

BIIGTIGONG NISHNAABEG

Closing Remarks for the Joint Review Panel Hearings on the Marathon Palladium Project (Reference Number 54755)

May 18, 2022



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May 18, 2022

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

Dear Ms. Sikora,

Sent via email

Biigtigong Nishnaabeg would like to express gratitude for the opportunity to present to the Joint Review Panel (the Panel) as part of the Hearings process for the Generation PGM (GenPGM) Marathon Palladium Project (the Project). Enclosed herein, please find Biigtigong Nishnaabeg's formal closing remarks to the Panel, which will supplement the oral tradition remarks made by our Nation during the final closing remarks day of the Hearings.

Biigtigong Nishnaabeg is a progressive and prosperous Nation. Our people have lived, worked and existed on the lands off the shores of Chi-gamig (Lake Superior) and the inlands of the northern superior region since time immemorial. The proposed mine is located entirely within the unceded, unsurrendered and Exclusive Aboriginal Title Area of Biigtigong Nishnaabeg, and is 9km away from the community. The Project is located adjacent to the Biigtig Zibi (Pic River), which Biigtigong Nishnaabeg regards as a sacred River. Biigtigong Nishnaabeg has expressed clearly that we are not a stakeholder in this process. We are rights holders and stewards of our Title Area and the lands and resources within it. The proximity of the Project to Biigtigong means that the Project will adversely impact the continued exercise of Biigtigong Nishnaabeg's Aboriginal Title rights and interests. As Biigtigong Nishnaabeg expressed throughout the Panel Hearings, we expect there to be a very high impacts to our rights resulting from this Project. Biigtigong is the sole authority on our rights and interests and the impacts this Project will pose to our rights and interests. Throughout the Panel Hearings, Biigtigong Nishnaabeg presented on a number of environmental and socio-economic impacts, issues and concerns to our Nation. These issues and concerns were detailed extensively in our technical written submissions (CIAR#[1093](#)) and our community written submissions (CIAR#[1226](#)).

Over the past several weeks, Biigtigong Nishnaabeg has worked closely with GenPGM in efforts to resolve or identify continuing commitments to resolve outstanding issues concerning potential discharge to the Biigtig Zibi (Pic River) during the closure phase, reduction of stream flow in the Stream 6/Angler Creek system during the operations phase, water quality monitoring plans and programs, fish and fish habitat compensation and offsetting, accidents and malfunctions, end land use planning, socio-economic impacts, traplines and access to territory, moose, caribou and other species of importance, social services, safety and health impacts. GenPGM's commitments to address these issues have been brought forward and detailed in GenPGM's submission to the Panel in response to Undertaking 31 (CIAR#[1276](#)).



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Some of these commitments involve future regulatory and permitting processes, including closure planning, regulated by the Ontario Ministry of Northern Development, Mines Natural Resources and Forestry (NDMNRF) in accordance with O. Reg 240/00. Of particular note is that GenPGM has committed to obtaining the full and informed consent of Biigtigong Nishnaabeg with respect to its final Closure Plan. Biigtigong Nishnaabeg expects NDMNRF to acknowledge that this threshold of consent must be met prior to the issuance of any formal approval of the Proponent's final Closure Plan. Complementary to the commitment to obtaining Biigtigong Nishnaabeg's consent for the final Closure Plan, GenPGM has also committed to review feasible closure plan alternatives with Biigtigong Nishnaabeg.

In Undertaking 31, GenPGM has also acknowledged that flow reduction to Stream 6/Angler Creek - which is an extremely important area to the past, present and future of Biigtigong Nishnaabeg, our culture, rights and interests - would occur upon Project construction and continue throughout Project operations. GenPGM has committed to assessing the technically and economically feasible supplemental flow options for Stream 6/Angler Creek and has committed to minimize disruptions to the system where possible.

Biigtigong Nishnaabeg and GenPGM have also been in extensive discussions regarding economic development, employment and business and contracting opportunities. Under existing memoranda of agreement and ongoing negotiations for an expanded community benefit agreement, Biigtigong Nishnaabeg has the first right of refusal for some specific economic development, business and contracting opportunities. Biigtigong Nishnaabeg expects GenPGM to provide prior notice of any request for proposal, request for quote, or other third-party contracting processes with other parties. Such commitments are necessary not only under current agreements with GenPGM but also by virtue of the Project being located entirely within the Exclusive Aboriginal Title Area of Biigtigong Nishnaabeg. Biigtigong Nishnaabeg expects GenPGM and other parties, including other Indigenous Nations and private corporations, to respect the authority of Biigtigong Nishnaabeg over our Exclusive Aboriginal Title Area, and to conduct economic and business undertakings accordingly.

In addition to the series of commitments brought forth by GenPGM, Biigtigong Nishnaabeg has also expressed to the Panel that impacts are to be addressed not only by GenPGM – as the actor responsible for the development of the Project – but also the Crown – as the actor authorizing or permitting the Project to proceed. Such commitments, mitigations and accommodations are required to ensure impacts are lessened, so that Biigtigong Nishnaabeg can continue to exercise rights over the long-term. Biigtigong Nishnaabeg has noted to the Panel that policies of systemic racism that the Crown has, through years of action including Indian Residential Schools, the *Indian Act*, and other colonial policies and legislation, will exacerbate most, if not all, of the socio-economic impacts of the Project. Accordingly, Biigtigong Nishnaabeg expects the Crown, in discharging its obligations of consultation and accommodation, to honour the content and spirit of the Prime Minister's December 16th, 2021, Mandate Letters, addressed to Ministers, and which have as their goal the rectification of the impacts of the Crown's historically racist and colonial policies against First Nations. Among these letters and within the context of the impacts from the Project, Biigtigong Nishnaabeg expects Crown agencies to:



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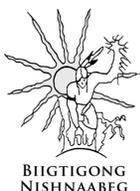
- “Implement the *United Nations Declaration on the Rights of Indigenous Peoples* and to work in partnership with Indigenous Peoples to advance their rights.”
- “Expedite investments in Indigenous housing and infrastructure.
- recognise the importance role of the “right to a healthy environment”, and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

While these are federal mandate letters, Biigtigong Nishnaabeg calls on, and expects the Provincial Crown to support the spirit and intent of these mandates. Biigtigong Nishnaabeg notes both the Federal and Provincial Crown have initiated discussions with Biigtigong Nishnaabeg on several of the impacts and concerns identified. An initial list of impacts, issues and concerns and potential Crown actions and commitments to address these issues was provided in the Crown Consultation Team’s written submission to the Panel (CIAR#[1083](#)). Biigtigong Nishnaabeg understands that the Crown has provided further updates to commitments being brought forward in their closing remarks submission to the Panel.

It is critical that concrete and specific accommodation measures are brought forward by both the Federal and Provincial Crown to address impacts, issues and concerns raised. Biigtigong Nishnaabeg notes that in some cases, generic information about government initiatives and funding programs has been brought forward to-date by the Crown in response to the impacts, issues and concerns identified by Biigtigong Nishnaabeg. This generic information is insufficient to address impacts to Biigtigong Nishnaabeg’s Aboriginal Title rights and interests. Specific commitments are required of the Crown to address impacts to Biigtigong that go above and beyond the typical programs and supports offered to all Indigenous communities. These commitments must be offered to address the historic and cumulative socio-economic impacts to Biigtigong within the context of the Crown issuing potential impact assessment decisions that would permit this Project to proceed. Biigtigong Nishnaabeg expects continuing actions to be offered by the Crown to contribute to the fulfillment of commitments to address the impacts to and concerns of Biigtigong Nishnaabeg.

Additionally, in instances where there may be ambiguity regarding the actor responsible – be it GenPGM or the Crown – for addressing a specific impact or concern, Biigtigong Nishnaabeg expects both GenPGM and the Crown to continue to engage with Biigtigong Nishnaabeg to address concerns and fulfill commitments. This engagement is expected prior to and following the submission of the Panel’s report, up to the formal impact assessment decision, and beyond through the life of the Project, should it be approved.

Biigtigong Nishnaabeg has welcomed the opportunity to participate in and present to the Joint Review Panel throughout this process thus far. This Project falls within the unceded, unsurrendered and Exclusive Aboriginal Title Area of Biigtigong Nishnaabeg. As an Aboriginal Title community, we are rights holders and stewards of our lands and the resources within it. We are responsible to the generations to



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come to ensure that any development within our Title Area is protective of the environment and that our lands, waters and resources are taken care of in perpetuity.

Sincerely,

<Original signed by>

Duncan Michano
Chief, Biigtigong Nishnaabeg



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