

## Draft Potential Conditions

The Canadian Environmental Assessment Agency is contemplating the following potential conditions in relation to the Whabouchi Mine Project (the Designated Project) for recommendation to the Minister of the Environment for inclusion in a Decision Statement under the *Canadian Environmental Assessment Act, 2012*. Such conditions would become legally binding on the Proponent only if the Minister of the Environment decides that the carrying out of the Designated Project is unlikely to cause significant adverse environmental effects under subsections 5(1) and 5(2) or that the Governor in Council decides such effects are justifiable in the circumstances therefore allowing the Designated Project to proceed.

### 1 Definitions

- 1.1 *Agency* – Canadian Environmental Assessment Agency.
- 1.2 *Contact water* – mine water and water that comes into contact with tailings and waste rock, as well as runoff contaminated by mining activity, and any industrial wastewater produced by mining activity.
- 1.3 *Construction* – the phase of the Designated Project during which physical activities in connection with site preparation, building or installation of any component of the Designated Project are undertaken prior to operation.
- 1.4 *Days* – calendar days.
- 1.5 *Decommissioning* – the phase of the Designated Project where commercial production has permanently ceased and actions have commenced to remove from service all or part of the Designated Project and continues until site restoration activities are complete.
- 1.6 *Designated Project* – the Whabouchi Mine Project as described in documents provided by the Proponent to support the environmental assessment under the *Canadian Environmental Assessment Act, 2012* (Canadian Environmental Assessment Registry Reference Number 80021)
- 1.7 *Effluent* – as defined in the *Metal Mining Effluent Regulations*, a hydrometallurgical facility effluent, milling facility effluent, mine water effluent, tailings impoundment area effluent, treatment pond effluent, seepage and surface drainage, treatment facility effluent other than effluent from a sewage treatment facility — that contains a deleterious substance.
- 1.8 *Effluent discharge objectives* – The environmental objectives concerning effluent discharge determined by the Quebec government based on the characteristics of the receiving environment and the water quality required in order to maintain water uses. The objectives are used to evaluate the environmental acceptability of existing and projected discharges and may justify additional actions or project modifications by the Proponent.
- 1.9 *Final discharge point* – as defined in the *Metal Mining Effluent Regulations*, means an identifiable discharge point of a mine beyond which the operator of the mine no longer exercises control over the quality of the effluent.

- 1.10 *Fish* – as defined in the *Fisheries Act*, includes (a) parts of fish, (b) shellfish, crustaceans, marine animals and any parts of shellfish, crustaceans or marine animals, and (c) the eggs, sperm, spawn, larvae, spat and juvenile stages of fish, shellfish, crustaceans and marine animals.
- 1.11 *Fish habitat* – as defined in the *Fisheries Act*, means spawning grounds and any other areas, including nursery, rearing, food supply and migration areas, on which fish depend directly or indirectly in order to carry out their life processes.
- 1.12 *Follow-up program* – as defined in the *Canadian Environmental Assessment Act, 2012*, means a program for (a) verifying the accuracy of the environmental assessment of a designated project; and (b) determining the effectiveness of any mitigation measures.
- 1.13 *Mitigation measures* – as defined in the *Canadian Environmental Assessment Act, 2012*, means measures for the elimination, reduction or control of the adverse environmental effects of a designated project, and includes restitution for any damage to the environment caused by those effects through replacement, restoration, compensation or any other means.
- 1.14 *Migratory bird* – as defined in the *Migratory Birds Convention Act, 1994*, means a migratory bird referred to in the Convention, and includes the sperm, eggs, embryos, tissue cultures and parts of the bird.
- 1.15 *Operation* – the phase of the Designated Project where commercial production has commenced.
- 1.16 *Pit* – an excavation dug for the extraction of ore.
- 1.17 *Project Area*— the geographic area occupied by the Designated Project.
- 1.18 *Proponent* – Nemaska Lithium Inc.
- 1.19 *Qualified individual* – someone who, through suitable education, experience and knowledge relevant to a particular matter, may be reasonably relied on to provide advice within his or her area of expertise.
- 1.20 *Species at risk* – as defined in the *Species at Risk Act*, means an extirpated, endangered or threatened species or a species of special concern.
- 1.21 *Wildlife species of interest* – all wildlife species hunted, trapped or fished for traditional, recreational and subsistence purposes by the Cree Nation of Nemaska.

## Conditions

These conditions are established for the sole purpose of the Decision Statement that may be 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 by the federal, provincial or local governments. Nothing in this document should be construed as reducing, increasing, or otherwise affecting what may be required to comply with all applicable legislative or other legal requirements.

## 2 General Conditions

- 2.1 The Proponent shall, throughout all phases of the Designated Project, ensure that its actions in meeting the conditions set out in this document are informed by the best available information and knowledge, are based on validated methods and models, are undertaken by qualified individuals and have applied the best available economically and technologically feasible mitigation strategies.
- 2.2 The Proponent shall, where consultation with the Cree Nation of Nemaska is a requirement of the conditions set out in this document, first consult the Nation on the most appropriate manner in which to engage in such a consultation. In addition, the Proponent shall:
  - 2.2.1 invite the Cree Nation of Nemaska, in writing, to provide its views on the subject of consultation;
  - 2.2.2 provide sufficient information and allow a reasonable period of time for the Cree Nation of Nemaska to prepare its views; and
  - 2.2.3 give full and fair consideration of any views presented.
- 2.3 The Proponent shall, from the start of construction, submit to the Agency an annual report, including an executive summary of the annual report in both official languages. The annual report is submitted no later than September 30. The Proponent shall document in the report:
  - 2.3.1 implementation activities undertaken in the preceding reporting year (defined as from July 1 to June 30) for each of the conditions;
  - 2.3.2 how it met condition 2.1 in the implementation of the conditions set out in this document;
  - 2.3.3 for conditions set out in this document for which consultation with the Cree Nation of Nemaska is a requirement, how it has considered any views and information received;
  - 2.3.4 the results of the follow-up program requirements identified in conditions 3.5, 4.2, 5.1, 6.2 and 7.4; and
  - 2.3.5 any corrective actions taken by the Proponent, or proposed to be taken, should the predictions of environmental effects prove to be inaccurate or the mitigation measures prove not to be effective.
- 2.4 The Proponent shall make the annual report and the executive summary referred to in conditions 2.3, as well as the implementation schedule referred to in condition 9, available on its website upon submission to the Agency. The Proponent shall keep these documents available on its

website for twenty-five years following the end of operations or until the end of decommissioning of the Designated Project, whichever comes first.

- 2.5 The Proponent shall notify in writing the Agency as soon as possible if the Designated Project is expected to be undertaken by another party due to a sale, a transfer or other circumstances that arise and would result in a new proponent taking over the Designated Project in whole or in part.

### **3 Fish and fish habitat**

- 3.1 The Proponent shall implement a program to manage contact waters by ensuring that they are collected and treated before being discharged into the environment.
- 3.2 The Proponent shall treat the effluent at the final discharge point in compliance with the *Metal Mining Effluent Regulations*, the *Fisheries Act* and the Quebec government's requirements concerning the mining industry and shall install a wastewater treatment unit at the mine water pond discharge point to ensure compliance with those standards and requirements.
- 3.3 The Proponent shall develop and implement a fish habitat offsetting plan, in consultation with Fisheries and Oceans Canada, to offset any serious harm to fish that may be caused by activities authorized under paragraph 35(2)(b) of the *Fisheries Act*.
- 3.4 For the purpose of implementing the compensation plan identified in condition 3.3, the Proponent shall, in collaboration with the Cree Nation of Nemaska, adopt measures to prevent or reduce negative effects on:
  - 3.4.1 migratory birds and their habitat;
  - 3.4.2 species at risk and their habitat;
  - 3.4.3 current use of lands and resources for traditional purposes by the Cree Nation of Nemaska; and
  - 3.4.4 sites of cultural importance to the Cree Nation of Nemaska.
- 3.5 In order to determine the effectiveness of the mitigation measures for fish and fish habitat, the Proponent shall perform the following monitoring:
  - 3.5.1 monitor the progress toward achieving the objectives of the offsetting plan for serious harm to fish, as per the requirements set out in paragraph 35(2)(b) of the *Fisheries Act*. Details of the monitoring programs shall be determined as part of the regulatory compliance phase with respect to *Fisheries Act* requirements;
  - 3.5.2 monitor effluent quality in accordance with the requirements set out in the *Metal Mining Effluent Regulations*, including lithium and beryllium levels in the effluent at the final discharge point before its discharge into the environment, in accordance with the same requirements as for the other parameters specified in Schedule 5 of the *Metal Mining Effluent Regulations*;
  - 3.5.3 monitor the environmental effects under the *Metal Mining Effluent Regulations* (Section 7 and Schedule 5) to verify the effects of the discharge of mine effluent on the receiving environment, including benthic organisms and fish in lac des Montagnes;

- 3.5.4 monitor surface water quality annually in Lac du Spodumène and lakes 2, 18 and 28, and implement corrective measures in the event that the applicable criteria and guidelines are exceeded. Monitoring shall begin with construction and end five years after decommissioning. The monitoring shall include the following elements:
  - 3.5.4.1 the concentrations measured for the parameters indicated in the *Metal Mining Effluent Regulations*, Schedule 5, s. 7, taking into consideration the recommendations in the Environment Canada's *Metal Mining Guidance Document for Aquatic Environmental Effects Monitoring*; and
  - 3.5.4.2 comparison of the concentrations measured for the chronic aquatic life criteria (CALC), as defined in Quebec's *Critères de qualité de l'eau de surface* and the Canadian Council of Ministers of the Environment's *Canadian Water Quality Guidelines for the Protection of Aquatic Life*, with the concentrations found in the previous annual samples and with the concentrations established during characterization of the water bodies before implementation of the Designated Project;
- 3.5.5 monitor water flows and levels and the functions of the brook trout spawning sites in Stream D, in the downstream section of Stream C and in a control watercourse not affected by pumping of the pit, and monitor water levels in Lac du Spodumène and accessibility to the potential brook trout spawning site in Stream G. Details of the monitoring to be conducted will be determined in collaboration with Fisheries and Oceans Canada as part of the regulatory compliance phase with respect to *Fisheries Act* requirements;
- 3.6 The Proponent shall, before construction begins, submit to the Agency the results of the analyses conducted to confirm that the metals and metalloids contained in the waste rock, the tailings and the ore from the Designated Project are not leachable over the long term. If necessary, the Proponent shall add any new leachable substance to the follow-up program for the quality of effluent and its receiving environment and implement mitigation measures to protect groundwater.

#### **4 Migratory birds**

- 4.1 The Proponent shall carry out all phases of the Designated Project in a manner that protects and avoids harming, killing or disturbing migratory birds or destroying or taking their nests or eggs. In this regard, the Proponent shall take into account the Avoidance Guidelines, the edition modified in 2014 by Environment Canada. The Proponent's actions in applying the Avoidance Guidelines shall be in compliance with the *Migratory Birds Convention Act, 1994* and with the *Species at Risk Act*.
- 4.2 The Proponent shall put in place a program to monitor the impact of the Designated Project on migratory birds to assess the effectiveness of the mitigation measures used to avoid harm to migratory birds, their eggs and nests. The Proponent shall conduct this monitoring from the start of the operations until the end of the decommissioning phase. Documentation shall be provided to the Agency indicating the results of any monitoring under condition 4.1. The documentation shall demonstrate whether the mitigation measures have proven effective and if additional measures were required to comply with condition 4.1.

## **5 Current use of land and resources for traditional purposes by Aboriginal persons**

- 5.1 The Proponent shall implement a follow-up program for the presence of wildlife species of interest in the Project Area and shall consult with the Cree Nation of Nemaska on development and implementation of the program and on any corrective measures to be taken. The follow-up shall begin at the same time as the construction phase and end following the decommissioning phase of the Designated Project.
- 5.2 The Proponent shall establish a communication plan with the Cree Nation of Nemaska in order to keep the Nation informed of the project schedule in condition 9 and of the results of the wildlife and wildlife habitat follow-up programs on wildlife species of interest. Implementation of the communication plan shall begin at the same time as the construction phase and end following the decommissioning phase of the Designated Project.
- 5.3 In consultation with the tallyman of the trapline affected by the Designated Project, the Proponent shall implement a recovery program for natural resources of interest to the Cree Nation of Nemaska (wood, berries, medicinal plants and wildlife species of interest) that might be impacted by the implementation, in whole or in part, of the Designated Project.
- 5.4 The Proponent shall prohibit its employees from hunting, fishing and trapping within the limits of the mining lease and the surface use leases.
- 5.5 The Proponent shall progressively restore the habitats impacted by the Designated Project in such a way as to encourage the return of the natural resources of interest (wood, berries, medicinal plants and wildlife species of interest).

## **6 Health and socioeconomic conditions of Aboriginal persons**

- 6.1 The Proponent shall comply with the Canadian Council of Ministers of the Environment's *Canadian Ambient Air Quality Standards* and the Quebec *Clean Air Regulation* at the 23 sensitive receptor locations (hunting camps and Bible Camp), during all phases of the Designated Project by implementing a dust control program, to include the following mitigation measures:
  - 6.1.1 use of dust control products;
  - 6.1.2 a 30 km/h speed limit for vehicles on the project site during the construction, operation and decommissioning phases; and
  - 6.1.3 progressive restoration of waste rock and tailings.
- 6.2 In order to verify the accuracy of the Proponent's predictions concerning the effects of the Designated Project on health and socio-economic conditions, the Proponent shall conduct the following monitoring:
  - 6.2.1 annual monitoring of heavy metal concentrations in the flesh and livers of fish in Lac des Montagnes and Lac du Spodumène that may be consumed by the Cree of Nemaska (walleye, northern pike and lake whitefish). The monitoring program shall be implemented when construction begins and end five years after the decommissioning phase is completed;

- 6.2.2 monitoring of air quality to verify the effectiveness of the mitigation measures in condition 6.1. The monitoring program shall be implemented when construction begins and ends with the end of decommissioning;
- 6.2.2.1 The Proponent shall alert the Cree Nation of Nemaska in the event that the Canadian Council of Ministers of the Environment's *Canadian Ambient Air Quality Standards* or the Quebec *Clean Air Regulation* are exceeded at the sensitive receptor closest to the Designated Project.
- 6.3 The Proponent shall establish a plan for communicating the results of the monitoring programs specified in condition 6.2 to the Cree Nation of Nemaska before construction begins, and shall consult the Nation concerning the results of the monitoring programs on health and socio-economic conditions, as well as any corrective measures to be taken. This communication plan shall be implemented when construction begins and shall end following the decommissioning of the Designated Project.
- 7 Physical or cultural heritage, and effects on historical, archaeological, paleontological, or architectural sites or structures of importance to Aboriginal peoples**
- 7.1 In the event that archaeological remains are discovered in the Project Area, the Proponent shall comply with the Quebec *Cultural Property Act* and inform the Cree Nation of Nemaska and the tallyman directly affected by the Designated Project.
- 7.2 The Proponent shall implement the following mitigation measures to reduce visual nuisance:
- 7.2.1 burial of the effluent pipe at least 100 metres away from the shoreline and in the littoral zone in accordance with the Fisheries and Oceans Canada requirements, in order to prevent or reduce serious harm to fish;
- 7.2.2 progressive revegetation of the waste rock piles and tailings;
- 7.2.3 restoration of the mine site after the decommissioning activities are completed.
- 7.3 The Proponent shall ensure access at all times to Lac des Montagnes, in the north-east sector, so that the users of the Bible Camp can carry on all their activities on the lake and its shores, such as swimming and canoeing.
- 7.4 The Proponent shall implement a noise-level follow-up program at the Bible Camp during the construction and operation phases to ensure compliance with the noise levels set out in the *Note d'instructions du Québec 98-01 sur le bruit*, in order to verify the mitigation measures and implement any corrective actions.
- 7.5 The Proponent shall develop a plan for communicating the results of the follow-up program in condition 7.4 to the Cree Nation of Nemaska and shall consult the Nation concerning implementation of any corrective measures.

**8 Accidents or malfunctions**

- 8.1 The Proponent shall take all reasonable measures to prevent accidents and malfunctions that could cause adverse environmental effects and shall ensure that the mitigation measures and

contingency measures set out in the emergency response plans for the Designated Project are implemented.

- 8.2 In the event of an accident or malfunction that could cause adverse environmental effects, the Proponent shall:
- 8.2.1 notify the Agency of the occurrence as soon as possible;
  - 8.2.2 implement measures as soon as possible to minimize any adverse environmental effects associated with the occurrence; and
  - 8.2.3 submit a written report to the Agency as soon as possible given the circumstances, but no later than 30 days after the day on which the accident or malfunction took place. The written report must include:
    - 8.2.3.1 a description of the accident or malfunction and its adverse environmental effects;
    - 8.2.3.2 the measures that were taken to mitigate the adverse environmental effects of the occurrence;
    - 8.2.3.3 a description of the residual effects and any corrective measure required to reduce the residual environmental effects;
    - 8.2.3.4 if an emergency response plan was implemented, details concerning its implementation; and
    - 8.2.3.5 changes made to prevent a subsequent occurrence of the accident or malfunction.
- 8.3 The Proponent shall prepare and implement a communication strategy in collaboration with the Cree Nation of Nemaska that shall include:
- 8.3.1 the type of accident or malfunction that require a notification to the Cree Nation of Nemaska;
  - 8.3.2 the manner by which the Cree Nation of Nemaska shall be notified of an accident or malfunction; and
  - 8.3.3 the contact information of the representatives of the Proponent and the Cree Nation of Nemaska to be contacted.

## **9 Project schedule**

- 9.1 The Proponent shall submit an implementation schedule for conditions contained in this document to the Agency, or anyone designated pursuant to s. 89 of the *Canadian Environmental Assessment Act, 2012*, 30 days prior to construction. The implementation schedule shall indicate the commencement and completion dates for each activities relating to conditions set out in this document.
- 9.2 The Proponent shall submit an update to this project schedule in writing to the Agency, or anyone designated pursuant to s. 89 of the *Canadian Environmental Assessment Act, 2012*, every two years on or before September 30, until completion of the activities.



- 9.3 The Proponent shall provide the Agency, or anyone designated pursuant to s. 89 of the *Canadian Environmental Assessment Act, 2012*, with a revised implementation schedule if any change occurs from the initial schedule or any subsequent updates. The Proponent shall provide the revised implementation schedule at least 30 days prior to the implementation of the change.

## **10 Record keeping**

- 10.1 The Proponent shall record, retain and make available to the Agency, or anyone designated pursuant to s. 89 of the *Canadian Environmental Assessment Act, 2012*, upon demand, at a facility close to the Designated Project area (local facility), information related to the implementation of the conditions contained in this document and the results of all monitoring programs and activities, including:
- 10.1.1 the place, date and time of any sampling;
  - 10.1.2 the analyses performed and the dates when they were performed;
  - 10.1.3 the analytical techniques, methods or procedures used in the analyses;
  - 10.1.4 the names of the persons who collected and analyzed each sample and documentation of any professional certifications relevant to the work performed that they might possess;  
and
  - 10.1.5 the results of the analyses.
- 10.2 The Proponent shall retain and make available upon demand to the Agency, or anyone designated pursuant to s. 89 of the *Canadian Environmental Assessment Act, 2012*, the information contained in condition 10.1 for a minimum of 25 years or until decommissioning ends, whichever is longer, unless otherwise specified, at a facility close to the Designated Project area (or at a location within Canada and agreed upon by the Agency, should the local facility no longer be maintained).