



May 12, 2022
VIA EMAIL

Ms. Debra Sikora
Panel Chair
Marathon Joint Review Panel
marathonminereview-examenminemarathon@iaac-aeic.gc.ca

Dear Ms. Sikora,

Biigtigong Nishnaabeg would like to express gratitude for the opportunity to present to the Joint Review Panel (the Panel) as part of the Hearings process for the Generation PGM (GenPGM) Marathon Palladium Project (the Project). In our Community Session on April 6, 2022, we presented on the importance of caribou to our Nation. We understand there have been continuing issues and concerns raised by Environment and Climate Change Canada (ECCC) and the Ontario Ministry of Environment, Conservation and Parks (MECP) amongst others, regarding potential impacts of the Project on caribou. Biigtigong Nishnaabeg would like to take this opportunity to provide further comment on the issue of caribou.

As outlined in our April 6, 2022, presentation to the Panel, our Nation would like to reiterate that there seems little doubt that the mainland population within the Lake Superior Caribou Range is either extirpated or extremely low. Nonetheless, given our strong aspiration to bring caribou back to the mainland, any potential impacts of the Project on caribou must be considered carefully. Biigtigong Nishnaabeg is impressed with the acumen and analysis brought by GenPGM and its experts related to caribou. Additionally, our Nation appreciates the diligence and thoroughness that the Panel has brought to its assessment and inquiries regarding potential Project impacts to caribou and is encouraged by the undertakings related to caribou identified by the Panel to date.

Key considerations for our Nation regarding potential impacts of the Project to caribou include potential impediments to east-west movement, and the Project's contribution to cumulative impacts, particularly as related to linear corridors (i.e., the East-West Tie Project, the highway corridor, etc.). Especially important to Biigtigong Nishnaabeg will be the way within-range connectivity is facilitated, and the manner in which GenPGM addresses Biigtigong's concerns related to off-site mitigations.

Biigtigong would like to note after raising a series of caribou-related concerns with GenPGM in the summer of 2021, GenPGM has recognized the gravity of our Nation's concerns and has indicated willingness to consider and implement alternate mitigations. GenPGM has been in discussions with our Nation regarding these concerns. Our desired mitigations include not just habitat-related actions, but also activities related to cultural and community projects.

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Biigtigong Nishnaabeg is however, of the opinion that the Government of Ontario has not met its policy commitments outlined in the Ontario Woodland Caribou Recovery Strategy (2008) and the Woodland Caribou Conservation Plan (2009). More strikingly, the province has not provided any guidance related specifically to the Lake Superior Caribou Range more than four years after launching an explicit consultation effort related to the range. Biigtigong has not been provided any evidence of the results of this effort in spite of requesting this information several times. Further, the province has not led any substantial remediative efforts related to habitat or populations in the range. It seems to us, therefore that while MECP's concerns related to Undertakings 18-21 may contain some valid analytical concerns, the credibility is impaired by their inaction in addressing substantial issues related to the future of caribou in the range that are within its conservation mandate.

The Government of Ontario is well aware that Biigtigong Nishnaabeg asserts Aboriginal title and that our Aboriginal Title and Aboriginal Rights Area (or "ATARA") encompasses over two million hectares of combined Exclusive and Shared Aboriginal title territory on the north shore of Lake Superior. Despite this, Ontario has also failed to engage with Biigtigong – in a Nation-to-Nation manner – to address the management of caribou within our Aboriginal Title Area. Considering our strong cultural ties to caribou; our ongoing land claim and asserted rights and territory; the tenuous state of the Lake Superior Caribou Herd; the lack of progress made by Ontario in planning and executing sustainable management of Lake Superior caribou; and, the uncertain utility of the Section 11 Conservation Agreement, Biigtigong is developing a Caribou Stewardship Strategy for the Lake Superior Coast Range and offshore islands.

The goal of our Caribou Stewardship Strategy is to establish a secure and self-sustaining population of caribou in the area centred on the northeast portion of Lake Superior, with particular emphasis on the area encompassed by the Biigtigong Nishnaabeg Exclusive and Shared Aboriginal Title Area.

Several objectives are encompassed by this goal:

- Contribute to the security of the Lake Superior Coast Range by establishing protected and carefully managed caribou populations on the offshore islands in Biigtigong Nishnaabeg's Exclusive and Shared Aboriginal Title Area.
- Manage caribou populations consistent with long-term objective of re-establishing viable populations on the mainland, focusing on the area encompassed by the Lake Superior Coast Range.
- Within the broader framework of Biigtigong Nishnaabeg's ongoing Title Claim, collaborate with other agencies and parties including the Governments of Ontario and Canada, and other First Nations, in securing the caribou population in the Lake Superior Coast Range.
- Increase the cultural awareness of caribou and its role in the ecosystem and Indigenous culture.

We also included a series of proposed caribou-related mitigations and accommodations in our presentations and written submissions to the Panel related to caribou. Specifically, Biigtigong Nishnaabeg requests:

The Crown:

- Recognize and facilitate Biigtigong Nishnaabeg's aspirations related to caribou oversight and management.
- Support the peer reviewed, detailed mapping of caribou habitat suitability in the Biigtigong Nishnaabeg's Exclusive Title Area and evaluate existing recovery zones and options for new

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configurations to link caribou within and between the Lake Superior Caribou Range and Discontinuous Distribution.

- Work in partnership with Biigtigong in overseeing and administering wildlife management programs within Biigtigong's Title area (e.g., setting of moose tags and quotas for Wildlife Management Area 21A) to facilitate eventual full control by Biigtigong Nishnaabeg.
- Provide an endowment for training and hiring of a Biigtigong Nishnaabeg Conservation and wildlife staff including wildlife biologist and conservation officer.

GenPGM:

- Commit to ongoing monitoring and mitigation for potential effects to species of high importance to the Nation, including caribou.

The Crown and GenPGM:

- Engage in extensive consultation with Biigtigong Nishnaabeg regarding the revision of current caribou off-site mitigations to consider current landscape, and cultural proposals from Biigtigong Nishnaabeg.

With regard to the concerns expressed by MECP in its April 7, 2022 letter to the Joint Review Panel, we offer the following observations:

Undertaking 18

MECP notes that concerns they previously identified (CIAR#1081) have not been adequately addressed in the more detailed information provided in Undertaking 18 (CIAR #1209). MECP recommends the use of quantitative movement models for connectivity analysis. While these models may indeed provide greater sensitivity as MECP suggests, we believe that the sensitivity is not required to address the key issue of movement around the mine site and that, as the Undertaking notes, lands to the north and east of the project sites likely offer low resistance values. The greater analytical power of a more sensitive model would likely not be sufficient to discount the general conclusion of the analysis provided in the Undertaking.

Undertaking 19

MECP expresses concern that Undertaking 19 (CIAR #1210) does not contain sufficient detail on the proposed onsite post-closure landscape to support a conclusion that it may provide a benefit to caribou. We agree with MECP's concern here, but also note that, as pointed out in Undertaking 18, lands to the north of the LSCR have the capacity to provide connectivity. While it would be helpful for GenPGM to provide greater clarity, we do not view this as a fatal flaw in the greater analysis.

Undertaking 20

We expressed significant concern directly to GenPGM regarding the off-site mitigation plan provided in 2021. The document did not provide any updates over its precursor 2014 document, and more importantly to Biigtigong was the fact that it developed without any input from Biigtigong (or the forest tenure holder). Further, the mitigations it proposed were believed by both Biigtigong and the tenure holder to be of relatively little value in remediating caribou habitat. GenPGM was very open in its subsequent conversations with us and admitted the report's shortcomings and since then we have engaged in several conversations with Gen and the plan's technical authors regarding the development of improved off-site mitigation options, including the possible sponsorship of community-based

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projects. We are encouraged by the line of communication regarding this that has been opened with GenPGM.

We concur with MECP's assessment that the Undertaking lacks specificity in identifying off-setting projects/activities, but are encouraged by the open communication that has taken place on this issue, that projects developed will be done so in consultation with Biigtigong.

Undertaking 21

In considering the sum of evidence and commitments made by GenPGM, MECP expresses the opinion *"that GenPGM has not provided sufficient information to the Panel to demonstrate that the project will have no significant adverse effect on caribou"*. Biigtigong Nishnaabeg believes that MECP has raised some important points in its review of the Undertakings and that it will be important to address aspects that are valid concerns regarding east-west connectivity within and proximal to the Lake Superior Caribou Range. However Biigtigong does not share the opinion that if implemented in good faith as described in the Undertakings, and including the commitments of GenPGM to address off-site mitigations that the project will result in significant adverse effects. Further, we feel compelled to again point out that Ontario has not lived up to its own commitments regarding stewardship of the range and this failure diminishes the credibility of the Province in matters concerning the Lake Superior Caribou Range.

We would like to request the Panel consider carefully the information we have presented in this letter with regards to the importance of caribou to our Nation, our perspectives on potential impacts to caribou from the Project and the need for substantial, immediate and meaningful engagement by the Crown with Biigtigong Nishnaabeg to manage the Lake Superior Coastal Range and to advance Biigtigong's vision, through our Caribou Stewardship Strategy, of establishing a secure and self-sustaining population of caribou in the area centred on the northeast portion of Lake Superior, with particular emphasis on the area encompassed by the Biigtigong Nishnaabeg Exclusive and Shared Aboriginal Title Area.

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<Original signed by>

Chief Duncan Michano
Biigtigong Nishnaabeg

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