

Environmental Protection Operations Directorate  
Prairie & Northern Region  
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Yellowknife, NT X1A 2P7

September 10, 2021

via email at: [smontgomery@mvlwb.com](mailto:smontgomery@mvlwb.com)

Shelagh Montgomery  
Executive Director  
Mackenzie Valley Land and Water Board  
7th Floor, 4922 48th Street  
P.O. Box 2130  
Yellowknife, NT X1A 2P6

Dear Shelagh Montgomery:

**RE: MV2020L2-0012 / MV2020C0017 – PPML – Pine Point Confirmation and Exploration Program – Environment and Climate Change Canada’s Closing Argument**

Environment and Climate Change Canada (ECCC) is providing its closing argument to the Mackenzie Valley Land and Water Board (MVLWB) for the review of above-mentioned applications for the Pine Point Confirmation and Exploration Program (‘the Project’). ECCC would like to thank the Board Pine Point Mining Limited (PPML; the Proponent) and other parties for the opportunity to participate in this review process.

ECCC’s specialist advice is provided based on our mandate pursuant to the *Canadian Environmental Protection Act*, the pollution prevention provisions of the *Fisheries Act*, the *Migratory Birds Convention Act*, and the *Species at Risk Act*.

This closing argument outlines our department’s position on the technical comments ECCC presented as outstanding at the Public Hearing on June 14-17, 2021, which were also included in our Final Intervention. The status of our technical comments takes into consideration discussions that occurred during the hearing and comments on the draft water licence and land use permit conditions. Prior to the Public Hearing, ECCC-1, ECCC-3, ECCC-4 and ECCC-8 were resolved as described during ECCC’s presentation at the Public Hearing. ECCC-9 was provided for information only and did not require resolution.



ECCC File: 5100 000 036/013  
MVLWB File: MV2020L2-0012  
MV2020C0017



The status of ECCC's remaining technical comments are as follows:

#### ECCC-2: Compatibility Criteria

ECCC reiterated its recommendation that PPML monitor and review pre-activity (baseline) water quality for a full suite of parameters, and confirm that concentrations are acceptable for discharge to an aquatic environment, before any transfers to fish-frequented pits.

ECCC recommended that the licence conditions (via Surveillance Network Program term or approved management plans) require confirmation that parameter concentrations are acceptable for discharge to an aquatic environment before any transfers to (i) pits that are fish-frequented and (ii) pits connected to fish-frequented waters.

PPML committed to conduct acute toxicity testing (rainbow trout and *Daphnia magna*) for water from source pits that will be directed to a receiver pit where fish are known to be present. ECCC is satisfied with this commitment and considers ECCC-2 resolved.

#### ECCC-5: Receiving Environment

ECCC recommended that the receiving environment definition clearly encompass all waters that are fish-frequented or connected to fish-frequented waters; where connection and/or being fish-frequented has not clearly been established the assumption should be made that this is the case.

PPML disagreed that the definition of the receiving environment should be altered from the standard language used by the MVLWB to define "receiving environment"; however, PPML has committed to ensuring that only compatible water is transferred, that acute toxicity testing is undertaken and that receiving pits do not overflow.

Regardless of how the label of "receiving environment" is applied, ECCC is satisfied that protective measures will be taken prior to water being transferred into fish-frequented waters.

ECCC considers ECCC-5 resolved.

#### ECCC-6: Whooping Cranes and their Habitat

ECCC recommended that a specific management plan be developed for whooping cranes, in consultation with ECCC, to further assess potential residual impacts and to implement specific measures to minimize risks associated with all project activities.

At a minimum, ECCC recommended:

- The primary mitigation for all project activities should be avoidance of impacts to whooping cranes and their habitat, to the greatest extent possible.
- Regardless of season, in areas where avoidance of whooping crane habitat is not possible, surveys should be conducted by qualified individuals when whooping cranes are expected to be present.

- Any observations of whooping cranes by staff or contractors on site should be immediately investigated and reported to ECCC.
- All staff and contractors should be made aware of the potential presence of whooping cranes in the area, their conservation status and reporting procedures.

PPML agreed to the inclusion of some additional information, but suggested that this information should reside within the Wildlife Management and Monitoring Plan (WMMP), approved under the territorial *Wildlife Act*, rather than a standalone plan. PPML also added that a standalone plan for whooping crane would create significant duplication, create confusion and lead to less effective protection for the species.

As stated in our comments on the draft permit conditions, ECCC disagrees that information specific to whooping cranes, protected under the federal *Migratory Birds Convention Act* and *Species at Risk Act*, should reside within the WMMP. There remains uncertainty with the scope and location of project activities and how they may interact with whooping cranes at and/or near the project site. It is also unclear how whooping crane potential nesting habitat (including that identified in Olson and Olson, 2003) will be avoided. ECCC reiterates that Olson and Olson (2003) remains the best available source of information to predict the current and future habitat requirements of the species and is a crucial planning tool in meeting the whooping crane population and distribution objectives identified in the Recovery Strategy (ECCC 2007).

ECCC is of the opinion that our request to consider whooping cranes in a separate plan is reasonable, given the species' endangered status, limited habitat availability, outstanding concerns and uncertainty related to interactions with the project activities, as well as ECCC's legislative authority for the species under the federal *Migratory Birds Convention Act* and *Species at Risk Act* (i.e. does not fall within GNWT-ENR's mandate under the territorial *Wildlife Act*).

ECCC considers ECCC-6 outstanding.

#### References:

- Olson and Olson Planning and Design Consultants. 2003. Final Report: Whooping Crane Potential Habitat Mapping Project.
- ECCC (2007). Recovery Strategy for the Whooping Crane (*Grus americana*) in Canada. Species at Risk Act Recovery Strategy Series. Environment Canada, Ottawa. vii + 27 pp.

#### ECCC-7: Wildlife Protection Plan (WPP)

ECCC recommended that MVLWB rely on GNWT-ENR and other interveners regarding the adequacy of the proposed caribou-specific measures. ECCC also recommended to the MVLWB (or GNWT-ENR) that an additional opportunity be provided to review the revised WPP (or WMMP).

ECCC recognizes that ECCC-7 is not under the jurisdiction of the MVLWB, and looks forward to continuing its participation in the review of the WMMP under the GNWT-ENR process.

ECCC considers ECCC-7 resolved.

ECCC considers all other technical comments raised by ECCC during review of the licence and permit applications to be resolved. ECCC will continue to engage with the MVLWB and the Proponent to review additional material when required.

If you need more information, please contact Victoria Shore at [Victoria.Shore@ec.gc.ca](mailto:Victoria.Shore@ec.gc.ca).

Sincerely,

A handwritten signature in black ink, appearing to read "Margaret". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Margaret Fairbairn, Acting Regional Director  
Environmental Protection Operations Directorate, Prairie Northern Region

cc: Jody Small, Acting Head, Environmental Assessment North (NT and NU)