Project no later than 30 days prior to the start of construction. The schedule shall indicate the commencement and estimated completion month(s) and year(s) and duration of each of these activities.
- 11.3 The Proponent shall submit to the Agency and Indigenous groups in writing an update to schedules referred to in conditions 11.1 and 11.2 every year no later than March 31, until completion of all activities referred to in each schedule.

12 Record keeping

- 12.1 The Proponent shall maintain all records relevant to the implementation of the conditions set out in this Decision Statement. The Proponent shall retain the records and make them available to the Agency throughout construction and operation and for 25 years following the end of operation or until the end of decommissioning of the Designated Project, whichever comes first. The Proponent shall provide the aforementioned records to the Agency upon demand within a timeframe specified by the Agency.
- 12.2 The Proponent shall retain all records referred to in condition 12.1 at a facility in Canada and shall provide the address of the facility to the Agency. The Proponent shall notify the Agency at least 30 days prior to any change to the physical location of the facility where the records are retained, and shall provide to the Agency the address of the new location.
- 12.3 The Proponent shall notify the Agency of any change to the contact information of the Proponent.

Issuance

This Decision Statement is issued in Ottawa, Ontario by:

< Original signed by >

August 23, 2022

Date _____

The Honourable Steven Guilbeault
Minister of the Environment