

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

to  
Corporation Éléments Critiques  
c/o Jean-Sébastien Lavallée, President and Chief Executive Officer

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for the  
**Rose Lithium – Tantalum Mining Project**

**Description of the Designated Project**

Critical Elements Corporation is proposing the construction, operation and decommissioning of an open pit lithium and tantalum mine located approximately 38 kilometres north of Nemaska, in Quebec. As proposed, the project includes the operation of an open pit, waste and tailings impoundment area, an industrial ore processing facility and the option of transforming concentrate off-site. The mine would produce about 4,500 tonnes of ore per day over a 17-year life span. The project would last 26 years in total with the construction and restoration phases.

**Conduct of the environmental assessment**

The Impact Assessment Agency of Canada (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 October 22, 2012. On June 27, 2019, the Agency delegated to the Joint Assessment Committee, established in accordance with the *Agreement under the Canadian Environmental Assessment Act, 2012 Concerning the Environmental Assessments of the Rose Lithium-Tantalum and James Bay Lithium Mine Projects* and composed of representatives appointed by the Cree Nation Government and the Agency, the necessary activities to complete the environmental assessment process. The Joint Assessment Committee 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 paragraphs 34.4(2)(b) and 35(2)(b) of the *Fisheries Act*;
- the Minister of Natural Resources may issue a licence under subsection 7(1) of the *Explosives Act*; and
- the Minister of Transport may approve an application under subsection 10(1) of the *Canadian Navigable Waters 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 First Nations**

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 processes with First Nations. 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 processes undertaken are consistent with the honour of the Crown and that the concerns and interests of First Nations 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. *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.
- 1.4. *Cree Nation Government* means the “Cree Nation Government” as defined in section 2 of the *Act Respecting the Cree Nation Government*.
- 1.5. *Days* means calendar days.
- 1.6. *Decommissioning* means the phase of the Designated Project during which the Proponent permanently ceases commercial production and commences the removal from service of any components of the Designated Project, and that continues until the Proponent completes the removal from service of all elements of the Designated Project.
- 1.7. *Designated Project* means the Mine Rose Lithium-Tantalum Project as described in section 2 of the Environmental Assessment Report prepared by the Impact Assessment Agency of Canada and the Cree Nation Government (Canadian Impact Assessment Registry, reference number 80005).
- 1.8. *Designated Project area* means the geographic area occupied by the Designated Project infrastructures identified on Figure 5 of the Environmental Assessment Report.
- 1.9. *Effluent* means “effluent” as defined in subsection 1(1) of the *Metal and Diamond Mining Effluent Regulations*.
- 1.10. *Environment and Climate Change Canada* means the Department of the Environment as established under subsection 2(1) of the *Department of the Environment Act*.
- 1.11. *Environmental assessment* means “environmental assessment” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.12. *Environmental Assessment Report* means the report prepared by the Impact Assessment Agency of Canada (Canadian Impact Assessment Registry, reference number 80005) under subsection 25(2) of the *Canadian Environmental Assessment Act, 2012*.
- 1.13. *Environmental effects* means “environmental effects” as described in section 5 of the *Canadian Environmental Assessment Act, 2012*.
- 1.14. *Environmental Impact Statement* means the February 2019 document entitled *Rose Lithium – Tantalum Project – Update of the Environmental Impact Statement* (Canadian Impact Assessment Registry, reference number 80005, document number 18), including supplementary material submitted by the Proponent during the course of the environmental assessment.

- 1.15. *Final effluent treatment plant* means the final effluent treatment plant identified in Figure 6 of the Environmental Assessment Report.
- 1.16. *First Cree Nation of Waswanipi* means the Cree First Nation of Waswanipi.
- 1.17. *First Nations* means the following Indigenous groups: the Cree Nation of Eastmain, the Cree of the First Nation of Waskaganish and the Cree Nation of Nemaska.
- 1.18. *Fish* means “fish” as defined in subsection 2(1) of the *Fisheries Act*.
- 1.19. *Fish habitat* means “fish habitat” as defined in subsection 2(1) of the *Fisheries Act*.
- 1.20. *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*.
- 1.21. *Follow-up program* means “follow-up program” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.22. *Heritage value* means the aesthetic, historic, scientific, cultural, social or spiritual importance or significance for past, present or future generations.
- 1.23. *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*.
- 1.24. *Migratory bird* means “migratory bird” as defined in subsection 2(1) of the *Migratory Birds Convention Act, 1994*.
- 1.25. *Ministère de l’Environnement et de la Lutte contre les changements climatiques* means the Québec’s Ministère du Développement durable, de l’Environnement et des Parcs, as designated in the *Loi sur le ministère du Développement durable, de l’Environnement et des Parcs* and by Order 1280-2018 dated October 18, 2018.
- 1.26. *Ministère de la Culture et des Communications* means the Québec’s Ministère de la Culture et des Communications, as designated in the *Act respecting the Ministère de la Culture et des Communications*.
- 1.27. *Ministère des Forêts, de la Faune et des Parcs* means the Québec’s Ministère de l’Énergie et des Ressources naturelles, as designated in the *Act respecting the Ministère des Ressources naturelles et de la Faune* and by Order 1290-2018 of October 18, 2018.
- 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 this Decision Statement 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*.
- 1.31. *Operation* means the phase of the Designated Project during which the commercial production takes place, including periods during which commercial production may temporarily cease, and which continues until the start of decommissioning.
- 1.32. *Peripheral wells* means the pit peripheral observation wells identified on Map 1 of the Proponent's responses to the Agency's second information request (Canadian Impact Assessment Registry, reference number 80005, document number 30).
- 1.33. *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.
- 1.34. *Proponent* means Critical Elements Lithium Corporation and its successors or assigns.
- 1.35. *Qualified individual* means someone who, through their 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.
- 1.36. *Record* means “record” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.37. *Relevant authorities* means federal and/or provincial and/or regional and/or municipal 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.
- 1.38. *Reporting year* means January 1 of a calendar year through December 31 of the same calendar year.
- 1.39. *Security perimeter* means an area of 1 kilometre around the infrastructures associated with the Designated Project.
- 1.40. *Structure, site or thing of historical, archaeological, 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.
- 1.41. *Water frequented by fish* means “water frequented by fish” as defined in subsection 34(1) of the *Fisheries Act*.
- 1.42. *Wetland* means land that is saturated with water long enough to promote wetland or aquatic processes as indicated by poorly drained soils, hydrophytic vegetation and various kinds of biological activity which are adapted to a wet environment and as further defined in the Canadian Wetland Classification System.

- 1.43. *Wetland functions* means the natural processes and derivation of benefits and values associated with wetland ecosystems, including economic production, fish and wildlife habitat, organic carbon storage, water supply and purification (e.g., groundwater recharge, flood control, maintenance of flow regimes, shoreline erosion buffering), and soil and water conservation, as well as tourism, heritage, recreational, educational, scientific, and aesthetic opportunities.

## **Conditions**

These conditions are 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, when carrying out the Designated Project, shall do so as defined in condition 1.7.
- 2.3. 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***

- 2.4. The Proponent shall, where consultation is a requirement of a condition set out in this Decision Statement:
  - 2.4.1. provide a written notice of the opportunity for the party or parties being consulted to present their views and information on the subject of the consultation;
  - 2.4.2. 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 party or parties being consulted, not to be less than 15 days, to prepare their views and information;
  - 2.4.3. undertake an impartial consideration of all views and information presented by the party or parties being consulted on the subject matter of the consultation; and
  - 2.4.4. advise in a timely manner the party or parties being consulted on how the views and information received have been considered by the Proponent, including a rationale for why the views have, or have not, been integrated.

- 2.5. The Proponent shall, where consultation with First Nations or the First Cree Nation of Waswanipi is a requirement of a condition set out in this Decision Statement, communicate with each Nation or the First Cree Nation of Waswanipi with respect to the manner to satisfy the consultation requirements referred to in condition 2.4, 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 First Nations or the First Cree Nation of Waswanipi of how their views and information were considered by the Proponent.

***Follow-up***

- 2.6. The Proponent shall, where a follow-up program is a requirement of a condition set out in this Decision Statement, consult the representatives of the youth councils of each First Nation on their interest in participating in the development and implementation of the follow-up program, and determine, as part of the development of each follow-up program and in consultation with the party or parties being consulted during the development, the following information:
  - 2.6.1. the methodology, location, frequency, timing and duration of monitoring associated with the follow-up program;
  - 2.6.2. the scope, content and frequency of reporting of the results of the follow-up program;
  - 2.6.3. the frequency at which the follow-up program must be updated, unless the frequency is specified in the condition;
  - 2.6.4. 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; and
  - 2.6.5. 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 2.6.4 have been reached or exceeded.
- 2.7. The Proponent shall update the information determined for each follow-up program pursuant to condition 2.6 during the implementation of each follow-up program, at the minimum frequency determined pursuant to condition 2.6.3 and in consultation with the party or parties being consulted during the development of each follow-up program.
- 2.8. The Proponent shall provide the follow-up programs referred to in 3.19, 3.20, 3.21, 3.22, 3.23, 3.24, 4.8, 5.5, 5.6, 6.6, 7.13, 7.14, 8.11 and 8.12, including the information determined for each follow-up program pursuant to condition 2.6, to the Agency, to the Cree Nation Government and to the party or parties being 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 2.7 to the Agency, to the Cree Nation Government and to the party or parties being consulted during the development of each follow-up program within 30 days of the follow-up program being updated.
- 2.9. The Proponent shall, where a follow-up program is a requirement of a condition set out in this Decision Statement:

- 2.9.1. implement the follow-up program according to the information determined pursuant to condition 2.6;
  - 2.9.2. 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;
  - 2.9.3. determine whether modified or additional mitigation measure(s) are required based on the monitoring and analysis undertaken pursuant to condition 2.9.2; and
  - 2.9.4. if modified or additional mitigation measures are required pursuant to condition 2.9.3, develop and implement these mitigation measures in a timely manner and monitor them pursuant to condition 2.9.2. The Proponent shall notify the Agency and the Cree Nation Government 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 and to the Cree Nation Government pursuant to condition 2.8, the Proponent shall submit a detailed description of the measure(s) to the Agency and to the Cree Nation Government within seven days of their implementation;
  - 2.9.5. report all results of the follow-up program including all data collected, analyses, and monitoring reports to the Agency and to the Cree Nation Government no later than March 31 following any reporting year during which the follow-up program is implemented and, subject to information determined pursuant to 2.6.2, to the party or parties being consulted for the development of the follow-up program.
- 2.10. Where consultation with First Nations or the First Cree Nation of Waswanipi is a requirement of a follow-up program, the Proponent shall discuss the follow-up program with each Nation or the First Cree Nation of Waswanipi and shall determine, in consultation with each Nation or the First Cree Nation of Waswanipi, 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 2.9.

***Annual reporting***

- 2.11. The Proponent shall prepare an annual report that sets out, for each reporting year:
- 2.11.1. the activities undertaken by the Proponent to comply with each of the conditions set out in this Decision Statement;
  - 2.11.2. how the Proponent complied with condition 2.1;
  - 2.11.3. 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;
  - 2.11.4. for conditions set out in this Decision Statement for which consultation with First Nations or the First Cree Nation of Waswanipi is a requirement, the list of people consulted, the dates, locations, topics and objectives of consultation activities and the communication methods;
  - 2.11.5. the information referred to in conditions 2.6 and 2.7 for each follow-up program;



- 2.11.6. the results of the follow-up program requirements identified in conditions 3.19, 3.20, 3.21, 3.22, 3.23, 3.24, 4.8, 5.5, 5.6, 6.6, 7.13, 7.14, 8.11 and 8.12;
  - 2.11.7. for any plan that is a requirement of a condition set out in this Decision Statement, any updates to the plan made;
  - 2.11.8. any modified or additional mitigation measure implemented or proposed to be implemented by the Proponent, as determined pursuant to condition 2.9; and
  - 2.11.9. any change to the Designated Project for which the Proponent determined that condition 2.17 did not apply, including a justification for that determination.
- 2.12. The Proponent shall submit to the Agency and to the Cree Nation Government the annual report referred to in condition 2.11, 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.
- 2.13. The first reporting year the Proponent prepares an annual report pursuant to condition 2.11 starts the day the Minister of Environment issues the Decision Statement to the Proponent under paragraph 54(1) of the *Canadian Environmental Assessment Act, 2012*.

#### ***Information sharing***

- 2.14. The Proponent shall publish on the Internet the annual reports and the executive summaries referred to in conditions 2.11 and 2.12, the action plan referred to in condition 5.1, the communication plan referred to in condition 8.10, the accident and malfunction response plan referred to in condition 11.3, the accident and malfunction reports referred to in conditions 11.5.3 and 11.5.4, the schedules referred to in conditions 12.1 and 12.2, 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 15 years following their publication. The Proponent shall notify the Agency, the Cree Nation Government, First Nations and the First Cree Nation of Waswanipi of the availability of these documents within 48 hours of their publication.
- 2.15. When the development of any plan is a requirement of a condition set out in this Decision Statement, the Proponent shall submit the plan to the Agency and to the Cree Nation Government prior to construction, unless otherwise required through the condition.

#### ***Change of Proponent***

- 2.16. The Proponent shall notify the Agency, the Cree Nation Government, First Nations and the First Cree Nation of Waswanipi 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***

- 2.17. If the Proponent is proposing to carry out the Designated Project in a manner other than described in condition 1.7, the Proponent shall notify the Agency and the Cree Nation Government in writing in advance. As part of the notification, the Proponent shall provide:
- 2.17.1. a description of the proposed change(s) to the Designated Project and the environmental effects that may result from the change(s);

- 2.17.2. 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;
  - 2.17.3. an explanation of how, taking into account any modified or additional mitigation measure referred to condition 2.17.2, 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.
- 2.18. The Proponent shall submit to the Agency and to the Cree Nation Government any additional information required by the Agency about the proposed change(s) referred to in condition 2.17, which may include the results of consultation with First Nations, the First Cree Nation of Waswanipi and relevant authorities on the proposed change(s) and environmental effects referred to in condition 2.17.1 and the modified or additional mitigation measures and follow-up requirements referred to in condition 2.17.2.

### **3. Fish and Fish Habitat**

- 3.1. The Proponent shall implement, during all phases of the Designated Project, control measures for erosion and sedimentation in the Designated Project area in order to prevent effects on the quality of water frequented by fish, in accordance with the requirements of the *Fisheries Act*. The Proponent shall maintain the measures during all phases of the Designated Project. The Proponent shall take into account periods of flooding, heavy rainfall and frost when designing and implementing the measures, shall maintain these measures regularly and shall repair any damaged measure as soon as technically feasible. As part of these measures, the Proponent shall:
- 3.1.1. discharge water from the dewatering activities of Lakes 1 and 2 downstream of the lakes and does not exceed the two-year flood flows estimated in the hydrological study presented in Volume 2 of Sectoral Report 1 of the Impact Statement in the receiving environment when discharging the water;
  - 3.1.2. stabilize the shore with a stone bed at the outlets of the effluent pipes in Lakes 3, 4 and 6; and
  - 3.1.3. stabilize the stockpiles' cut slopes as soon as they start to pile up.
- 3.2. The Proponent shall comply with the *Metal and Diamond Mining Effluent Regulations*, with the pollution prevention provisions of the *Fisheries Act* and with the Government of Quebec's requirements for the management of mine effluents.
- 3.3. The Proponent shall manage the mine effluents before their discharge into the receiving environment. For this purpose, the Proponent shall:
- 3.3.1. install temporary and permanent sedimentation ponds to minimize the discharge of suspended solids;
  - 3.3.2. install the final effluent treatment plant at the start of construction and ensure that it is operational as soon as it is installed;
  - 3.3.3. collect the contact water, including water from road ditches on the mine site, pit water and runoff from the waste rock and dry tailings piles, the overburden pile, the ore pile and any other mining infrastructure, including the ore mill, into a sedimentation pond and treat it before its discharge into the environment; and

- 3.3.4. collect groundwater pumped from peripheral wells into a sedimentation pond and treat it, if necessary to meet applicable water quality standards or criteria, before discharging it into the environment.
- 3.4. For any secondary water treatment plant installed in addition to the final effluent treatment plant, the Proponent shall update, prior to the construction of any secondary water treatment plant, the water balance completed during the environmental assessment and submitted in Appendix CEAA-18 of the *Response to Information Request on the Environmental Impact Assessment* (Canadian Impact Assessment Registry, reference number 80005, document number 22). When updating the water balance, the Proponent shall include the scenario where water pumped from the peripheral wells must be redirected to the accumulation pond and the final effluent treatment plant for a period of at least six months due to exceedances of quality standards or criteria during the installation of the secondary water treatment plant. The Proponent shall determine, in consultation with Fisheries and Oceans Canada and Environment and Climate Change Canada, whether modified or additional mitigation measures are required in the context of this scenario and shall submit the results of the updated water balance that includes this scenario to the Agency, to the Cree Nation Government and to the relevant authorities prior to the construction of any secondary water treatment plant.
- 3.5. The Proponent shall maintain monthly average suspended solids concentrations below 10 milligrams per litre at all effluent discharge points.
- 3.6. The Proponent shall measure, prior to construction, concentrations of tantalum in Watercourse A, groundwater, surface water and sediment, and shall develop and implement, in consultation with Environment and Climate Change Canada and other relevant authorities, measures to maintain concentrations of dissolved tantalum below 0.1 micrograms per litre at the final effluent treatment plant discharge point and any other effluent discharge point identified in Figure 6 of the Environmental Assessment Report.
- 3.7. The Proponent shall manage sulphide minerals in the mine to avoid acid mine drainage. To this end, the Proponent shall:
  - 3.7.1. not use any waste rock containing sulphide minerals for the construction of the Designated Project; and
  - 3.7.2. place waste rock containing sulphide minerals in the waste rock pile so that it is not exposed to the open air.
- 3.8. The Proponent shall characterize the acid mine drainage potential of the overburden, including through the use of the TDPAS [test de détermination du potentiel acidogène des sols] test, and shall use only overburden considered to be low risk according to Appendix II of *Directive 019 on the mining industry* of the Ministère de l'Environnement et de la Lutte contre les changements climatiques for the construction of the Designated Project.
- 3.9. The Proponent shall develop, prior to construction, and implement measures to mitigate the effects of the Designated Project on water levels. In doing so, the Proponent shall maintain the water discharge rates into Watercourse A and Lakes 3, 4 and 6 during all phases of the Designated Project at plus or minus 10% of the mean flows estimated by the Proponent in Table 26-3 presented in response to question CCE-26B in the *Answers to the Non-Compliance of the Second*

*Information Request and to Requests for Clarification from the IAAC* (Canadian Impact Assessment Registry, reference number 80005, document number 33).

- 3.10. The Proponent shall develop, to the satisfaction of Fisheries and Oceans Canada and in consultation with First Nations, any offsetting plan related to the alteration, destruction or disturbance of fish habitat, and the death of fish associated with the carrying out of the Designated Project. The Proponent shall implement the offsetting plan and submit any final offsetting plan to the Agency and to the Cree Nation Government before implementing it.
- 3.11. For any fish habitat offsetting measure proposed in any offsetting plan referred to in condition 3.10 that could result in adverse environmental effects that were not taken into account in the environmental assessment, the Proponent shall develop and implement, after consulting First Nations and the relevant authorities, measures to mitigate these effects. The Proponent shall present these measures to the Agency and to the Cree Nation Government before implementing them.
- 3.12. The Proponent shall develop, prior to construction and in consultation with First Nations and Fisheries and Oceans Canada, measures to protect fish and fish habitat when undertaking in- or near-water activities, taking into account Fisheries and Oceans Canada's *Measures to Protect Fish and Fish Habitat*. In doing so, the Proponent shall:
  - 3.12.1. not carry out any in-water construction activity outside of the low-risk timing windows for carrying out work in fish habitat defined for the region of the Designated Project in Fisheries and Oceans Canada's *Timing Windows for Carrying Out Work in Fish Habitat According to Quebec Administrative Regions*, unless otherwise authorized by Fisheries and Oceans Canada;
  - 3.12.2. maintain fish passage in Watercourse E, between Lake 3 and the Eastmain 1 reservoir, and at the culvert under the Nemiscau-Eastmain-1 Road during all phases of the Designated Project; and
  - 3.12.3. ensure that the temporary works required for the Designated Project do not encroach on more than one third of the width of any watercourse at the location where the works are installed, as measured from the high water mark applicable at the time the temporary works are installed.
- 3.13. When carrying out construction work in fish habitat pursuant to condition 3.12.1, the Proponent shall isolate the work area in order to limit the input of sediments into the aquatic environment.
- 3.14. The Proponent shall develop, prior to construction, and implement measures to stabilize disturbed soils that present a risk of erosion and sediment transport to the aquatic environment during any planned temporary cessation of construction. In doing so, the Proponent shall:
  - 3.14.1. take into account the conditions of the Designated Project area, the potential duration of such cessation and the periods of the year during which such cessation may occur when developing the stabilization measures;
  - 3.14.2. submit the stabilization measures to the Agency and to the Cree Nation Government prior to construction and indicate how the criteria referred to in condition 3.14.1 were taken into account in developing those measures; and

- 3.14.3. implement the stabilization measures immediately upon cessation of construction and ensure their operation and effectiveness throughout the period of cessation.
- 3.15. 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, except for disturbed zones required for the construction of Designated Project components.
- 3.16. The Proponent shall design, install and operate the water intake structures in the watercourses where fish live in a manner to mitigate accidental catches of fish by entrainment and impingement, and shall employ, for this purpose, a fish screen of appropriate size, which accounts for Fisheries and Oceans Canada's *Interim code of practice: End-of-pipe fish protection screens for small water intakes in freshwater* and complies with the *Fisheries Act* and its regulations.
- 3.17. The Proponent shall use confined explosives and shall carry out blasting activities taking into account Fisheries and Oceans Canada's *Guidelines for the use of explosives in or near Canadian fisheries waters*.
- 3.18. The Proponent shall not deposit any debris that may cause adverse environmental effects on fish or fish habitat into watercourses during any phase of the Designated Project, and shall immediately remove any debris deposited accidentally into a watercourse.
- 3.19. The Proponent shall develop, prior to construction and in consultation with First Nations and relevant authorities, a follow-up program to verify the accuracy of the environmental assessment as it pertains to acid mine drainage into the aquatic environment. As part of the development of the follow-up program, the Proponent shall determine the frequency and duration of the follow-up. As part of the implementation of the monitoring program, the Proponent shall:
- 3.19.1. conduct geochemical characterization of waste rock, tailings and ore during operation and decommissioning; and
- 3.19.2. compare the results of the characterization conducted pursuant to condition 3.19.1 to the initial geochemical characterization conducted by the Proponent as part of the environmental assessment and provided in Appendix G of the Environmental Impact Statement and shall determine, in consultation with the relevant authorities and taking into account the results of the water quality monitoring conducted pursuant to conditions 3.22 and 3.23, if modified or additional mitigation measures are required. If so, the Proponent shall update the decommissioning plan referred to in condition 8.9. The Proponent shall submit the follow-up results to Health Canada and the Cree Board of Health and Social Services of James Bay.
- 3.20. The Proponent shall develop, prior to construction and in consultation with First Nations, the Cree Nation Government, 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 it pertains to the adverse environmental effects on fish of changes to surface water quality caused by the Designated Project. 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:

- 3.20.1. update, prior to construction, the dissolved oxygen and temperature profiles for Lakes 3, 4, 6, 18 and 19 by measuring over the entire water column and at a frequency reflecting seasonal variability;
  - 3.20.2. monitor, from the start of construction and during all phases of the Designated Project, water quality in Watercourse A and Lakes 3, 4, 6, 18 and 19, including dissolved oxygen and temperature profiles and concentrations of lithium, tantalum, fluoride, silver, arsenic, cadmium, chromium, lead, nickel, iron, zinc and copper. The Proponent shall compare the monitoring results with the dissolved oxygen and temperature profiles updated by the Proponent pursuant to condition 3.20.1, and shall determine, in consultation with the relevant authorities, whether modified or additional mitigation measures are required;
  - 3.20.3. monitor continuously during operation the stability of the littoral zone of Watercourse A and Lakes 3, 4 and 6;
  - 3.20.4. monitor, from the start of operations, suspended solids, hydrogen potential, concentrations of lithium, tantalum, fluoride, silver, arsenic, cadmium, chromium, lead, nickel, iron, zinc and copper, and acute water toxicity in sedimentation ponds receiving water pumped from perimeter wells prior to the discharge of water to Lakes 3, 4 and 6. The Proponent shall conduct monitoring at the following frequencies:
    - 3.20.4.1. once a week for lithium, tantalum, fluoride, silver, arsenic, cadmium, chromium, lead, nickel, iron, zinc and copper;
    - 3.20.4.2. three times a week for suspended solids and hydrogen potential; and
    - 3.20.4.3. once a month for acute water toxicity of sedimentation pond water on rainbow trout;
  - 3.20.5. monitor total and dissolved tantalum concentrations in the sediments of Watercourse A and in the water at the final effluent treatment plant effluent discharge point identified in Figure 6 of the Environmental Assessment Report from the start of construction and during all phases of the Designated Project; and
  - 3.20.6. if the tantalum concentrations in the water measured pursuant to condition 3.20.4 demonstrate concentrations greater than 0.1 microgram per litre for dissolved tantalum or 1.6 microgram per litre for total tantalum, determine, in consultation with the parties involved in the development of the follow-up program, whether the source of the tantalum increase is attributable to the Designated Project and develop and implement modified or additional mitigation measures for any exceedance attributable to the Designated Project.
- 3.21. The Proponent shall develop, in consultation with First Nations, the Cree Nation Government and the relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and to judge the effectiveness of the mitigation measures as it pertains to the adverse environmental effects of the modifications to groundwater quality on fish caused by the Designated Project. 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:
    - 3.21.1. monitor, from the start of construction and during all phases of the Designated Project, the concentrations of total and dissolved tantalum and of substances measured by the Proponent to complete the baseline groundwater quality during the environmental

assessment and presented in Sectoral Report 3 R5-3 of the Environmental Impact Statement at the observation wells for groundwater located upstream and downstream hydraulically from the mining infrastructures and identified in Map 1 of Appendix CCE-21 of the *Answers to the Non-Compliance of the Second Information Request and to Requests for Clarification from the IAAC* (Canadian Impact Assessment Registry, reference number 80005, document number 33); and

- 3.21.2. develop and implement modified or additional mitigation measures if the concentrations measured pursuant to condition 3.21.1 show levels higher than those measured by the Proponent to complete the baseline groundwater quality.
- 3.22. The Proponent shall develop, prior to operation and in consultation with First Nations and relevant authorities, a follow-up program to verify the accuracy of the environmental assessment as it pertains to the physiochemical characterization of the mining materials and the adverse environmental effects associated with the management of the mining materials on surface and groundwater quality. The Proponent shall implement the follow-up program throughout operation and decommissioning. As part of the follow-up program, the Proponent shall:
- 3.22.1. monitor tantalum concentrations in soils during operation and decommissioning;
  - 3.22.2. monitor, during operation and decommissioning, the physicochemical quality of the sediments of Watercourse A upstream and downstream from the effluent release point;
  - 3.22.3. characterize the ore extracted during operation and the waste rock and tailings during operation and decommissioning; and
  - 3.22.4. if the results of the monitoring carried out pursuant to condition 3.22.1 differ from the characterization completed pursuant to condition 8.6.2, or the results of the characterization carried out pursuant to condition 3.22.3 differ from the results of the initial characterization performed by the Proponent as part of the environmental assessment and indicated in Appendix G of the Environmental Impact Statement, determine, in consultation with relevant authorities, if modified or additional mitigation measures are necessary and update the decommissioning plan referred to in condition 8.9. The Proponent shall take into account the results of the monitoring carried out pursuant to conditions 3.20 and 3.21 when determining whether modified or additional mitigation measures are required.
- 3.23. The Proponent shall develop, prior to construction and in consultation with First Nations, Fisheries and Oceans Canada and other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and to determine the effectiveness of the mitigation measures as it pertains to the adverse environmental effects, including the effects of dust and sediment inputs, on fish and fish habitat caused by the Designated Project. 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:
- 3.23.1. update, prior to construction, the 2011 and 2016 baseline conditions for fish and fish habitat completed by the Proponent and presented in Sectoral Report 8 of the Environmental Impact Statement. The Proponent shall submit the updated baseline conditions to the Agency and to the Cree Nation Government prior to construction;

- 3.23.2. determine the fish species to be monitored in Lake 3, in addition to lake whitefish (*Coregonus clupeaformis*), and the sampling frequency and method for each fish species monitored, and conduct the monitoring; and
  - 3.23.3. compare the results of the monitoring carried out pursuant to condition 3.23.2 with the baseline conditions completed pursuant to condition 3.23.1 and determine, in consultation with the relevant authorities and taking into account the results of the monitoring carried out pursuant to condition 3.23.2, whether modified or additional mitigation measures are required. The Proponent shall implement any necessary modified or additional mitigation measure.
- 3.24. The Proponent shall develop, prior to construction and in consultation with First Nations and relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to the adverse environmental effects on fish from changes to water levels and water flows caused by the Designated Project. The Proponent shall implement the follow-up program during all phases of the Designated Project and for at least two years after the pit is flooded. As part of the follow-up program, the Proponent shall:
- 3.24.1. monitor flows, including low flows, and water levels in Watercourses A, C, N, M, F and E at least once in the spring, summer and fall during construction and for each year during operation at locations identified in consultation with First Nations. The Proponent shall identify the locations where it conducts monitoring on a map;
  - 3.24.2. monitor the discharged water flows continuously in Watercourse A and Lakes 3, 4 and 6 during construction and operation;
  - 3.24.3. monitor the water levels in the pit and in the observation wells drilled by the Proponent as part of the environmental assessment and identified on Map 1 of Appendix CCE-21 of the *Answers to the non-compliance of the Second Information Request and to requests for clarification from the IAAC* (Canadian Impact Assessment Registry, reference number 80005, document number 33);
  - 3.24.4. monitor the water flows pumped daily at pumps PP1 to PP9 identified on Map 03-03 of Appendix CCE-30 of the *Answers to the non-compliance of the Second Information Request and to requests for clarification from the IAAC* (Canadian Impact Assessment Registry, reference number 80005, document number 33);
  - 3.24.5. monitor the flow and the direction of flow of water at the mining site during decommissioning;
  - 3.24.6. update the flow modelling and water levels for Watercourses A, C, N, M, F and E based on the results of the monitoring carried out during construction pursuant to condition 3.24.1; and
  - 3.24.7. develop and implement modified or additional mitigation measures if the results of the monitoring referred to in conditions 3.24.1 to 3.24.5 demonstrate that modified or additional mitigation measures are necessary to mitigate environmental effects of water flow modifications on fish caused by the Designated Project, including if the Proponent determines that the water levels referred to in condition 3.24.3 are influenced by the quantities of water pumped daily at pumps PP1 to PP9 referred to in condition 3.24.4.



#### **4. Birds (Including Migratory Birds)**

- 4.1. The Proponent shall carry out the Designated Project in a manner that protects migratory birds and avoids harming, killing or disturbing them or destroying, removing or disturbing their nests or eggs. For this purpose, the Proponent shall meet Environment and Climate Change Canada's *Guidelines to reduce risk to migratory birds* in order to reduce the risk to migratory birds. The Proponent's actions when carrying out the Designated Project shall comply with the *Migratory Birds Convention Act, 1994*, the *Migratory Birds Regulations* and the *Species at Risk Act*.
- 4.2. The Proponent shall not undertake any activity associated with the Designated Project that could hinder nesting of migratory birds and birds that are listed species at risk, including vegetation clearing activities, in order to not cause the destruction of nests, eggs and chicks. In doing so, the Proponent shall:
  - 4.2.1. provide regular awareness training on the presence of migratory bird nests and the measures to be taken in the event of their discovery to all employees and contractors associated with the Designated Project who may encounter nests;
  - 4.2.2. determine the dates of the nesting period for any year during which activities associated with the Designated Project that may adversely affect bird nesting are carried out and submit those dates, including a justification for those dates, to the Agency and to the Cree Nation Government prior to carrying out any activity. The justification shall include the determination of activities according to the nesting periods determined for all species of migratory birds and birds that are listed as species at risk; and
  - 4.2.3. if it is not technically feasible to carry out any activity that could adversely affect the nesting of migratory birds and birds that are listed species at risk outside the nesting period determined pursuant to condition 4.2.2 in a given year, submit a justification to the Agency and to the Cree Nation Government and develop and implement additional mitigation measures, including the use of non-intrusive monitoring methods, to avoid adverse effects on migratory birds during nesting, including nests, eggs and chicks. The Proponent shall submit these measures to the Agency and to the Cree Nation Government prior to their implementation.
- 4.3. The Proponent shall limit vegetation clearing to the Designated Project area.
- 4.4. If active migratory bird nests are identified during construction, the Proponent shall establish and implement, in consultation with relevant authorities, mitigation measures to avoid the destruction, disturbance or removal of nests, including by the deployment of protection areas. The Proponent shall establish any protection area taking into account the intensity, duration, frequency and proximity of the activity associated with the Designated Project that may adversely affect bird nesting.
- 4.5. The Proponent shall develop and implement, in consultation with relevant authorities and taking into account Environment and Climate Change Canada's *Beneficial Management Practices*, measures to prevent migratory birds from using the accumulation ponds during operation. The Proponent shall submit these measures to the Agency and to the Cree Nation Government prior to their implementation.

- 4.6. The Proponent shall control the lighting necessary for the Designated Project's activities during all phases of the Designated Project, including its orientation, duration of use and intensity, to mitigate the adverse effects of the Designated Project on migratory birds caused by light-induced sensory disturbances, while complying with the operational health and safety requirements.
- 4.7. The Proponent shall develop, prior to construction, and implement, during all phases of the Designated Project, a policy prohibiting the operation of engine brakes for all vehicles in the Designated Project area. The Proponent shall require and ensure that everyone complies with this policy, unless there are technical constraints or constraints related to health or safety.
- 4.8. The Proponent shall develop, prior to construction and in consultation with Environment and Climate Change Canada, the Ministère des Forêts, de la Faune et des Parcs, the Cree Nation Government and First Nations, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment and judge the effectiveness of the mitigation measures implemented by the Proponent to avoid causing adverse environmental effects on migratory birds and birds that are listed species at risk, their eggs, nests and chicks. The follow-up program includes the mitigation measures implemented to satisfy conditions 4.1 to 4.7. As part of the follow-up program, the Proponent shall:
  - 4.8.1. carry out, prior to construction, an update of the avian fauna inventories completed by the Proponent and presented in the Sectorial Report 108 of the Environmental Impact Statement. The Proponent shall submit the inventories to the Agency and to the Cree Nation Government prior to construction; and
  - 4.8.2. have a qualified individual conduct surveys, every five years from the beginning of construction, to confirm the presence of migratory birds and birds that are listed species at risk, including the Canada warbler (*Cardellina canadensis*), the olive-sided flycatcher (*Contopus cooperi*), the rusty blackbird (*Euphagus carolinus*), the common nighthawk (*Chordeiles minor*) and the short-eared owl (*Asio flammeus*). The Proponent shall have the surveys conducted in the Designated Project area and the security perimeter and use the mapping of potential habitats for the species at risk completed by the Proponent as part of the environmental assessment and identified on Map 7-7 of the Environmental Impact Statement to locate the inventory stations. The Proponent shall have diurnal surveys conducted at listening points for the Canada warbler (*Cardellina canadensis*), the olive-sided flycatcher (*Contopus cooperi*) and the rusty blackbird (*Euphagus carolinus*) and nocturnal surveys for the common nighthawk (*Chordeiles minor*) and the short-eared owl (*Asio flammeus*).

## **5. Listed Species at Risk**

- 5.1. The Proponent shall develop, prior to construction and in consultation with the Cree Nation Government, the Ministère des Forêts, de la Faune et des Parcs and the other relevant authorities, and implement, during all phases of the Designated Project, an action plan for caribou. As part of the implementation of the plan, the Proponent shall:
  - 5.1.1. develop mitigation measures to be implemented in case of the presence of caribou in the Designated Project area, on the access roads to the mine site and within a four-kilometre radius of the Designated Project area to mitigate the adverse environmental effects of the Designated Project on caribou caused by sensory disturbances and risks of collisions

with vehicles, particularly by modifying the frequency, schedule and conditions of the mining and ore transportation activities;

- 5.1.2. offer regular awareness training to all employees and contractors associated with the Designated Project who may encounter caribou on the precarious situation of the caribou, on how to detect signs of their presence and on the measures to be implemented in the event of the presence of caribou or signs of their presence;
  - 5.1.3. implement a communication mechanism between the Proponent and the employees and contractors associated with the Designated Project to inform the Proponent of the presence of caribou and to report to employees and contractors associated with the Designated Project, including ore haul truck drivers, any presence of caribou;
  - 5.1.4. notify the employees and the contractors associated with the Designated Project, including the ore transportation truck drivers, of any presence of caribou in the Designated Project area, on the access roads to the mine site and on the Nemiscau-Eastmain-1 Road;
  - 5.1.5. immediately implement the measures developed pursuant to condition 5.1.1 if the Proponent notices or is informed of the presence of caribou in the Designated Project area or on the ore transportation road;
  - 5.1.6. if the Proponent notices or is informed of the presence of caribou within a 500-metre radius of the Designated Project area, cease all blasting activity and not resume these activities before confirmation that no caribou is present within a 500-metre radius of the Designated Project area; and
  - 5.1.7. if the Proponent notices or is informed of the presence of caribou within a four-kilometre radius of the Designated Project area, immediately implement the measures developed pursuant to condition 5.1.1 and determine, in consultation with First Nations and relevant authorities, if modified or additional mitigation measures are necessary, and inform the tallyman of trapline RE01 of the presence of caribou.
- 5.2. The Proponent shall develop and implement measures to prevent bears from accessing the waste containers stored in the Designated Project area. Measures shall include the installation of bear-proof covers on waste containers and fencing around the waste storage site.
- 5.3. The Proponent shall conduct a survey to establish the presence of maternity sites and resting sites within the Designated Project area prior to undertaking any vegetation clearing or building dismantling activity during the breeding period of the little brown myotis (*Myotis lucifugus*) or the Northern myotis (*Myotis septentrionalis*).
- 5.4. If maternity sites for the little brown myotis (*Myotis lucifugus*) or the Northern myotis (*Myotis septentrionalis*) are identified pursuant to condition 5.3, the Proponent shall establish a 100-metre radius protection area around each maternity site and maintain the area for the duration of the breeding period. For any maternity or resting site for the little brown myotis (*Myotis lucifugus*) or Northern myotis (*Myotis septentrionalis*) identified on a building to be dismantled as part of the Designated Project, the Proponent shall dismantle the building outside of the breeding period and install, prior to the dismantling of the building, a shelter to offset the loss of the maternity or resting site. The Proponent shall maintain the shelter during all phases of the Designated Project.

- 5.5. The Proponent shall develop, prior to construction and in consultation with Environment and Climate Change Canada, the Ministère des Forêts, de la Faune et des Parcs, the Cree Nation Government and First Nations, and implement a follow-up program during all phases of the Designated Project to verify the accuracy of the environmental assessment and judge the effectiveness of the mitigation measures to avoid causing adverse environmental effects on caribou. The follow-up program shall include the mitigation measures implemented to satisfy conditions 5.1 and 5.2.
- 5.6. The Proponent shall develop, prior to construction and in consultation with the Cree Nation Government, First Nations and relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures to avoid harmful effects for the little brown myotis (*Myotis lucifugus*) and the Northern myotis (*Myotis septentrionalis*). The Proponent shall implement the follow-up program during construction and operation. As part of the implementation of the follow-up program, the Proponent shall have a qualified individual:
  - 5.6.1. monitor the use of any maternity site and resting site identified pursuant to condition 5.3 during any vegetation clearing or building dismantling activity undertaken during construction;
  - 5.6.2. monitor, annually during construction and operation, the use and integrity of any shelter installed pursuant to condition 5.4;
  - 5.6.3. monitor, twice a month during construction and operation, the ambient noise and nocturnal brightness during the breeding period of the little brown myotis (*Myotis lucifugus*) and the Northern myotis (*Myotis septentrionalis*) at any maternity site and resting site identified pursuant to condition 5.3; and
  - 5.6.4. perform a characterization of the potential habitat of the little brown myotis (*Myotis lucifugus*) and the Northern myotis (*Myotis septentrionalis*) at the sites where monitoring is conducted pursuant to conditions 5.6.1 to 5.6.3.

## 6. Wetlands

- 6.1. The Proponent shall implement the Designated Project in a manner that avoids adverse environmental effects of the Designated Project on wetlands and wetland functions. The Proponent shall favour the maintenance of wetlands and wetland functions over the reduction of adverse effects on wetlands and wetland functions in the avoidance of adverse effects. Where the loss of wetlands and their functions cannot be avoided, the Proponent shall favour the mitigation of adverse effects on wetlands and their functions rather than offsetting the wetlands and their functions that are affected.
- 6.2. The Proponent shall develop, prior to construction and in consultation with First Nations, the Cree Nation Government, Environment and Climate Change Canada and other relevant authorities, and implement a wetlands offsetting plan that takes into account the *Federal policy on wetland conservation* and Environment and Climate Change Canada's *Operational Framework for Use of Conservation Allowances* for adverse environmental effects of the Designated Project on wetlands and their functions that cannot be avoided or mitigated pursuant to condition 6.1. The Proponent shall begin implementation of the wetland offsetting plan before the wetlands have suffered adverse effects. The offsetting plan includes:

- 6.2.1. a description of the functions of the wetlands to be offset and a summary of the loss of wetlands and their functions after offsetting; and
- 6.2.2. a description of the performance indicators used by the Proponent to evaluate the effectiveness of the offsetting.
- 6.3. The Proponent shall mitigate the adverse environmental effects of machinery on wetlands during construction.
- 6.4. The Proponent shall maintain the drainage profiles of any wetland located within 100 metres of the Designated Project area.
- 6.5. The Proponent shall implement measures, during all phases of the Designated Project, to avoid the introduction or propagation of invasive alien plant species in the Designated Project area. In doing this, the Proponent shall:
  - 6.5.1. delineate, before construction, areas containing invasive alien plant species within the Designated Project area;
  - 6.5.2. clean the vehicles and machinery before they enter the Designated Project area; and
  - 6.5.3. clean any vehicle and any machinery that have circulated in any area containing invasive alien plant species delimited pursuant to condition 6.5.1 before exiting this area.
- 6.6. The Proponent shall develop, prior to construction and in consultation with First Nations, the Cree Nation Government, Environment and Climate Change Canada and other relevant authorities, and implement, during all phases of the Designated Project, a follow-up program to verify the accuracy of the environmental assessment for the adverse environmental effects of the Designated Project on the functions of the wetlands, including the adverse environmental effects caused by invasive alien plant species, and the effectiveness of the mitigation measures for wetlands. As part of the implementation of the follow-up program, the Proponent shall:
  - 6.6.1. monitor the presence of invasive alien plant species in the Designated Project area for at least two years after the end of construction;
  - 6.6.2. monitor the integrity of residual wetlands and their functions during all phases of the Designated Project;
  - 6.6.3. monitor the effectiveness of the offsetting plan referred to in condition 6.2, including the establishment and the integrity of any wetland created as part of the offsetting, for at least five years after the end of construction, and determine, in consultation with the parties consulted for the development of the follow-up program, whether additional monitoring is required; and
  - 6.6.4. determine whether modified or additional mitigation measures are required based on the results of monitoring conducted pursuant to conditions 6.6.1, 6.6.2 and 6.6.3.

## **7. Cree Health**

- 7.1. The Proponent shall develop, prior to construction and in consultation with First Nations, a complaint management protocol regarding exposure to noise generated by the Designated Project, the shared use of the land and resources by First Nations and by the employees and

contractors associated with the Designated Project and the quality of resources used for traditional purposes. The Proponent shall respond to any complaint received within 48 hours after receipt of the complaint and implement corrective actions in a timely manner. The Proponent shall develop the corrective actions in consultation with First Nations and the Cree Nation Government and shall implement the protocol during all phases of the Designated Project. The Proponent shall provide to First Nations the results of the implementation of the protocol for noise exposure complaints and the corrective measures implemented in response to these complaints.

- 7.2. The Proponent shall not exceed, during operation, the noise limits set out in *Directive 019 on the mining industry* and *Instruction Note 98-01 on the Processing of Noise Complaints and Requirements for Companies that Generate Noise* of the Ministère de l'Environnement et de la Lutte contre les changements climatiques.
- 7.3. The Proponent shall implement, during construction, the *Guidelines on noise levels from an industrial construction site* of the Ministère de l'Environnement et de la Lutte contre les changements climatiques.
- 7.4. The Proponent shall develop, prior to construction and in consultation with First Nations, the Cree Board of Health and Social Services of James Bay and other relevant authorities, a dust management plan which includes measures to mitigate dust emissions generated by the Designated Project and to prevent exceedance of the ambient air quality criteria for particulate matter set out in the National Ambient Air Quality Objectives, the World Health Organisation guidelines for inhalable particulate matter (PM<sub>10</sub>) and the *Clean Air Regulation* for total particulate matter (TPM). The Proponent shall implement the plan from the start of construction and during all phases of the Designated Project. The Proponent shall take into account common climatic conditions conducive to dust emissions (such as dry or windy conditions) when implementing the measures in the plan. Among these measures, the Proponent shall:
  - 7.4.1. use dust suppressants that comply with standard BNQ 2410-300 of the Bureau de Normalisation du Québec to reduce dust lifting and transport beyond the Designated Project area;
  - 7.4.2. clean or water roads and construction areas to reduce dust lifting and transport beyond the Designated Project area;
  - 7.4.3. limit, during construction, the speed of transport trucks on roads within the property limits of the Designated Project area to a speed determined during the development of the plan that takes into account road conception and potential for dust generation from road traffic, and require any person to respect this limit;
  - 7.4.4. use drilling equipment fitted with dust control devices and keep these devices in good working order;
  - 7.4.5. enclose conveyors located outside the plant in sealed structures; and
  - 7.4.6. cover bulk loads of spodumene concentrate in haulage trucks when transporting ore during operation.
- 7.5. The Proponent shall identify, prior to blasting activities and in consultation with the relevant authorities, the conditions under which detonations are likely to generate elevated emissions of gases, including nitrogen dioxide. The Proponent shall take into account the meteorological

conditions and the characteristics of the explosive used when identifying these conditions and shall implement, in consultation with the relevant authorities, additional mitigation measures when carrying out blasting activities under these conditions. The Proponent shall provide to the Agency and to the Cree Nation Government, prior to the commencement of blasting activities, a description of these conditions and the measures to be implemented if blasting activities are carried out under these conditions.

- 7.6. The Proponent shall use amphibolite or any other non-friable and non-clayey aggregate containing 1% or less of crystalline silica for the construction of the roads associated with the Designated Project.
- 7.7. The Proponent shall use dust extraction systems in the crushing circuit, the drying circuit and the loading silos. The Proponent shall maintain the dust extraction systems in good working order and maintain the emissions of the dust extractors of the crushing circuit below 20 milligrams per cubic metre.
- 7.8. The Proponent shall use electric vehicles for the transport of employees during all phases of the Designated Project and shall prioritize the use of electric equipment during operation, or equipment that meets United States Environmental Protection Agency Tier 4 emission standards if electric equipment is unavailable or its use is not technically or economically feasible. If the Proponent determines that equipment meeting Tier 4 emission standards is unavailable or its use is not technically or economically feasible, the Proponent shall submit a justification to the Agency and to the Cree Nation Government for this determination before using the equipment.
- 7.9. The Proponent shall develop, prior to construction and in consultation with relevant authorities, a policy to reduce the fuel consumption of equipment and vehicles associated with the Designated Project. The Proponent shall apply the policy during all phases of the Designated Project. In doing so, the Proponent shall:
  - 7.9.1. prohibit idling of all equipment and vehicles in the Designated Project area. The Proponent shall require and ensure that any person complies with this policy, unless there are technical constraints related to the operation of the equipment and vehicles or constraints related to health or safety; and
  - 7.9.2. ensure that truck drivers are trained in effective acceleration and deceleration management.
- 7.10. The Proponent shall prohibit blasting, shall not handle any granular material, and shall implement measures to prevent dust from being kicked up at the pits when, during operation, there are high wind conditions directed towards the Cree camp located approximately 4.5 km southeast of the Designated Project area on the Nemiscau Eastmain-1 Road and identified in Figure 3 of the Environmental Assessment Report.
- 7.11. The Proponent shall dispose of wood waste and debris by shredding, unless it is not technically or economically feasible to do so.
- 7.12. The Proponent shall use white noise backup alarms for the vehicles and equipment associated with the Designated Project.

- 7.13. The Proponent shall develop, prior to construction and in consultation with First Nations, the Cree Board of Health and Social Services of James Bay, Health 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 it pertains to adverse environmental effects to human health caused by changes to air quality, water quality and soil quality caused by the Designated Project. As part of the implementation of the follow-up program, the Proponent shall:
- 7.13.1. determine, in consultation with the relevant authorities and taking into account the management mechanism for air zones and the Canadian Ambient Air Quality Standards management levels of the Canadian Council of Ministers of the Environment, the thresholds above which modified or additional mitigation measures are required;
  - 7.13.2. monitor, during construction and operation, total particulate matter (TPM), fine particulate matter (PM<sub>2.5</sub>), inhalable particulate matter (PM<sub>10</sub>) and crystalline silica at no less than one location in the Designated Project area and a location determined in consultation with the parties consulted for the development of the follow-up program;
  - 7.13.3. monitor nitrogen dioxide emissions during blasting activities and when using other sources of nitrogen dioxide where equipment complying with the Group 4 emission standards is not available or its use is not technically or economically feasible, as determined pursuant to condition 7.8; and
  - 7.13.4. develop and implement modified or additional mitigation measures if the results of the monitoring referred to in conditions 7.13.1, 7.13.2 and 7.13.3 demonstrate that modified or additional mitigation measures are required.
- 7.14. The Proponent shall develop, prior to construction and in consultation with First Nations, Health Canada, the Cree Board of Health and Social Services of James Bay and other relevant authorities, a follow-up program to verify the adequacy of the environmental assessment and to determine the effectiveness of mitigation measures with respect to adverse environmental effects on human health caused by the Designated Project. As part of the implementation of the follow-up program, the Proponent shall:
- 7.14.1. update, taking into account the results of monitoring carried out pursuant to conditions 3.19, 3.20 and 3.22, the assessment of the risk of contamination of traditional foods conducted by the Proponent and presented in Appendix CEEA-136 of the *Response to Information Request on the Environmental Impact Assessment* (Canadian Impact Assessment Registry, reference number 80005, document number 22). If the results of the monitoring conducted pursuant to conditions 3.19, 3.20 and 3.22 show concentrations exceeding criterion A of Quebec's *Guide d'intervention – Protection des sols et réhabilitation des terrains contaminés*, or exceeding the concentrations predicted in the assessment of the risk of contamination of traditional food, the Proponent shall:
    - 7.14.1.1. inform First Nations of measured exceedances;
    - 7.14.1.2. determine, in consultation with Health Canada, First Nations and the Cree Board of Health and Social Services of James Bay, whether modified or additional mitigation measures are required; and
    - 7.14.1.3. determine, in consultation with Health Canada, First Nations and the Cree Board of Health and Social Services of James Bay, whether monitoring of contaminants in traditional food is required. If monitoring is required, the Proponent shall have a qualified person, in consultation with First Nations, carry out the



monitoring of contaminant levels in foods taken from the wild. The Proponent shall identify the foods to be monitored, the locations where monitoring is to be carried out, the frequency with which monitoring is to be carried out and the contaminants to be monitored, which shall include, at a minimum, arsenic, cadmium, mercury and lead.

## **8. Current Use of Lands and Resources for Traditional Purposes**

- 8.1. The Proponent shall develop, in consultation with First Nations, Fisheries and Oceans Canada and other relevant authorities, a plan to recover the fish before the dewatering of Lake 1. The Proponent shall discuss, as part of the development of the plan, with First Nations about the opportunities for each First Nation to participate in the recovery of fish, and allow their participation in the recovery. As part of the implementation of the plan, the Proponent shall recover the fish, offer them to First Nations and relocate any fish not used by First Nations. The Proponent shall conserve fish in a manner that allows for their consumption by First Nations or, for any fish not used by First Nations, their relocation.
- 8.2. The Proponent shall develop and implement, in consultation with the tallyman of trapline RE01, a beaver management plan to mitigate the adverse environmental effects of the Designated Project on beaver trapping activities for First Nations. As part of the implementation of the management plan, the Proponent shall allow intensive beaver trapping within the safety perimeter, at least one winter before the beginning of construction, and provide the tallyman with the necessary equipment for these beaver trapping activities.
- 8.3. The Proponent shall replace, in consultation with the tallyman of trapline RE01, the camp identified on Map 3 of the Environmental Impact Statement. The Proponent shall, at the request of the tallyman of trapline RE01, provide access, at the new camp location, to a source of water of equivalent or better quality than that available at the camp identified on Map 3 of the Environmental Impact Statement.
- 8.4. The Proponent shall develop, prior to construction and in consultation with First Nations and the First Cree Nation of Waswanipi, technically and economically feasible transportation scenarios. The Proponent shall select, in consultation with First Nations and the First Cree Nation of Waswanipi, the preferred scenario and develop and implement a management plan for transportation activities associated with the Designated Project during all phases of the Designated Project. The Proponent shall provide the final plan to the Agency, to the Cree Nation Government, to First Nations and to the First Cree Nation of Waswanipi. The Proponent shall update the plan at a frequency determined in consultation with First Nations and the First Cree Nation of Waswanipi and present the updated plan to the Agency, to the Cree Nation Government, to First Nations and to the First Cree Nation of Waswanipi. The plan shall include:
  - 8.4.1. the frequency of heavy trucks and vehicles for the transport of employees at the different days of the week and at different times of the day;
  - 8.4.2. measures to mitigate the adverse environmental effects of road traffic associated with the Designated Project on First Nations traditional activities practised near the Designated Project area, including the presence of Cree camps;

- 8.4.3. the selection, through a tender process, of third-party ore hauling contractors whose trucks meet the criteria identified in consultation with First Nations and the First Cree Nation of Waswanipi, including truck width and model. If third-party ore hauling contractor that meets the criteria is not available or its use is not technically or economically feasible, the Proponent shall provide a rationale for that determination to the Agency, to the Cree Nation Government, to First Nations and to the First Cree Nation of Waswanipi;
  - 8.4.4. a complaint management protocol regarding transportation activities associated with the Designated Project; and
  - 8.4.5. the use by employees and contractors associated with the Designated Project of radio communication systems in the transport trucks associated with the Designated Project.
- 8.5. The Proponent shall develop and implement, in consultation with First Nations, measures to mitigate the effects of the Designated Project on the current use of lands and resources for traditional purposes. In doing so, the Proponent shall:
- 8.5.1. carry out a maximum of one blasting per five days and 100 round-trip transport truck passage per week, distributed so as not to exceed 15 round trip truck passages per day, during goose and moose hunting periods. The Proponent shall confirm the beginning and end of each hunting period in consultation with First Nations and the First Cree Nation of Waswanipi; and
  - 8.5.2. perform blasting activities in the open pit only between 10:00 a.m. and 4:00 p.m. and present the schedule of blasting activities to Hydro-Québec.
- 8.6. The Proponent shall undertake the progressive reclamation of the areas disturbed by the Designated Project, except for the pit. In doing this, the Proponent shall:
- 8.6.1. identify, in consultation with relevant authorities and tallymen of traplines RE01, R16 and R19, the plant species to be used for the revegetation necessary for the progressive reclamation and that support the creation of favourable habitat for migratory birds and listed species at risk, including caribou; and
  - 8.6.2. update, prior to construction, the initial soil characterisation carried out as part of the environmental assessment and presented in Volume 2 of Sectoral Report 3 of the Environmental Impact Statement, for inorganic and organic substances likely to be emitted or released by activities associated with the Designated Project, including tantalum, taking into account the *Guide de caractérisation physico-chimique de l'état initial des sols avant l'implantation d'un projet industriel* (2015) of the Ministère de l'Environnement et de la Lutte contre les changements climatiques.
- 8.7. The Proponent shall prohibit, during all phases of the Designated Project, any person from fishing, hunting, trapping and to be in possession of firearms or hunting, trapping or fishing equipment in the security perimeter for any purpose not associated with the Designated Project or the implementation of conditions set out in this Decision Statement, except where that person is accessing the security perimeter for cultural purposes or to exercise Aboriginal rights, provided that such access and exercise is safe and subject to the procedures developed pursuant to condition 8.8.
- 8.7.1. The Proponent shall locate the visitor parking area within the security perimeter.

- 8.8. The Proponent shall develop, prior to construction and in consultation with First Nations, procedures for accessing the security perimeter pursuant to condition 8.7. The Proponent shall notify First Nations, in a timely manner, if the Proponent must temporarily prohibit access to the security perimeter or any portion thereof for security reasons during any phase of the Designated Project.
- 8.9. The Proponent shall develop, in consultation with the tallyman of trapline RE01, a mine decommissioning plan. The Proponent shall provide the final decommissioning plan approved by the Ministère de l'Énergie et des Ressources naturelles and the expected residual changes to the territory to the Cree Nation of Eastmain and to the tallymen of trapline R10 of the First Nation of Waskaganish and traplines R16 and R19 of the Cree Nation of Nemaska.
- 8.10. The Proponent shall develop, prior to construction, a communication plan to disseminate information regarding the Designated Project to First Nations and the First Cree Nation of Waswanipi. The Proponent shall develop, implement and annually review the communication plan in consultation with First Nations, the Cree users of traplines RE01, R16, R19, R10, the Cree Board of Health and Social Services of James Bay and the Cree Nation Government. As part of the development of the communication plan, the Proponent shall determine the activities, needs and issues requiring a communication to First Nations and the First Cree Nation of Waswanipi, the communications methods used, the schedule of these communications and the responsibilities of each party. As part of the implementation of the communication plan, the Proponent shall communicate the results of the follow-up programs referred to in conditions 3.19, 3.20, 3.21, 3.22, 3.23, 3.24, 4.8, 5.5, 5.6, 6.6, 7.13, 7.14, 8.11 and 8.12 to the Cree users of traplines RE01, R16, R19 and R10, to First Nations and to the First Cree Nation of Waswanipi.
- 8.11. The Proponent shall develop, prior to construction and in consultation with First Nations, a follow-up program to verify the accuracy of the environmental assessment and the effectiveness of the mitigation measures as it pertains to adverse environmental effects of the Designated Project on the current use of lands and resources for traditional purposes, including cumulative effects. As part of the development of the follow-up program, the Proponent shall characterize the state of the valued resources of traplines RE01, R10, R16 and R19. The Proponent shall implement the follow-up program prior to construction, during construction and during at least the first six years of operation and determine, before the end of the sixth year of operation and in consultation with First Nations and the tallymen of trapline RE01 of the Cree Nation of Eastmain, trapline R10 of the First Nation of Waskaganish and traplines R16 and R19 of the Cree Nation of Nemaska, if additional monitoring is required after the sixth year of operation and the frequency at which this monitoring must be performed. As part of the implementation of the follow-up program, the Proponent shall:
- 8.11.1. consult, prior to construction, with users of traplines RE01, R10, R16 and R19 on goose, moose and lake sturgeon harvest rates, harvest quality, quality of use of traplines and access to traplines via the Nemiscau-Eastmain-1 road and the Route du Nord during goose and moose hunting periods;
  - 8.11.2. consult with users of traplines RE01, R10, R16 and R19 on the adverse environmental effects of the Designated Project on traditional trapping and fishing activities, including harvest rates for geese, moose and lake sturgeon, harvest quality and access to camps and traplines via the Nemiscau-Eastmain-1 road and the Route du Nord during goose and moose hunting periods;

- 8.11.3. consult with users of traplines RE01, R10, R16 and R19 on the adverse environmental effects of blasting and haul truck traffic associated with the Designated Project on the quality of use of traplines RE01, R10, R16 and R19, including access to traplines, goose and moose harvest rates and harvest quality;
  - 8.11.4. determine if modified or additional mitigation measures are necessary according to the results of the consultation conducted pursuant to conditions 8.11.2 and 8.11.3; and
  - 8.11.5. provide the results of the follow-up program to First Nations, the Agency and the Cree Nation Government.
- 8.12. The Proponent shall develop, prior to construction and in consultation with First Nations, Environment and Climate Change Canada and other relevant authorities, a follow-up program to determine the effectiveness of the progressive reclamation referred to in condition 8.6. The Proponent shall conduct monitoring for a minimum of five years following the completion of decommissioning. As part of the implementation of the follow-up program, the Proponent shall:
- 8.12.1. monitor soil stability and the growth and diversification of plant species used for revegetation; and
  - 8.12.2. characterize, during decommissioning, soils for all inorganic and organic substances likely to be emitted or released from activities associated with the Designated Project, including tantalum. If the results of the characterization differ from the results of the characterization conducted pursuant to condition 8.6.2, the Proponent shall determine, in consultation with relevant authorities, whether modified or additional mitigation measures are required. The Proponent shall implement any necessary modified or additional mitigation measure.

**9. Physical and Cultural Heritage and Structures, Sites or Things of Historical, Archaeological, Paleontological or Architectural Significance**

- 9.1. The Proponent shall conduct, prior to construction and in consultation with First Nations, an assessment of the adverse environmental effects in the areas presenting archaeological potential identified in Chapter 6.3 of the Environmental Assessment Report before conducting any activity disturbing the soil in these areas. The Proponent shall present the results of the assessment of adverse environmental effects to the Agency and to the Cree Nation Government before the start of construction. The Proponent shall apply the archaeological and cultural resources protection plan referred to in condition 9.2 to the construction, sites or things of historical, archaeological, paleontological or architectural importance or to the physical or cultural heritage resources discovered in the Designated Project area.
- 9.2. The Proponent shall develop, prior to construction and in consultation with First Nations and relevant authorities, an archaeological and cultural resources protection plan for any construction, site or thing of historical, archaeological, paleontological or architectural importance not yet inventoried and discovered in the Designated Project area. The Proponent shall submit the final archaeological and cultural resource protection plan to First Nations prior to the commencement of its implementation. The Proponent shall implement the plan during all phases of the Designated Project. As part of the implementation of the plan, the Proponent shall:

- 9.2.1. inform the employees and contractors associated with the Designated Project about the procedure set out in condition 9.2.2 to be followed in case of accidental discoveries;
- 9.2.2. develop a procedure and apply it in the event that constructions, sites or things of historical, archaeological, paleontological or architectural importance not yet inventoried are discovered by the Proponent or brought to the Proponent's attention by another party during any phase of the Designated Project. In doing so, the Proponent shall:
  - 9.2.2.1. immediately stop the work at the site of the discovery, except for the work necessary for protection of the discovery's integrity;
  - 9.2.2.2. delineate an area of at least 30 metres around the discovery as a no-work zone;
  - 9.2.2.3. inform the Agency, the tallyman of trapline RE01, the Cree Nation Government, First Nations, the Aanischaaukamikw Cree Cultural Institute, the Ministère de la Culture et des Communications and any other relevant authority within 24 hours of the discovery, and allow the tallyman of trapline RE01 and the Aanischaaukamikw Cree Cultural Institute to monitor the archaeological work at the site of the discovery;
  - 9.2.2.4. give a qualified person, who is an archaeologist, the responsibility for conducting an assessment at the site of the discovery in accordance with the *Cultural Heritage Act*; and
  - 9.2.2.5. consult First Nations and relevant authorities on all applicable legislative or legal requirements and associated regulations and protocols with respect to the discovery, registration, transfer and safeguarding of construction, sites or things of historical, archaeological, paleontological or architectural importance not yet inventoried, and comply with them.
- 9.3. The Proponent shall develop, prior to construction and in consultation with First Nations and the Department of Social and Cultural Development of the Cree Nation Government, a Cree place name glossary which identifies in the Cree language geographic locations within the Designated Project area. In doing so, the Proponent:
  - 9.3.1. identify in the glossary the existing Cree place names of geographic locations within the Designated Project area. For any location that does not have an existing Cree place name and for which First Nations or the Department of Social and Cultural Development of the Cree Nation Government are of the opinion that a place name is required, the Proponent shall determine a Cree place name for that location in consultation with the Department of Social and Cultural Development of the Cree Nation Government and First Nations, and shall include the place name in the glossary;
  - 9.3.2. provide to the Agency, to the Department of Social and Cultural Development of the Cree Nation Government and to First Nations, prior to construction, the glossary and a map of the Designated Project area which includes all Cree place names identified in the glossary and which shows the general layout of the Designated Project infrastructures; and
  - 9.3.3. include the Cree place names identified in the glossary on any map produced by the Proponent for the Designated Project.

## **10. Independent Environmental Monitor**

- 10.1. The Proponent shall retain, prior to construction and in consultation with First Nations, the services of an Independent Environmental Monitor, who is a qualified individual as it pertains to environmental monitoring in Quebec, to observe and record the implementation of the follow-up programs set out in this Decision Statement for the duration of each of the follow-up program, and to report the results of the observations to the Proponent, the Agency and the Cree Nation Government.
- 10.2. The Proponent shall require the Independent Environmental Monitor to report to the Proponent, in writing, on the implementation, throughout their duration, of the follow-up programs set out in this Decision Statement. The Proponent shall also require the Independent Environmental Monitor to recommend to the Proponent, in writing, the measures that the Independent Environmental Monitor considers appropriate for the Proponent to implement to meet the requirements of the follow-up programs set out in this Decision Statement
- 10.3. The Proponent shall require the Independent Environmental Monitor to submit to the Agency and to the Cree Nation Government, at a frequency determined in consultation with the Agency and the Cree Nation Government, the reports submitted to the Proponent pursuant to condition 10.2 at the same time the Proponent receive the reports.

The Proponent shall require the Independent Environmental Monitor to retain the reports referred to in condition 10.2 during five years after their submission to the Agency and to the Cree Nation Government pursuant to condition 10.3.

## **11. Accidents and Malfunctions**

- 11.1. The Proponent shall take all reasonable measures to prevent accidents and malfunctions that may result in adverse environmental effects and to mitigate any adverse environmental effect from accidents and malfunctions that do occur. As part of these measures, the Proponent shall:
  - 11.1.1. keep emergency kits for the recovery of petroleum products and hazardous materials readily accessible at all times on the worksite, as well as absorbent materials in each construction equipment; and
  - 11.1.2. delineate confined and out-of-pit and off-road petroleum product transfer areas.
- 11.2. The Proponent shall consult, prior to construction, First Nations and relevant authorities on the measures to be implemented to prevent accidents and malfunctions.
- 11.3. The Proponent shall develop, prior to construction and in consultation with First Nations, the First Cree Nation of Waswanipi and relevant authorities, an accident and malfunction response plan in relation to all phases of the Designated Project. The accident and malfunction plan shall include:
  - 11.3.1. a description of the types of accidents and malfunctions that may cause adverse environmental effects during any phase of the Designated Project;
  - 11.3.2. the measures to be implemented in response to each type of accident and malfunction referred to in condition 11.3.1 to mitigate any adverse environmental effect caused by the accident or malfunction; and

- 11.3.3. a map identifying where the mitigation measures referred to in condition 11.3.2 should be implemented;
  - 11.3.4. for each type of accident and malfunction referred to in condition 11.3.1, the roles and responsibilities (including in terms of measures to be implemented and equipment to be mobilized) of each authority concerned participating in the response in case of accident or malfunction.
- 11.4. The Proponent shall maintain the accident and malfunction response plan referred to in condition 11.3 up-to-date during all phases of the Designated Project and shall keep a copy in view of all employees associated with the Designated Project. The Proponent shall submit any updated accident and malfunction response plan to the Agency, to the Cree Nation Government and to the parties being consulted for the development of the plan within 30 days of the plan being updated.
- 11.5. 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 11.3.1, the Proponent shall immediately implement the measures appropriate to respond to the accident or malfunction, including any measure referred to in condition 11.3.2, and shall:
- 11.5.1. implement the communication plan referred to in condition 11.6 as it relates to accidents and malfunctions;
  - 11.5.2. notify relevant authorities with responsibilities related to emergency response (including environmental emergencies) in accordance with applicable regulatory and legislative requirements;
  - 11.5.3. notify, as soon as possible and pursuant to the communication plan referred to in condition 11.6, First Nations, the First Cree Nation of Waswanipi, the Cree Nation Government and any other party referred to in condition 11.6 of the accident or malfunction, and notify the Agency in writing no later than 24 hours following the accident or malfunction. When notifying the First Nations, the First Cree Nation of Waswanipi, the Cree Nation Government, any other party referred to in condition 11.6 and the Agency, the Proponent shall specify:
    - 11.5.3.1. the date and time when and location where the accident or malfunction occurred;
    - 11.5.3.2. a summary description of the accident or malfunction; and
    - 11.5.3.3. a list of any substance potentially released into the environment as a result of the accident or malfunction;
  - 11.5.4. submit a written report to the Agency and to the Cree Nation Government no later than 30 days after the day on which the accident or malfunction occurred. The written report shall include:
    - 11.5.4.1. a detailed description of the accident or malfunction and of its adverse environmental effects;
    - 11.5.4.2. a description of the measures that were taken by the Proponent to mitigate the adverse environmental effects caused by the accident or malfunction;
    - 11.5.4.3. any view from First Nations and potentially affected parties 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;
- 11.5.4.4. 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
- 11.5.4.5. details concerning the implementation of the accident or malfunction response plan referred to in condition 11.3;
- 11.5.5. submit a written report to the Agency and to the Cree Nation Government no later than 90 days after the day on which the accident or malfunction occurred that includes a description of the changes made to avoid a subsequent occurrence of the accident or malfunction and of 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. The report shall include all additional views from First Nations and potentially affected parties and advice from relevant authorities received by the Proponent since the views and advice referred to in condition 11.5.3.3 were received by the Proponent.
- 11.6. The Proponent shall develop, in consultation with First Nations and the First Cree Nation of Waswanipi, a communication plan for accidents and malfunctions occurring in relation to the Designated Project. 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:
- 11.6.1. the types of accidents and malfunctions requiring the Proponent to notify First Nations, the First Cree Nation of Waswanipi and any other party that must be notified of an accident or malfunction;
- 11.6.2. the manner by which First Nations, the First Cree Nation of Waswanipi and any other party referred to in condition 11.6.1 shall be notified by the Proponent of an accident or malfunction and of any opportunity to assist in the response to the accident or malfunction; and
- 11.6.3. the contact information of the representatives of the Proponent that First Nations, the First Cree Nation of Waswanipi and any other party referred to in condition 11.6.1 may contact, and of the representatives of each Nation, of the First Cree Nation of Waswanipi and of any other party referred to in condition 11.6.1 to which the Proponent shall provide notification.

## **12. Schedules**

- 12.1. The Proponent shall provide to the Agency and to the Cree Nation Government a schedule for all conditions set out in this Decision Statement no later than 60 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.
- 12.2. The Proponent shall provide to the Agency and to the Cree Nations Government a schedule outlining all activities required to carry out all phases of the Designated Project no later than 60



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.

- 12.3. The Proponent shall provide to the Agency and to the Cree Nations Government in writing an update to schedules referred to in conditions 12.1 and 12.2 every year no later than March 31.
- 12.4. The Proponent shall provide First Nations with the schedules referred to in conditions 12.1 and 12.2, and any update to the initial schedule made pursuant to condition 12.3 at the same time the Proponent provides these documents to the Agency and to the Cree Nation Government.

**13. Record Keeping**

- 13.1. The Proponent shall maintain all records relevant to the implementation of the conditions set out in this Decision Statement. The Proponent shall provide the aforementioned records to the Agency and to the Cree Nation Government upon demand within a timeframe specified by the Agency or the Cree Nation Government.
- 13.2. The Proponent shall retain all records referred to in condition 13.1 at a facility in Canada and shall provide the address of the facility to the Agency and to the Cree Nation Government. 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 and to the Cree Nation Government the address of the new location.
- 13.3. The Proponent shall notify the Agency of any change to the contact information of the Proponent which is included in this Decision Statement.

**Issuance**

This Decision Statement is issued in Ottawa, Ontario, by:

<Original signed by>

\_\_\_\_\_  
**The Honourable Jonathan Wilkinson**  
Minister of the Environment

August 10, 2021  
Date \_\_\_\_\_