

IN THE MATTER OF SERVICES NO. K4450 22 1028
FOR THE MARATHON PALLADIUM PROJECT

CLOSING REMARKS
held virtually at Toronto
Thursday, May 19, 2022, at 2:00 p.m.

VOLUME 21

BEFORE: Debra Sikora, Panel Chair
Gay Drescher, Panel Member
Laurie Bruce, Panel Member

Arbitration Place © 2022

100 Queen Street, Suite 940
Ottawa, Ontario K1P 1J9
(613) 564-2727

333 Bay Street, Suite 900
Toronto, Ontario M5H 2R2
(416) 861-8720

APPEARANCES:

Drew Anwyll	On behalf of GenPGM
Meghan Rourke	
Jeremy Dart	
Cathryn Moffett	
Hilary Janes	
Jeremy Barretto	
Brian Fraser	EcoMetrix
Dr. Ron Nicholson	
Dr. Rob Foster	Northern Bioscience
Dr. Don Hart	
Jon Pounder	
Sean Capstick	
Frank Babic	
Sheila Daniel	
Suraj Dave	On behalf of Pays
Raymond Belmar	Plat First Nation
Deb King	
Mayor Rick Dumas	On behalf of the town
Daryl Skworchinski	of Marathon
Tracy Zanini	On behalf of Biigtigong Nishnaabeg
Jody Duncan	
Gregory Crooks	On behalf of Stantec
Robert Clavering	On behalf of Environment
Allison Kroeze	and Climate Change Canada
Matthew LeBlanc	
Lynn McCarty	On behalf of Michipicoten
Dean Fitzgerald	First Nation
Kitty Ma	On behalf of Health Canada
Frédéric Valcin	
Luc Pelletier	
Laura Romeo	On behalf of Ministry of Heritage, Sport, Tourism and Culture industries
Courtney Bice	On behalf of Transport Canada

Laura Darby
 Raymond McCarthy
 Andrea Hanson
 Colin Hovi
 Tim Cano

On behalf of Ministry of Northern
 Development, Mines, Natural Resources

Marie-Eve Lenghan

On behalf of NRCan

Sarah Newbery
 Kevin Morin
 Sara Libman

On behalf of Citizens for Responsible Industry in
 Northwestern Ontario and Northwatch

Jacinth Gilliam-Price
 Alisdair Brown

On behalf of Ministry of the
 Environment, Conservation and Parks

Victoria Stinson
 Tim Sinclair
 Alexandra Kosmides
 Phil Seeto

On behalf of Métis Nation
 of Ontario

Luc Desroches
 Jason Boivert
 Andrea Osala-Schaaf

On behalf of Impact
 Assessment Agency of Canada

Peter Rasevych

On behalf of Ginoogaming First Nation

Adam St. Clair

On behalf of Dept. Of
 Fisheries and Oceans

Alain Bartleman

On behalf of Biigtigong Nishnaabeg

Also Present:

JoAnne Michano
 Todd
 Kiersten
 Dave Carruthers

Gavin Fitch

Legal counsel to the Panel

Jason Patchell
 Robert Purdon
 Youssouf Kalogo
 Élyse Maisonneuve-Campbell
 Kierney Leach

Panel manager
 Panel secretariat
 Panel secretariat
 Panel secretariat
 Panel secretariat

Dominic McRae	Panel secretariat
Isabelle Turcotte	Panel secretariat
Carys Burgess	Panel secretariat
Tracy Utting	Panel secretariat
Audrey Rooney	Panel secretariat
Sophie Regimbald	Panel secretariat
Jillian Smith	Panel secretariat
Frank Bohlken	
Christine Walsh	
Colin Varley	
Simone Desmoulin	
Lisa Michano-Courchene	
Paul Driben	
Chris Wedeles	
Michael Starr	
Debi Bouchie	
Donald Michano	
Matt Goodchild	
Chief Mushquash	
Shane Fugere	
Allen Johns	
Rene Wanakmik	
Raymond Goodchild	
Ida Wanakmik	
Sandra Brereton	Court reporter

INDEX

PAGE

CLOSING REMARKS BY MR. BARRETTO:.....	3408
CLOSING CEREMONY.....	3422

1 Virtual proceedings
2 --- Upon resuming on Thursday, May 19, 2022,
3 at 2:00 p.m.

4 PANEL CHAIR: Good afternoon
5 and welcome to the final day of the closing
6 remarks session for the public hearing of the
7 Marathon Palladium Project. My name is Debra
8 Sikora, chair of the Joint Review Panel, and
9 joining me are my panel members, Gay Drescher
10 and Laurie Bruce.

11 I would like to formally
12 acknowledge that I'm participating from the
13 Bancroft area today, the traditional territory
14 of the Nishnaabeg peoples land and the
15 traditional territory covered by the Williams
16 Treaties. As we are all joining from
17 different traditional indigenous territories I
18 encourage you to take a moment to reflect on
19 the land that you are on.

20 My full opening remarks from
21 day one of the public hearing on March 14th
22 can be found in the transcripts and on
23 YouTube. The secretariat is available for
24 support today, and if you have any questions
25 about the process or procedural matters,

Arbitration Place

(613) 564-2727

(416) 861-8720

1 please direct them to the project e-mail found
2 on the public registry.

3 Live audio and video streams
4 and video recordings of this hearing will be
5 made available to the public through YouTube.
6 Anyone in the virtual hearing room with their
7 camera or microphones turned on will be
8 captured and images and recordings of you and
9 your surroundings will be broadcast on a
10 publicly available YouTube video. If you have
11 concerns about this please contact the
12 secretariat who will do their best to
13 accommodate any concerns while considering the
14 need to conduct an open and transparent public
15 process.

16 If there is an emergency
17 where you are, please consider your safety
18 first, exit your location if necessary and
19 when it's safe to do so please be in contact
20 and we'll find time if we need to reschedule
21 presentations.

22 Today, as you know,
23 Generation PGM will deliver their closing
24 remarks, reply, followed by a closing from
25 Biigtigong Nishnaabeg First Nation.

Arbitration Place

(613) 564-2727

(416) 861-8720

1 Before I ask if there are any
2 questions before we start, I did want to
3 confirm a procedural matter from yesterday.
4 Some of you may be aware Ms. Drescher had some
5 connectivity issues nearing the end of the
6 presentations yesterday. I can confirm Ms.
7 Drescher has reviewed the YouTube record of
8 the hearing yesterday and has confirmed that
9 for the panel.

10 Before I turn it over to
11 Generation PGM I would ask if there are any
12 questions or procedural matters before we
13 begin. Seeing no hands up, if you could
14 please remember to state your name and to
15 speak clearly and concisely for our court
16 reporter who will be keeping a official
17 transcript of the proceedings, that would be
18 great. With that, I turn it over to
19 Generation PGM.

20 CLOSING REMARKS BY MR. BARRETTO:

21 MR. BARRETTO: Thank you,
22 Madam Chair. Jeremy Barretto for the record,
23 I'm counsel for General PGM. I will be
24 delivering Generation's closing remarks today.
25 Mr. Anwyl will be providing a thank you at the

Arbitration Place

(613) 564-2727

(416) 861-8720

1 end.

2 I would like to start off by
3 acknowledging that I am on Treaty 7 territory
4 today, and Mr. Anwyll and Generation's team
5 are on traditional territories of indigenous
6 communities from across the country.

7 We acknowledge the Biigtigong
8 Nishnaabeg First Nation, or BN, asserts
9 exclusive Aboriginal title to the lands on
10 which the project is located.

11 Madam Chair, for 11 years and
12 through two hearing and EIS processes,
13 including the last 21 days of hearings,
14 Generation and its predecessors have worked
15 hard to arrive at this moment to get this
16 project right. And it is our submission that
17 these years of analysis resulted in a single
18 conclusion: There are no significant adverse
19 environmental effects identified when the
20 panel considers the implementation of
21 mitigation measures and other environment
22 protection measures.

23 Madam Chair, in our view your
24 record demonstrates that the vast majority of
25 the participating local community support the

Arbitration Place

(613) 564-2727

(416) 861-8720

1 project. The views have been clear: The
2 project will bring much needed jobs and
3 advisement to their community. The proponents
4 have also conducted long term and in-depth
5 engagement with indigenous communities.
6 Generation recently completed four weeks of
7 intense engagement with indigenous communities
8 regarding undertaking 31. This included BN
9 and Pays Plat First Nation.

10 For local community,
11 indigenous communities, the province of
12 Ontario and the entire country stand to
13 benefit from the project. Generation has
14 carefully reviewed each of the four oral
15 closing remarks made yesterday, as well as the
16 10 written closing remarks filed by
17 participants. I will not respond to every
18 single issue raised in closing remarks and
19 Generation relies on its evidence for many of
20 these issues. I will, however, address five
21 key issues in my remarks today.

22 The first is Crown
23 consultation, the second is caribou, the third
24 is baseline studies, the fourth is undertaking
25 31, and the fifth is the need for the project.

Arbitration Place

(613) 564-2727

(416) 861-8720

1 Starting with Crown
2 consultation. There are two items in the
3 Crown Consultation Team's closing remarks that
4 Generation would like to speak to. The first
5 is with respect to the community trap line.
6 The Crown Consultation Team recommended that
7 Generation should compensate BN for the
8 economic value lost from its community trap
9 line. Madam Chair, Generation made this
10 commitment on this issue and goes above and
11 beyond what is requested by the Crown
12 Consultation Team.

13 In undertaking 31 Generation
14 has confirmed three things. First, it will
15 implement a harvester training fund to support
16 annual harvests and trap line training
17 programs. Second, it will provide reasonable
18 support to BN to secure a replacement trap
19 line for the community, and third it will
20 compensate for the loss of access and economic
21 benefits of trapping.

22 The second Crown consultation
23 item I would like to address is the bypass
24 road. This is referred to in the Crown
25 Consultation Team report as the Gaffhook Lake

Arbitration Place

(613) 564-2727

(416) 861-8720

1 Access Road and is proposed as a Crown
2 accommodation measure.

3 In the Crown Consultation
4 Team report filed in February, about three
5 months ago, NDMNRF proposed the construction
6 of bypass road, or the Gaffhook Lake Access
7 Road as a Crown accommodation measure to
8 address BN's concern about accessing its
9 traditional hunting and trapping territory.
10 In undertaking 31 Generation committed to
11 support BN in obtaining Crown funding for this
12 Crown accommodation measure.

13 What we would like to
14 clarify, Madam Chair, is that the Crown
15 Consultation Team's submission yesterday its
16 proposed accommodation measure reduced from --
17 to providing administrative support for this
18 road. It is Generation's view that the bypass
19 road is unquestionably a Crown accommodation
20 measure and the Crown is responsible for
21 providing funding to build the road and not
22 simply provide administrative support. I'll
23 now move on to caribou.

24 Generation is confident that
25 there be not be significant effects on caribou

Arbitration Place

(613) 564-2727

(416) 861-8720

1 habitat connectivity or critical habitat
2 caused by the project. To start I would like
3 to reiterate there is no evidence of current
4 or recent historic use by caribou of the site
5 study area. Furthermore, the site study area
6 does not currently meet ECCC's criteria for
7 critical habitat due to its forest composition
8 and existing high level of disturbance.
9 There's been no observed caribou in the local
10 study area for approximately seven years.
11 Very few, if any caribou, remain on coastal
12 range and is therefore very little potential
13 for caribou to interact with the project
14 during the two-year construction period or the
15 13-year operational phase.

16 We recognize that the project
17 may impair connectivity post-closure while
18 habitats re-establish. The expert evidence
19 from Dr. Foster is that caribou can circumvent
20 the site by walking around it.

21 Potential project-related
22 effects the caribou, including connectivity,
23 are therefore a longer term issue. These
24 effects are manageable within the recovery
25 window. Generation provided extensive

Arbitration Place

(613) 564-2727

(416) 861-8720

1 caribou-related evidence at the request of the
2 panel which has been rigorously considered and
3 tested by the panel and all participants.
4 This included voluntarily filing additional
5 caribou mapping after the Panel determined the
6 EIS to be sufficient. This information was
7 filed in January. Answering questions about
8 caribou through multiple hearing days and
9 providing four caribou-related undertakings
10 that were required from the Panel. These are
11 undertakings 18 to 21.

12 In Generation's view, the
13 panel has the information that it needs to
14 make its determination regarding the
15 significance of effects considering mitigation
16 measures. However, Generation also
17 understands that despite the years of
18 significant study and process, there are
19 different perspectives on caribou habitat
20 connectivity from ECCC, Parks Canada and MECP.

21 Generation's independent
22 caribou expert, Dr. Foster, confirmed the
23 potential effects on caribou have not been
24 underestimated. So what should the Panel do?

25 Madam Chair, the Panel does

Arbitration Place

(613) 564-2727

(416) 861-8720

1 not need to achieve consensus on all caribou
2 matters from all participants. ECCC, for
3 example, can impose actions consistent with a
4 federal recovery strategy for caribou. MECP
5 has the authority to approve the caribou
6 overall benefit plan.

7 Generation is committed to
8 enhancing caribou habitat through an overall
9 benefit plan. This plan will include habitat
10 improvement measures to enhance potential
11 connectivity within and among ranges, as well
12 as other potential actions within the Lake
13 Superior coastal range.

14 As a result, Generation's
15 mitigation efforts and overall benefit
16 commitments will ultimately result in a net
17 overall benefit for caribou, orca (ph)
18 caribou in the coastal range, including the
19 project area.

20 I'll now move to baseline
21 studies.

22 The Pays Plat First Nation
23 raised concerns regarding the sufficiency of
24 Generation's aquatic baseline studies for the
25 assessment of impacts on fish populations.

Arbitration Place

(613) 564-2727

(416) 861-8720

1 Generation appreciates Pays Plat's concerns
2 and is confident that baseline connections in
3 Hare Lake were sufficient to assess potential
4 project-related effects. In addition, further
5 sampling in Hare Lake and on the project site
6 in general has commenced. This is consistent
7 with Generation's commitments made during the
8 hearing. This sampling will inform follow-up
9 and monitoring programs.

10 I will now move to
11 undertaking 31 and discharge during the
12 postclosure phase.

13 Throughout this hearing and
14 written submissions indigenous groups have
15 emphasized the critical importance of water to
16 their communities. We've listened and we've
17 learned. The meaning and value of water is
18 both spiritual and physical in nature.
19 Certain water bodies are of particular
20 importance, including the Pic River, or
21 Biigtig Zibi, for BN.

22 Due to the value and
23 importance of the Biigtig Zibi fr BN community
24 members, some members -- many members have
25 concerns about potential for discharge to the

Arbitration Place

(613) 564-2727

(416) 861-8720

1 river during the postclosure phase of the
2 project. Generation and BN worked hard
3 together to address these concerns. They held
4 numerous meetings during the last four weeks
5 to arrive at a mutually agreeable commitment
6 on this issue.

7 Generation fully agrees with
8 Chief Michano's remarks yesterday that BN's
9 consent must be obtained for the provincial
10 closure plan which includes discharge options.
11 This solution sees BN at the helm of planning
12 with regard to the critical issue of
13 postclosure discharge while also providing
14 certainty to the Panel and to participants who
15 have raised questions, such as Northwatch,
16 that there are no questions to the EIS.

17 My last submission is that
18 there is a need for this project and it will
19 provide community benefits. In its closing
20 remarks MiningWatch did question the need for
21 the project. I think the answer to this
22 question is made clear by listening to the
23 views of the local community, and the answer
24 is yes, the project is needed.

25 In its closing CRINO

Arbitration Place

(613) 564-2727

(416) 861-8720

1 requested binding community benefits agreement
2 be imposed as a condition. In Generation's
3 view no such agreement is necessary.
4 Generation is already working with the elected
5 leaders of the community from the Town of
6 Marathon to understand what types of benefits
7 the town would like, and this work is underway
8 through Generation's regional environment
9 committee, which the town is a part of.

10 Generation has provided
11 detailed expert evidence to substantiate its
12 predicted economic benefits, such as tax
13 generation to the town of \$1.5 million per
14 year and 1,100 construction job and 400
15 operation jobs.

16 In conclusion, Madam Chair,
17 Generation is committed to proceed with this
18 project with the same focus on environmental
19 protection that has guided it for the last 11
20 years. The project, if approved, will mine
21 critical metals that are essential for
22 Canada's energy transition. It will provide a
23 source of these metals in the global market
24 that is environmentally responsible.

25 Based on the evidence before

Arbitration Place

(613) 564-2727

(416) 861-8720

1 you, the Panel can have a high degree of
2 confidence that the project is not predicted
3 to result in any significant adverse
4 environmental effects considering the
5 mitigation measures proposed.

6 Madam Chair, it would be an
7 understatement to say that Generation is eager
8 to read the Panel's report and Generation
9 respectfully request that the Panel issue its
10 report at the earliest possible date within
11 the overall statutory time limits.

12 With that, I will turn to Mr.
13 Anwyll who will come on to provide a thank you
14 to participants.

15 MR. ANWYLL: Thank you, Mr.
16 Barretto. Drew Anwyll for the record.

17 All I would like to do is a
18 simple thank you. It was quite a process we
19 all went through. I appreciate the efforts
20 and the participation of the Panel and the
21 secretariat in the background. You folks were
22 quite exceptional, and all the participants.
23 The folks that asked the challenging
24 questions, they allow for this to become a
25 better project and we do appreciate it. I

Arbitration Place

(613) 564-2727

(416) 861-8720

1 would also like to thank the indigenous
2 communities, the Town of Marathon and in
3 particular BN, who are more than our partners
4 going ahead.

5 So thank you all for
6 participating in these virtual hearings. I
7 think it was a process but I'm happy to be
8 seeing the end of this phase of it, and thank
9 you very much, Madam Chair, for the time, and
10 that's our closing submission. So thank you
11 very much to all.

12 MR. BARRETTO: Madam Chair,
13 subject to any questions those are our closing
14 remarks. Thank you very much.

15 PANEL CHAIR: Thank you so
16 very much, Mr. Barretto, for the remarks, Mr.
17 Anwyll, for the thank you and to Generation
18 PGM for today's closing overall. Very much
19 appreciated.

20 I think we're going to call
21 on Biigtigong First Nation for closing
22 ceremonies and then I will have some closing
23 remarks as well following that.

24 MR. TODD GENO: (Speaking
25 Nishnaabeg). I'm just acknowledging the four

Arbitration Place

(613) 564-2727

(416) 861-8720

1 directions and the beings of this area. This
2 place on Biigtigong is a very special place to
3 our people and I want to thank and appreciate
4 everybody being a part of this in the last
5 little while and I really wish good health and
6 good wealth to all of you.

7 It's really important to me
8 because I've been away from the community for
9 so long and this gave me a chance to get a
10 good catch-up of everything that's going on.
11 While I was listening to everybody speak and
12 everybody share I always kept thinking about
13 the young people and the future. Like, we
14 have a baby in the room here right now and to
15 think of those seven generations that we're
16 responsible for. There's a reason why our
17 great great grandparents never signed the 1850
18 Robinson Superior Treaty, because they were
19 doing what was the best interest for the
20 future. That is what they knew. And I pray
21 and I ask Creator for guidance, and that's
22 what we're doing here today, is that we're
23 doing for the best interest of the future, our
24 grandchildren and our great grandchildren
25 because we can't forget about them, so we need

Arbitration Place

(613) 564-2727

(416) 861-8720

1 to acknowledge.

2 So I want to give thanks and
3 I'm going sing a thank you song, and while you
4 sing this I want all of you to just think in
5 your own way, pray in your own way and think
6 of all the things you're thankful for. That
7 could be a lot of things, like your own
8 family, your kids, your house, there's a lot
9 of things to be grateful for because I really
10 believe if we want continued blessing in our
11 life we got to be grateful for what we have
12 today, and that's one thing I -- message I
13 would like to carry as we end here today, so
14 I'm going sing this song. Miigwetch.

15 CLOSING CEREMONY

16 PANEL CHAIR: Miigwetch,
17 thank you so very much. We really appreciate
18 your words of reflection and your closing
19 ceremony. Thank you very much.

20 So we've come to the end of
21 our formal hearing and I would just like to
22 say a few words on behalf myself and Ms. Bruce
23 and Ms. Drescher. As a Panel, as we reflect
24 on the month of our public hearing sessions
25 and the closing remarks, we just want to

Arbitration Place

(613) 564-2727

(416) 861-8720

1 extend our sincere thank you to all of you,
2 all the participants. Your commitment to this
3 review process has been very inspirational.
4 We're deeply grateful for the dedication that
5 was required to provide comments, technical
6 reviews, speaking at the public hearings. We
7 know the kind of commitment that this has
8 taken from all of you and we spent a month
9 together, almost a month together. We
10 certainly learned and had listened very
11 intently and appreciate all that we've heard.

12 We also just want to comment
13 on our appreciation for the flexibility that
14 everyone showed to allow us to proceed through
15 the schedule efficiently. We know that it may
16 not have been always easy to modify schedules
17 to be available for presentations and
18 questioning. And we do recognize that many of
19 you had to reschedule or miss personal and
20 professional commitments. We are truly
21 thankful.

22 This does mark the end of the
23 public hearing, and I will confirm the record
24 is now closed. This does mean that new
25 information or comments can be considered by

Arbitration Place

(613) 564-2727

(416) 861-8720

1 Panel. We will use the information that we
2 have received on the registry to prepare a
3 report for the federal and provincial
4 ministers of the environment.

5 In summary, our report will
6 include a description of the Joint Review
7 Panel process, a summary of information
8 received by participants, the rationale,
9 conclusions and recommendations of the Joint
10 Review Panel relating to the environmental
11 assessment of the project, any recommended
12 mitigation measures and follow-up programs,
13 mitigation measures and information with
14 respect to the justifiability of any
15 significant adverse environmental effects.

16 So with that, we'll thank you
17 very much once again. It's been a very good
18 process and we very much appreciate all the
19 work that's gone into this. Thank you again
20 very much. I hope you have a good afternoon.
21 --- Whereupon at 2:27 p.m. the proceedings
22 were concluded.

Arbitration Place

(613) 564-2727

(416) 861-8720