
From: Dayna N Scott <email address removed>
Sent: Wednesday, October 29, 2025 10:04 AM
To: Ministre / Minister (ECCC)
Cc: information@iaac-aeic.gc.ca; Chief Quisess
Subject: Request for Designation of the Eagle's Nest Mine under s.9(1) of the Impact Assessment Act

Attachments: Eagles Nest_Designation Request_Supporting Materials.Oct 28_FINAL.pdf; Eagle's Nest Designation Request Letter_Neskantaga_Oct 28.signed.pdf

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Dear Minister,

On behalf of Neskantaga First Nation, please find the request and supporting materials attached, with appendices linked below.

 Eagle's Nest_ Appendices Merged Doc.pdf



NESKANTAGA FIRST NATION

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Website: www.neskantaga.com

The Honourable Julie Dabrusin,
Minister of Environment and Climate Change,
House of Commons
Ottawa, ON
K1A 0A6

VIA EMAIL: ministre-minister@ec.gc.ca

Copied to IAAC via email: information@iaac-aeic.gc.ca

October 28, 2025

RE: Request for Designation of Eagle's Nest Mine under the *Impact Assessment Act*

Dear Minister,

On behalf of Neskantaga First Nation, I am writing to request that you exercise your discretion pursuant to section 9(1) of the *Impact Assessment Act* to designate the Eagle's Nest Mine (the "Project") for federal impact assessment.

The proposed mine is planned within our homelands. We have been actively involved in various negotiations, developments, and debates since the so-called "Ring of Fire" deposits were 'discovered' in 2007, including when Wyloo (formerly Ring of Fire Metals) acquired rights to Eagle's Nest in April 2022.¹ People in our community are very concerned about the likely impacts of the proposed mining on our homelands in the Attawapiskat River watershed, and on our Anishinaabe way of life.

In this submission, we submit that the proposed mine is likely to cause severe adverse effects in areas of federal jurisdiction, particularly on Indigenous peoples including our First Nation, fish and fish habitat, as well as migratory birds. Further, cumulative impacts from induced development caused by the approval of Eagle's Nest, the most advanced mining project in the Ring of Fire, are also likely to be adverse, severe, and irreversible, including on the rights of Indigenous peoples, and Canada's ability to meet its international climate change mitigation commitments.

The Eagle's Nest Mine is proposed as an underground nickel-copper-platinum multi-metal mine employing an experimental underground tailings dam.² It is proposed for a remote location in the boreal peatlands, one of the largest remaining intact wetlands and carbon sequestering peatlands in the world, in the heart of our homelands in Treaty No.9 territory. A recent OECD report states that these peatlands are "globally significant for both climate change mitigation and biodiversity protection".³

Eagle's Nest is a substantial project on its own, and could have enormous and irreversible region-opening induced effects, including the potential to cause significant and long-lasting adverse effects within core areas of federal jurisdiction. Given these impacts, an impact assessment for the Project is not only



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warranted but essential to ensure that the risks posed by the Eagle's Nest mine are fully understood before irreversible harm is caused by ill-informed premature project approvals. Once the risks are understood, if a decision is taken to proceed, the impact assessment would inform mitigation measures to ensure that meaningful protections are put in place to safeguard our homelands and way of life.

An impact assessment would also ensure that our First Nation members are well-informed and have had a meaningful opportunity to participate prior to any decisions being taken. In this regard, we are extremely concerned that the latest project documentation submitted by Wyloo to Ontario makes absolutely no mention of Neskantaga First Nation.⁴ This disregard of the potential impacts of the project on our rights is deeply concerning. Further, as the Eagle's Nest mine has recently been specifically exempted from an environmental assessment under Ontario law, there is a heightened need for federal oversight.⁵

Under s.9(1) of the IAA, you, as Minister, are vested with the discretionary power to designate a project for impact assessment based on whether it "may cause adverse effects within federal , anticipated adverse impacts on the rights of Indigenous peoples, fish and fish habitat, and on migratory birds.⁶ As well, we highlight that no other environmental or impact assessment of the proposed mine is being undertaken, which is a factor that you may consider under s. 9(2) in making your decision. Finally, we note that, there is also a high degree of public concern in relation to the proposed mine's potential adverse effects on the peatlands and the climate, which is evidenced by the work of several civil society, environmental and conservation organizations over the past decade.⁷

As of today, and absent a designation order, the Eagle's Nest Mine will not be subject to a proper and comprehensive study of its likely impacts.⁸ In 2011, the previous proponent, Noront, voluntarily entered into an agreement with the province of Ontario to conduct an Individual Environmental Assessment (EA), with Terms of Reference (ToR) approved in 2015. In 2013, Noront released a Draft Environmental Impact Statement/Environmental Assessment Report (EA/EIS) to satisfy both provincial and federal assessment requirements, but the provincial EA process continued separately. However, no further progress was made for several years until the Eagle's Nest project was specifically exempted from the requirement of a provincial environmental assessment under Schedule 3 of the *Protect Ontario by Unleashing Our Economy Act, 2025*.⁹ The documentation informing Ontario's decision to exempt this project from environmental assessment demonstrates a complete absence of attention to the rights of impacted First Nation communities.¹⁰

The Eagle's Nest Project, proposed to produce 3,000 tonnes of ore per day (t/d), falls below the 5,000 t/d threshold that would automatically trigger an impact assessment under the Impact Assessment Act. However, Wyloo's nearby Blackbird Deposit, located less than one kilometre away and dependent on Eagle's Nest infrastructure, suggests a combined operation likely to exceed that threshold.¹¹ Given the foreseeable cumulative production and the projects' location in a highly sensitive peatland ecosystem within the Ring of Fire, the Eagle's Nest-Blackbird Complex should be subject to impact assessment.

Given the statutory exemption from provincial EA provided to Eagle's Nest this past spring, the absence of a completed comprehensive study, and the fact that the projected output of the Eagle's Nest



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mine (taken alone) puts it below the threshold set in regulation to automatically trigger federal impact assessment, a designation under the Impact Assessment Act is necessary to ensure that the Project undergoes a rigorous and transparent assessment.

The completion of an impact assessment is essential to understand and mitigate detrimental effects in areas of federal jurisdiction, including impacts on Indigenous peoples. Absent designation, these effects will not be properly understood prior to the commencement of mining at Eagle's Nest. According to the Federal Court of Canada, the designation power in subsection 9(1) of the IAA is a "safety net" mechanism which "provides the Minister with broad discretionary power to designate projects for assessment on its own initiative, or at the request of the public, if "in his or her opinion, either the carrying out of that physical activity may cause adverse effects within federal jurisdiction or adverse direct or incidental effects, or public concerns related to those effects warrant the designation".¹²

Accordingly, Neskantaga First Nation submits this designation request to ensure the necessary impact assessment will be conducted. It is plain and obvious that the Eagle's Nest mine presents potential adverse effects in areas of federal jurisdiction. Further, in deciding whether to issue the designation order, you may consider the factors set out in section 9(2) of the Act. Each one of these factors weighs in favour of designation in this case: a) there is public concern in relation to the potential adverse effects, b) there are likely adverse effects on s.35 rights, including those of Indigenous women, c) there is a relevant Regional Assessment ongoing for the Ring of Fire which an impact assessment of Eagle's Nest could usefully and efficiently feed into, d) there is no other effective means of understanding and addressing these adverse effects, and e) there are other relevant considerations in favour of designation, including potential adverse effects on Canada's ability to meet its climate commitments, and the fact that a failure to assess and mitigate likely risks to constitutionally protected Aboriginal and Treaty rights invites litigation in relation to the Project. As such, we urge you to exercise your discretion to make this designation order in a timely manner.

In our supporting materials, attached, we provide the details required by the Impact Assessment Agency of Canada's "Operational Guide: Designating a Project under the Impact Assessment Act" to support this designation request.¹³

Sincerely,

<original signed by>

Chief Gary Quisess
Neskantaga First Nation



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¹ For example, see this report in the Financial Post, “Wyloo Metals Completes Acquisition of Noront Resources; Eagle’s Nest to Set New Global Benchmark in Sustainable Mining” (April 7, 2022), online at <https://financialpost.com/globe-newswire/wyloo-metals-completes-acquisition-of-noront-resources-eagle-s-nest-to-set-new-global-benchmark-in-sustainable-mining>.

² Wyloo, “Eagle’s Nest Project”, online: <https://wyloo.com/eagles-nest/>. See also Ian Ross, “Wyloo will be mining more than nickel at Eagle’s Nest”, Northern Ontario Business, online: <https://www.northernontariobusiness.com/regional-news/far-north-ring-of-fire/wyloo-will-be-mining-more-than-nickel-at-eagles-nest-7418537>.

³ OECD (2025), Mining Regions and Cities in Northern Ontario, Canada, OECD Rural Studies, OECD Publishing, Paris, <https://doi.org/10.1787/d3676159-en> at 115.

⁴ Eagle’s Nest Project Overview, April 2025, slide deck provided to Neskantaga First Nation by Annamaria Cross, Director, Environmental Assessment Modernization Branch Ministry of the Environment, Conservation and Parks, by email to Chief Gary Quisess and Others, June 25, 2025 [included in the supporting materials].

⁵ Environmental Registry of Ontario, “Addressing Changes to the Eagle’s Nest Mine Project”, online: <https://ero.ontario.ca/notice/025-0396>.

⁶ *Impact Assessment Act*, S.C. 2019, c. 28, s. 9(1). There are also potential ‘direct or incidental adverse effects’ associated with the proposed mine which are significant, but we do not detail those in this submission, as the likely adverse effects within core areas of federal jurisdiction are more than sufficient to warrant an exercise of discretion in this case.

⁷ Wildlands League, “Ring of Fire” online: <https://wildlandsleague.org/project/ring-of-fire/> ; Wildlife Conservation Society, “Ring of Fire: More than Minerals at Stake”, online: <https://wscanada.org/about/our-programs/ontario-northern-boreal/ring-of-fire/> ; Northwatch, “Addressing Changes to the Eagle’s Nest Mine Project”, online: https://northwatch.org/wp-content/uploads/2025/05/northwatch_ero-025-0396-eagles-nest-ca-exemption.pdf .

⁸ The 2013 Draft EA/EIS did not meet federal requirements for a Comprehensive Study Environmental Assessment. A Comprehensive Study under the former Canadian Environmental Assessment Act, 2012 was being conducted until the Impact Assessment Act came into force in 2019, at which point the Comprehensive Study was terminated per the transitional provisions of the Impact Assessment Act. Government of Canada, “Canadian Impact Assessment Registry: Eagle’s Nest Mine”, online at <https://iaac-aeic.gc.ca/050/evaluations/proj/63925>.

⁹ *Protect Ontario by Unleashing our Economy Act*, 2025, SO 2025, c 4, Schedule 3.

¹⁰ ERO, *supra*, note 5.

¹¹ Wyloo, “What We Do - Blackbird Deposit”, online at <https://wyloo.com/what-we-do/#:~:text=BLACKBIRD%20DEPOSIT-,Blackbird%20Deposit,-Ontario%2C%20Canada>.

¹² *Forbid Roads Over Green Spaces v. Canada (Attorney General)*, 2023 FC 580 at para 27.

¹³ Impact Assessment Agency of Canada, “Designating a Project under the Impact Assessment Act”, online: <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/designating-project-impact-assessment-act.html>.

Request for Designation under the Impact Assessment Act for Eagle's Nest Mine

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SUPPORTING BRIEF -- 1

Project Description

Project name: Eagle's Nest Project

Project proponent: Wyloo Muketei Ltd.

Proponent contact information:

Luca Giacobazzi

Chief Executive Officer, Canada Wyloo Muketei Ltd.

150 King Street West, Suite 2401-B

Toronto, ON M5H 1J9

416 - 367 – 1444

Project location: Ring of Fire region of Ontario

Project Details:

The information provided on Wyloo's website¹, in the Draft Environmental Impact Statement/Environmental Assessment Report², and in the latest slide deck provided to Ontario³ contains contradictions and discrepancies, including about the project's components and the mine's lifespan. Based on the information currently available, which is inadequate and disjointed, we have outlined our best understanding of the project.

The proposed Eagle's Nest Project is a large-scale mining development planned within the so-called "Ring of Fire" deposits in our homelands in the Attawapiskat river watershed which drains towards James Bay. These lands and waters hold deep cultural, spiritual, and ecological significance for us.⁴ We acknowledge that these are shared territories and that neighboring First Nations also have ties to the area.

The supporting brief for this Request for Designation was compiled by Osgoode Hall Law School's Environmental Justice & Sustainability Clinic, under the leadership of the Clinic's Director Professor Dayna Nadine Scott. We acknowledge the contributions of clinic students in 2024-2025 as well as the Clinic's Graduate Fellow for 2025-2026, Mridula Vijairaghavan, and researchers Isaac Thornley, Sophia Jaworski, and Nessie Nankivell.

¹ Wyloo, "Eagle's Nest Project", online: <https://wyloo.com/eagles-nest/>. [Wyloo website].

² Noront, Eagle's Nest Project, A Federal/Provincial Environmental Impact Statement/ Environmental Assessment Report – Draft Copy", December 2013, online: <https://wyloo.com/wp-content/uploads/2024/02/1-EA-EIS-Volume-1-Executive-Summary-compressed.pdf>. [Draft EIA]. Included as Appendix A.

³ Eagle's Nest Project Overview, April 2025, slide deck provided to Neskantaga First Nation by Annamaria Cross, Director, Environmental Assessment Modernization Branch Ministry of the Environment, Conservation and Parks, by email to Chief Gary Quisess and Others, June 25, 2025 [Wyloo deck]. Included as Appendix B.

⁴ *Moonias v. Ministry of Northern Development*, 2023 ONSC 5942 (Affidavit of Wayne Moonias, Applicant at para 42). [Moonias 2023 Affidavit]. Included as Appendix C.

Request for Designation under the Impact Assessment Act for Eagle's Nest Mine

Submitted by Neskantaga First Nation, October 28, 2025

SUPPORTING BRIEF -- 2

The proponent, Wyloo, intends to construct and operate an underground mine, processing facility, and associated ore transportation and handling infrastructure. The Eagle's Nest deposit is said to be a vertically-oriented ore body, containing nickel, copper, platinum, and palladium. The deposit and proposed mine is located at 52° 44' 29" N latitude and 86° 17' 45" W longitude (see map and diagram of proposed project at Figures 1 and 2).⁵

To begin mining, Wyloo proposes to remove granodiorite rock, which the company claims will be used for constructing site infrastructure, including roads and an airstrip.⁶ This excavation is also said to create underground storage space for tailings, the waste materials left after separating valuable metals from mined ore.⁷ Wyloo has stated that 100% of the tailings will be stored underground after being mixed with a cement binder. There is a lack of understanding about the potential long-term environmental and health risks associated with this process that will affect the communities in the region. Neskantaga remains deeply concerned about the potential long-term ecological effects and impacts on our way of life associated with this process.

Wyloo's plans state that mineralisation will occur in the orebody, which they describe as a near-vertical pipe-like structure extending from the surface to depths exceeding 1,600 metres, which is three times the length of the CN Tower.⁸ Wyloo projects the mine to produce 3,000 tonnes per day (t/d) of raw ore and the processing facilities to generate approximately 420 t/d of nickel-copper-platinum-palladium concentrate. Wyloo claims that this will result in an annual output of 15,000 tonnes of nickel, 6,000 tonnes of copper, 70,000 ounces of palladium, and 22,000 ounces of platinum. We believe the current plan is for the concentrate to be transported by truck from the mine site to a trans-load facility near the provincial highway system, a distance of approximately 500 km, where it will then be transferred onto railcars for shipment to processing facilities in eastern Canada.

Surface infrastructure is stated to include an aggregate crushing area, twin portals for underground access, a concentrator for ore processing, a water treatment facility, a paste fill plant, and various administrative and support buildings. Effluent from the sewage treatment plant will flow into the Muketei River, which is approximately 500 metres from the proposed site.⁹ The proposed housing for workers includes a permanent accommodation complex, with workers flown in and out using a proposed airstrip. Wyloo's plans show underground infrastructure including twin ramps, conveyors, crushers, and other facilities to facilitate ore extraction and backfilling.

According to the proponent, the mine life is expected to be between 17 and 25 years. The Project is stated to comprise the following four phases and approximate durations:

⁵ *Draft EIA supra* note 2 at s. 1.2.

⁶ *Ibid* at 1.3.1.

⁷ *Ibid* at s.1.2.

⁸ *Wyloo website supra* note 1.

⁹ *Draft EIA supra* note 2 at figure 6.4-1.

Request for Designation under the Impact Assessment Act for Eagle's Nest Mine

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SUPPORTING BRIEF -- 3

- Construction (3 years);
- Operation (initial 12 years);
- Closure (2 years); and
- Post-closure (a minimum of 5 years).¹⁰

Wyloo states that the operational mine life will be extended by a further 8 years if the current projected resources at Eagle's Nest are developed.¹¹

The proponent claims the post-closure monitoring will last at least five years or until mine objectives are met.¹² Proposed closure plans will include removing all surface infrastructure, sealing underground portals with concrete caps, and allowing the underground tunnels to flood.¹³ Wyloo stipulates that disturbed areas will be re-vegetated, either through active restoration or natural regeneration.¹⁴ However, Wyloo does not address the need for social closure planning at the end of the operational period for the mine.

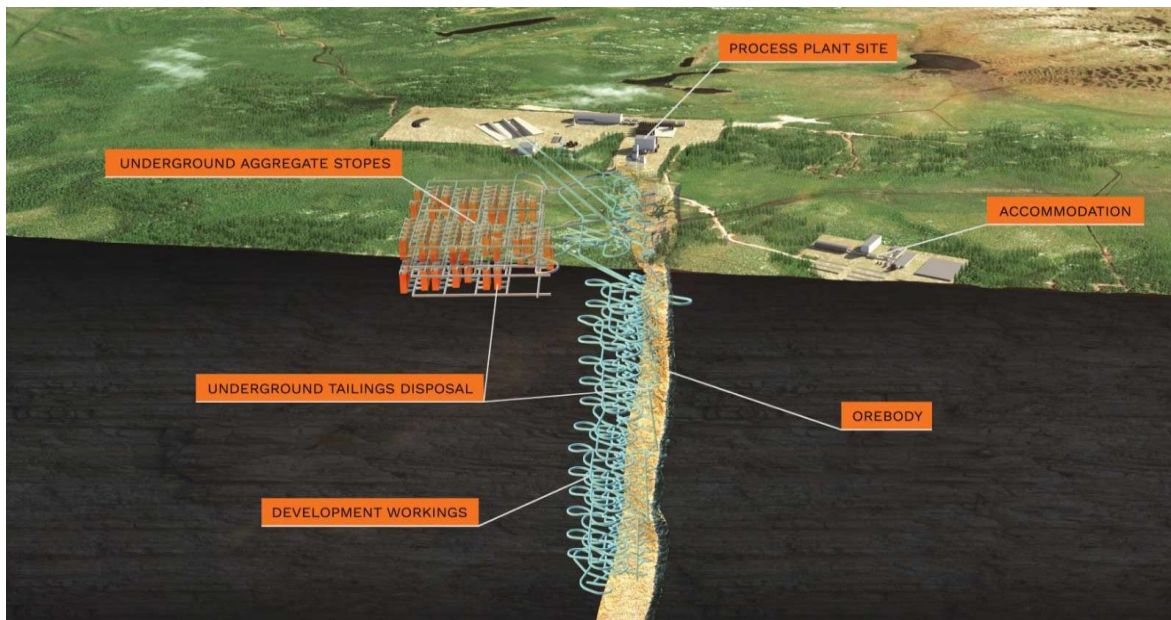


Figure 1. Footprint of Eagle's Nest Mine.¹⁵

¹⁰ *Draft EIA supra* note 2 at s 1.3.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid* at s 1.3.3.

¹⁴ *Ibid.*

¹⁵ *Wyloo website supra* note 1.

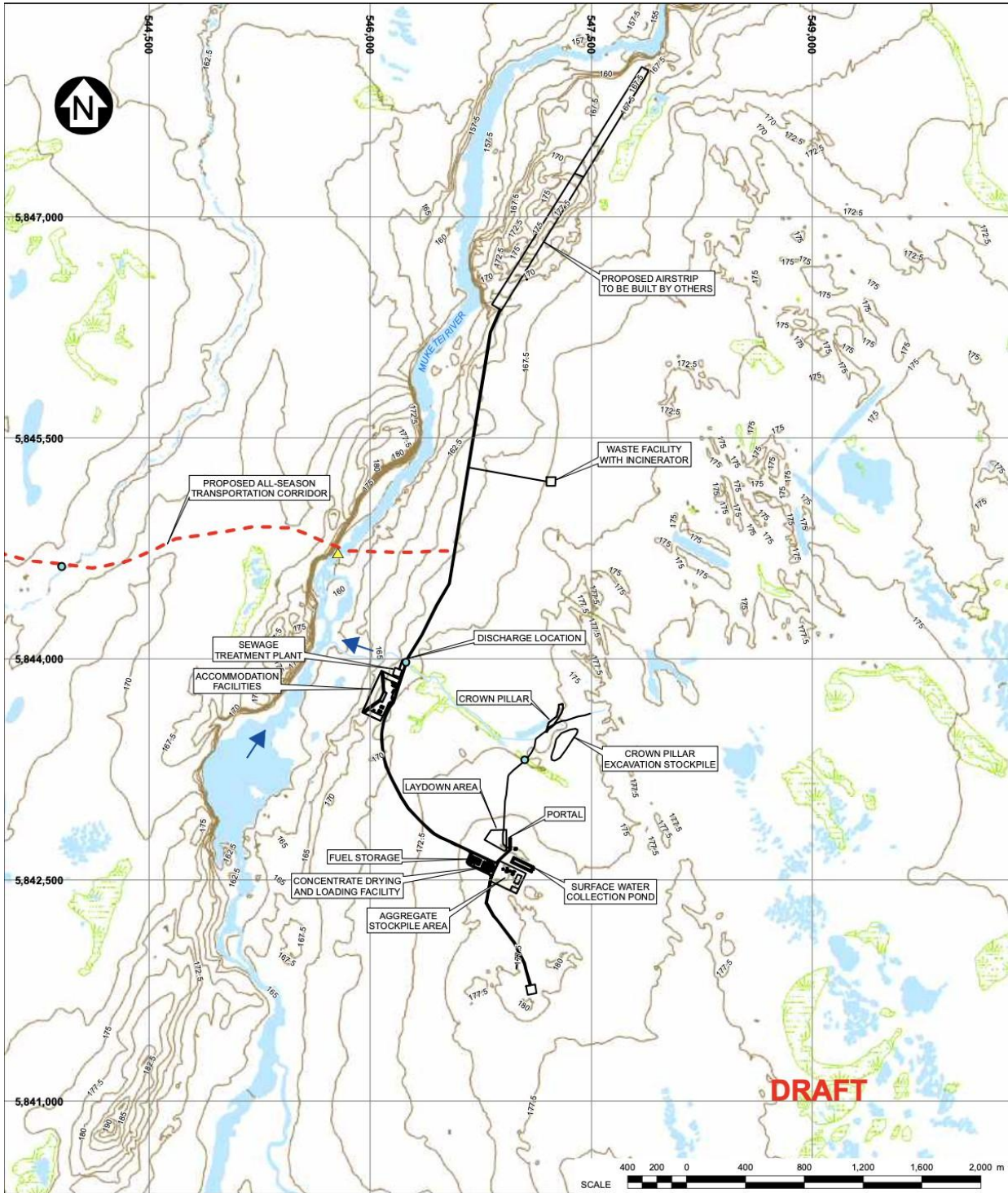


Figure 2. Mine site layout.¹⁶

¹⁶ Draft EIA supra note 2 figure 6.4-1.

Broader Context for the Eagle's Nest Mine Project

The Eagle's Nest mine is part of a larger and more significant endeavor of opening up Ontario's far North in order to develop what is colloquially called the Ring of Fire. Opening up the roadless far north is a high stakes decision that should not be undertaken without careful deliberation. When we refer to "induced development", we mean the expected future mines, associated infrastructure, and influx of outsiders that are likely to be stimulated by the approval of Eagle's Nest.

The Ring of Fire is a 5,000 square kilometre potential mining region in the James Bay Lowlands of Northern Ontario.¹⁷ This region is located within Treaty No.9 territory, and on lands and waters which our people have care-taken since time immemorial.¹⁸ The Ring of Fire is said to contain a variety of valuable minerals, including chromite, nickel, copper, platinum group elements, gold, and zinc. This area has become a focal point for mining companies and government entities due to its substantial economic potential and its supply of so-called "critical minerals", but it has also attracted a significant degree of serious concern from civil society organizations and Indigenous communities and organization due to its ecological sensitivity and the potential for irreversible harm to the climate, biodiversity, and Indigenous ways of life.¹⁹

There are considerable social and logistical challenges. The area is very remote, and currently lacks all-season road access, broadband and transmission lines. It is also ecologically sensitive, with vast peatlands and wetlands that play a crucial role in the regulation of the global climate.²⁰ Additionally, Indigenous communities in the region have long held concerns about the potential impacts of mining on their homelands, their communities, their way of life, and the health of the river systems.

The Eagle's Nest Mine is not Wyloo's only proposed project even within this specific location in the Ring of Fire. Wyloo also owns what they call the Blackbird deposit, which contains significant amounts of chromite.²¹ While Wyloo states that its current focus is advancing the Eagle's Nest Project, it has also expressed intentions to develop Blackbird as the next deposit in its project pipeline. Located only 500-1000m from Eagle's Nest, Wyloo plans to access the Blackbird deposit from underground, relying on the same infrastructure built for Eagle's Nest.²²

¹⁷ Government of Ontario, "Ontario's Ring of Fire" (January 28, 2025), online at <<https://www.ontario.ca/page/ontarios-ring-fire>>.

¹⁸ *Moonias 2023 Affidavit supra* note 3.

¹⁹ Laura Trethewey, "Inside the Fight for the Ring of Fire" (September 30, 2024) online at <<https://macleans.ca/society/environment/ring-of-fire-ontario/>>; see also WCS Canada, "More than Minerals at Stake", online: <https://wcscanada.org/about/our-programs/ontario-northern-boreal/ring-of-fire/>; see also WCS Canada's Northern Ontario Resource Hub, online: <https://morethanminerals.ca/>; see also

²⁰ Lorna Harris et al, "The essential carbon service provided by northern peatlands" 20 (2021), *Frontiers in Ecology and the Environment*, at 222-230.

²¹ *Wyloo deck supra* note 3 at p. 18.

²² Wyloo states that it is aiming to develop Blackbird as the "second deposit in [its] project pipeline, leveraging Eagle's Nest infrastructure (camp, mine, airstrip and road)" *ibid*, at 18. Further, the Wyloo website states: "Given its size and

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SUPPORTING BRIEF -- 6

Wyloo's decision to divide its mining projects, despite their proximity and referring to them as the Eagle's Nest - Blackbird Complex in their own report, leaves both projects to be assessed in isolation.²³ As Neskantaga's former Chief Wayne Moonias has shared, this type of approach raises serious concerns about the full scope of the expected environmental and social impacts of projects on our territory.²⁴ This approach mirrors Ontario's decision to split the Ring of Fire road into three separate projects — the Marten Falls Community Access Road, the Webequie Supply Road, and the Northern Road Link²⁵— rather than assessing them as a whole.²⁶ Treating the two proposed mines each in isolation risks obscuring their cumulative effects, and impedes our ability to understand the extent of their potential impact on our way of life. At the very least, the decision to split the mining into two projects should not be used to escape the automatic triggering of an impact assessment. Because there is a dearth of publicly available information about the Blackbird project, it is impossible to know whether, if the outputs of the two interconnected underground operations are combined, they would surpass the thresholds in the regulations and thus trigger an automatic impact assessment under the Act (as described in more detail below).²⁷

Recent legal developments further underscore the importance of assessing the Eagle's Nest mine within a framework that respects Indigenous rights and decision-making authority. The Federal Court has clarified that the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) into Canadian law through the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDRIPA) gives rise to an enhanced obligation on the Crown when taking decisions that may affect Indigenous peoples' rights.²⁸ As you know, environmental/impact assessment has provided an important structure through which both the Crown and First Nations can learn more about the potential impacts of proposed activities on their respective rights and obligations. Practically, impact assessment is one of the main tools the Crown has used to discharge its duty to consult and accommodate. Importantly, the Court affirmed that this enhanced obligation exists now - it is not contingent on future legislative reforms. The fragmented and "fast-tracked" approach to permitting and approvals currently being applied to the Eagle's Nest mine and broader Ring of Fire developments falls far short of this standard, reinforcing the urgent need for a coordinated and transparent federal impact assessment that meaningfully engages Neskantaga First Nation.

proximity to Eagle's Nest (less than one kilometre), Blackbird can be accessed from underground, leveraging the existing surface and underground infrastructure that will already be in place at the future Eagle's Nest Mine".
<https://wyloo.com/what-we-do/#:~:text=BLACKBIRD%20DEPOSIT-,Blackbird%20Deposit,-Ontario%2C>

²³ *Draft EIA* at s. 3.4.2.2.

²⁴ Logan Turner, *Life on the Line* (September 12, 2022), online at:

<https://www.cbc.ca/newsinteractives/features/a-divisive-road-to-ring-of-fire-ontario>

²⁵ Ontario, Marten Falls Community Access Road Project, online: <https://www.ontario.ca/page/marten-falls-community-access-road-project>; see also Ontario, Webequie Supply Road Project, online: <https://www.ontario.ca/page/webequie-supply-road-project>; see also Northern Road Link Project, online: <http://www.ontario.ca/page/northern-road-link-project>.

²⁶ *Moonias 2023 Affidavit supra* note 3 at para 69.

²⁷ *Physical Activities Regulations*, SOR/2019-285. [*Physical Activities Regulations*]

²⁸ *Kebaowek First Nation v. Canadian Nuclear Laboratories*, 2025 FC 319.

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SUPPORTING BRIEF -- 7

Furthermore, there is an opportunity to coordinate a federal impact assessment with the ongoing Regional Assessment in the Ring of Fire.²⁹ The Regional Assessment provides a broader framework into which an individual project assessment of Eagle's Nest could usefully and efficiently feed. Roads to access the mineral deposits at Eagle's Nest are at least 5 years into the future. This provides an opening to nest an impact assessment of Eagle's Nest into that structure without causing any further delay to any project. What it will accomplish is an opportunity for both Neskantaga First Nation and Canada to learn about, understand and devise measures to mitigate, the adverse effects of the Project before issuing any approvals to Eagle's Nest. In other words, issuing a designation order provides Canada with an opportunity to discharge its duty to consult and accommodate in a structured way. The absence of an impact assessment for Eagle's Nest, as we have argued, does not relieve Canada of that obligation.

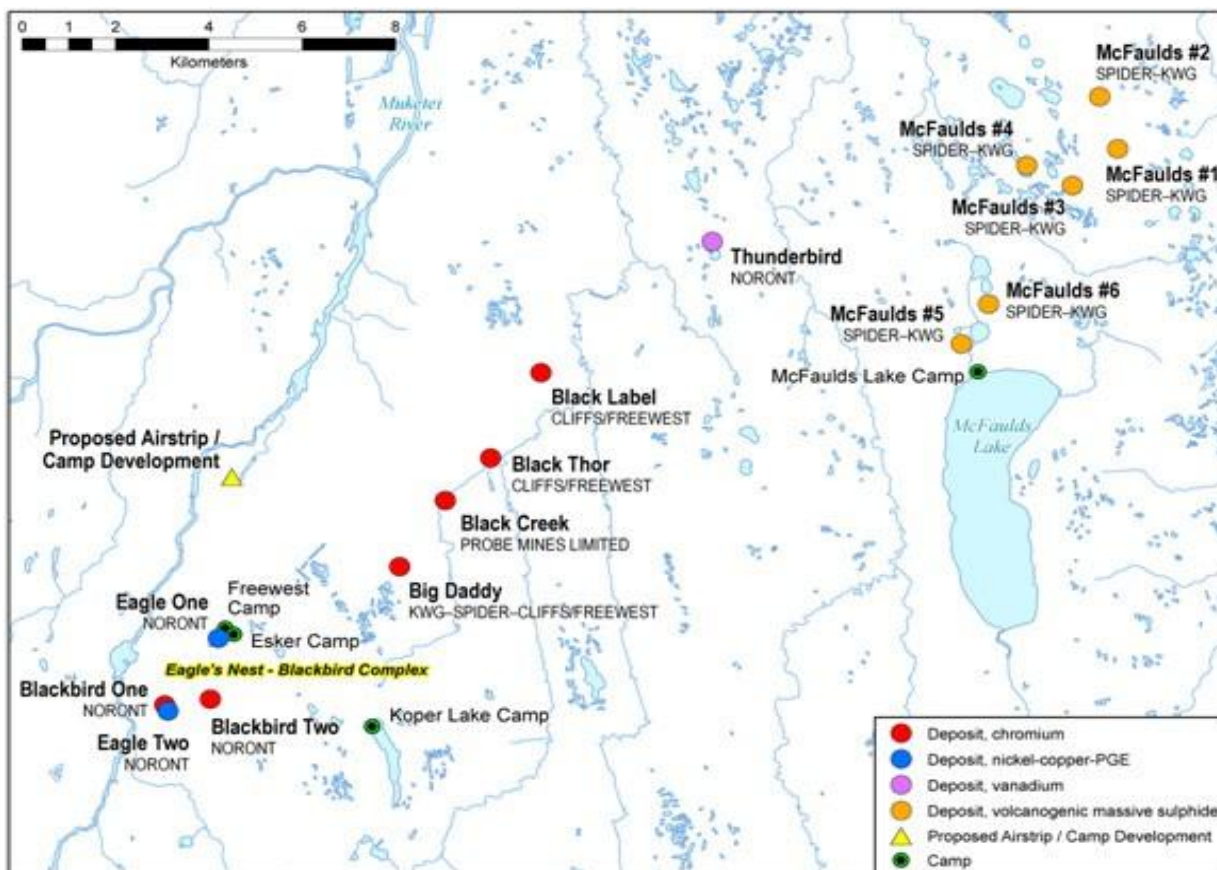


Figure 3. Map showing a number of deposits near the Eagle's Nest Project. The Eagle's Nest - Blackbird Complex is marked and the proximity of the Eagle's Nest project to the Blackbird deposit is evident.³⁰

²⁹ Canada, "Regional Assessment in the Ring of Fire Area", online: <https://iaac-aeic.gc.ca/050/evaluations/proj/80468?culture=en-CA>.

³⁰ Mining Watch Canada, "Ontario First Nations Put a Damper on Ring of Fire Development" (November 26, 2012),

Request for Designation under the Impact Assessment Act for Eagle's Nest Mine

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SUPPORTING BRIEF -- 8

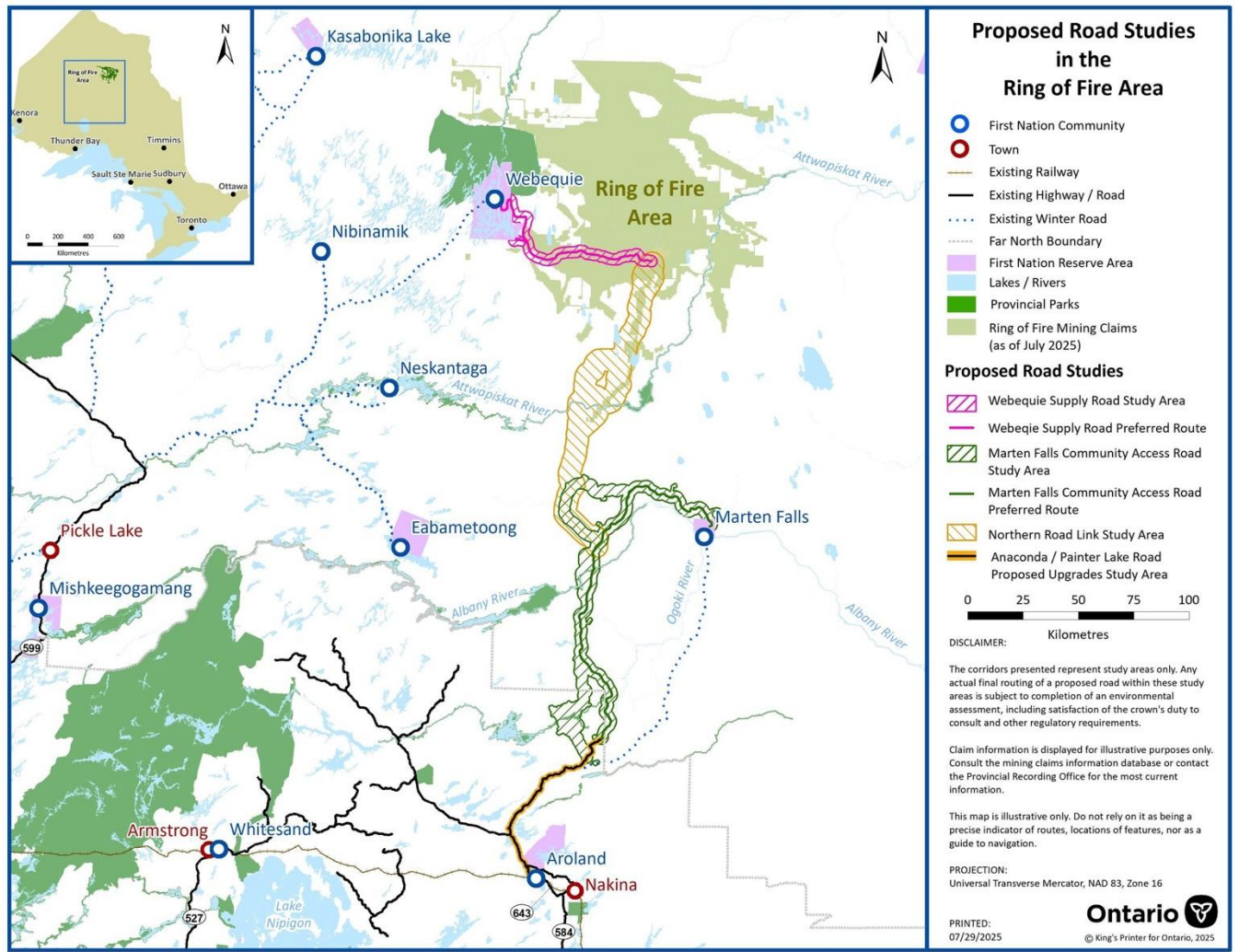


Figure 4. Map illustrating the Eagle's Nest Project in relation to nearby First Nations.³¹

The Eagle Nest Project's Review by Ontario

The proposed Eagle's Nest mine was technically under provincial environmental review for over a decade, with little progress or transparency, and no meaningful engagement of Neskantaga First Nation. Wyloo's predecessor, Noront, entered into a voluntary agreement in September 2011 and submitted the Terms of Reference (ToR) for the assessment in October 2012; they were approved in June 2015.³² The EA was then suspended while Wyloo acquired Noront and thus gained ownership of Eagle's Nest. The

online at <https://miningwatch.ca/blog/2012/11/26/ontario-first-nations-put-damper-ring-fire-development>.

³¹ Government of Ontario, "Ontario's Ring of Fire", online: <https://www.ontario.ca/page/ontarios-ring-fire#section-3>

³² Government of Ontario, "Eagle's Nest Multi-Metal Mine" (February 28, 2024), online at <https://www.ontario.ca/page/eagles-nest-multi-metal-mine>.

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SUPPORTING BRIEF -- 9

Provincial EA Terms of Reference are attached as Appendix D for reference. As of July 2024, Ontario's Ministry of the Environment, Conservation and Parks (MECP) still considered the proposed Eagle's Nest project as subject to comprehensive environmental assessment (EA) requirements under the *Environmental Assessment Act*.³³

In an October 2024 letter to Neskantaga, Wyloo stated that "given the fundamental changes to the scope of the proposed Project, the existing ToR will either need to be materially amended or potentially replaced with an alternate review process".³⁴ Wyloo also stated that it was in discussions with the Province to determine a "workable" approach but has yet to provide clarity on what this means or how the process will ensure a rigorous and transparent assessment of the project's impacts. MECP indicated at that time that they were not able to provide any updates on the status of the EA.³⁵ The lack of progress and transparency in updating the environmental assessment raised serious concerns about whether the full scope of impacts, both individually and cumulatively with other developments in the Ring of Fire would be properly evaluated, and whether Neskantaga would have a meaningful role in shaping decisions that affect our homelands.

Without any clear communication thereafter, the Project was hastily exempted from the requirement of an environmental assessment by Schedule 3 under Bill 5 in Ontario in May 2025. The removal of the requirement for an environmental assessment for Eagle's Nest was challenged by Neskantaga First Nation in a letter to the MECP on 24 April 2025 shortly after Bill 5 was tabled in the Ontario legislature.³⁶ The rationale that Ontario provides for why Eagle's Nest was exempted from environmental assessment is that there had been "significant changes to the project scope".³⁷ The main change to project scope is that the proposal for the associated all-season road has been removed, and the mining project now only consists of the mining operations at Eagle's Nest. Of course, the Northern Road Link, the portion of road that will most significantly impact Neskantaga First Nation and our way of life, is only necessary if Eagle's Nest and/or other mines open in the Ring of Fire. Therefore, the extent of impacts on our s.35 rights, and on the broader Attawapiskat watershed, is not diminished by Wyloo's scoping out of the road from its Project so as to avoid environmental assessment.

As of today, and absent a designation order under the federal IAA, the Eagle's Nest mine will not be subject to a proper and comprehensive study of its impacts on our s.35 rights. Given the possibility that the Ring of Fire may soon be deemed a "Special Economic Zone" in Ontario *and* a "Project in the National Interest" under the *Building Canada Act*, it is possible that the planned mining activities could be subject

³³ Dorothy Moszynski, "Eagle's Nest Multi-metal Mine" (July 15, 2024) via e-mail copied to Dayna Scott. [Moszynski email]. Attached as Appendix E.

³⁴ Kristan H. Straub, CEO Canada, Wyloo, "Response to July Letter regarding the proposed Eagle's Nest Project" (October 1, 2024) via e-mail attachment to Chief Chris Moonias. Attached as Appendix F.

³⁵ Moszynski email, *supra* note 33.

³⁶ Neskantaga First Nation, "Response to April 17th Letter", online: https://www.matawa.on.ca/wp-content/uploads/2025/06/1476_001-1.pdf.

³⁷ Environmental Registry of Ontario, "Addressing Changes to the Eagle's Nest Mine Project", online: <https://ero.ontario.ca/notice/025-0396>.

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to very little regulatory oversight at all.³⁸ This is a serious concern given the potential adverse impacts on our constitutionally protected rights and gives rise to a strong rationale for the exercise of the Minister's discretion to designate Eagle's Nest for impact assessment. Further, if the Ring of Fire is designated as a "Project in the National Interest" under the *Building Canada Act*, mining at Eagle's Nest cannot commence until the road infrastructure is built (projected to be at least 5 years off), which provides more than adequate time for an effective impact assessment of the proposed mine to be conducted in a way that respects our rights and interests.

Project Effects Warranting Designation

1. Is the Project near a threshold set in the Project List?

Answer: The Eagle's Nest mine, as currently proposed, falls below the threshold set in the Project List for a new metal mine with an ore production capacity of 5,000 tonnes per day (t/d).³⁹ Wyloo has projected that the Eagle's Nest Project will produce 3,000 t/d of raw ore. However, as mentioned, this assessment does not account for the Blackbird Deposit, which Wyloo has presented as a separate project, despite its close proximity of less than one kilometer from Eagle's Nest and its planned reliance on the Eagle's Nest infrastructure to extract chromite.

At this stage, the production capacity of the Blackbird Deposit remains unknown, but it is foreseeable that the combined ore production capacity of the Eagle's Nest–Blackbird Complex will exceed the 5,000 t/d threshold. Wyloo's decision to split the projects means that Eagle's Nest remains under the threshold that would automatically trigger an impact assessment under the *Impact Assessment Act*. An impact assessment is also automatically triggered for the expansion of an existing mine resulting in an increase in the area of mining operations by 50% or more and a total ore production capacity of 5,000 t/d or more.⁴⁰ While the Blackbird Deposit's reliance on Eagle's Nest infrastructure means it will likely be considered an expansion of the existing project, the use of shared infrastructure may keep the increase in the mining area below the 50% threshold, potentially allowing Wyloo to avoid an automatic impact assessment. Given these circumstances, the production capacity of the Eagle's Nest Project and the Blackbird Deposit should be considered together. When evaluated as a whole, the Eagle's Nest–Blackbird Deposit Complex would likely exceed the threshold and automatically trigger an impact assessment. The future total capacity of this mining complex underscores the need for designation, as Eagle's Nest alone may be presented as falling below the threshold, but in reality, it serves as the foundation for a much larger mining operation that warrants a full and transparent review.

³⁸ Special Economic Zones in Ontario will permit projects in designated zones and by trusted proponents to be exempt from the regular application of Ontario law, with details to be determined by regulations; Projects in the National Interest (PONIs) will also be subject to a special, fast-tracked regulatory approvals process. See the *Protect Ontario by Unleashing our Economy Act*, 2025, SO 2025, c 4, Schedule 3; and the *Building Canada Act*, S.C. 2025, c. 2, s. 4.

³⁹ *Physical Activities Regulations supra* note 27.

⁴⁰ *Ibid.*

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Further, the thresholds set in the Project List are intended to serve as proxies to identify projects likely to cause significant adverse environmental effects. They are not stand-alone definitive indicators of environmental risk. In this case, the threshold is a poor proxy for the magnitude of potential effects. The broader context of the Eagle's Nest mine, proposed in a highly sensitive, remote peatland ecosystem in the Ring of Fire, coupled with the requirement for extensive new infrastructure development, amplifies the scale and severity of the likely ecological impacts. The area's cultural significance to our people, as well as the cumulative effects of related infrastructure and potential future mining activities, further justify the need for designation under the *Impact Assessment Act*, regardless of whether the current project formally exceeds the listed threshold.

2. Is the Project near or on federal lands or federally designated areas?

Answer: No, the Project is not on "federal lands" or federally designated areas. "Federal lands" limits the application of this question to reserve lands.⁴¹ However, the Project falls within Neskantaga's broader traditional territory and homelands for which we are stewards.⁴² Canada has a constitutional duty to uphold and protect Aboriginal and Treaty rights under s.35 of the *Constitution Act, 1982*, as well as obligations under the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*, which recognizes the rights of Indigenous Peoples to their traditional territories, lands, and resources.⁴³ This includes the protection of Indigenous communities' broader territories as a matter of preventing violations of their constitutionally protected Aboriginal and Treaty rights.

3. Does the Project involve new technology or a new type of activity?

Answer: Yes. According to the proponent itself, the Eagle's Nest Project will be "the first mine of its kind where 100 percent of tailings will be stored underground".⁴⁴ Wyloo states that the tailings generated by the processing facility will be thickened and converted into cemented and uncemented paste backfill.⁴⁵ The cemented paste backfill tailings will be used to backfill the ore stopes and the uncemented paste tailings will be used to backfill the aggregate stopes. Wyloo claims no surface disposal of tailings will occur. The former CEO of Wyloo describes the cement backfill plans as a "cool solution" to a "complex problem".⁴⁶

While underground tailings storage may mitigate some known risks compared to above-ground storage, this technology remains too new for us to fully understand its potential consequences without further

⁴¹ *Impact Assessment Act* SC 2019 c 28 at s. 2.

⁴² *Moonias 2023 Affidavit supra* note 3 at para 42.

⁴³ *Constitution Act, 1982*, s 35, being Schedule B to the Canada Act 1982 (UK), 1982, c 11; United Nations, "United Nations Declaration on the Rights of Indigenous Peoples" (September 13, 2007), online at <https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf>.

⁴⁴ *Wyloo website supra* note 1; *Wyloo deck supra* note 3.

⁴⁵ *Draft EIA supra* note 3 at s. 1.3.2.

⁴⁶ Ian Ross, "Wyloo will be mining more than nickel at Eagle's Nest", Northern Ontario Business, online: <https://www.northernontariobusiness.com/regional-news/far-north-ring-of-fire/wyloo-will-be-mining-more-than-nickel-at-eagles-nest-7418537>.

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assessment.⁴⁷ Researchers acknowledge that “cemented paste backfill research tends to focus on strength and mining aspects, and little on the environmental implications.”⁴⁸ Further, impacts on subterranean ecosystems and the cascading effects on the broader ecology and hydrology remain uncertain and require further study, especially within boreal peatlands and under freeze-thaw cycles.⁴⁹ Existing research warns that industrial activity and warming are already driving permafrost thaw, subsidence, and major hydrologic changes in the James Bay lowlands. The proponent's own feasibility documents note that seepage from underground paste backfill will require collection and management, stating, “Seepage from tailings stopes is expected to be greatly reduced by dewatering the tailings and depositing paste tailings in the stopes and applying barricades to seal the bottom of these stopes. Any seepage will be directed to the water treatment facility which has been included in the process operating costs”, yet, these documents do not state what will happen to seepage after mine closure and the closure of the water treatment facility.⁵⁰

In other words, although the risk is lower than other storage methods, there remains a risk of the tailings oxidizing or leaching into the natural environment. Sufficient research has not yet been conducted to fully understand the risks associated with storing such a significant volume of tailings underground, nor the potential consequences of failure. Proceeding without a comprehensive understanding of these risks is premature and could have serious environmental implications. A comprehensive impact assessment must be conducted to fully understand and mitigate these risks. Further, as the company plans to “mine aggregate from below the surface at Eagle's Nest for use as road base”, there are further risks that need to be assessed, such as the existence of sulfide minerals in waste rock that could lead to acid mine drainage and present risks to water quality throughout the peatlands.

4. Does the Project have the potential to cause adverse effects that are of concern to you and fall within federal jurisdiction?

Answer: Yes. The Eagle's Nest Project is likely to cause significant adverse impacts on Neskantaga First Nation and in areas of federal jurisdiction. These potential adverse effects are of great concern to our First Nation.

The potential adverse effects are as follows:

A. Effects on Fish and Fish Habitat

The Eagle's Nest mine poses a serious threat to fish and fish habitat within Neskantaga's homelands, particularly to the Lake Sturgeon (*Acipenser fulvescens*), a species of special concern that holds

⁴⁷ Mehling Environmental Management Inc., *Paste Backfill Geochemistry - Environmental Effects of Leaching and Weathering* (April 2006), online at <<https://mend-nedem.org/wp-content/uploads/2013/01/10.2.pdf>> [Mehling report].

⁴⁸ *Ibid.* at page 33.

⁴⁹ Amjad Tariq and Ernest K. Yanful, (2013) “A review of binders used in cemented paste tailings for underground and surface disposal practices, 131 *Journal of Environmental Management*, 138-149.

⁵⁰ *Draft EIA supra* note 3, at 212.

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immense cultural and ecological significance to our people.⁵¹ The Muketei River, which is located in close proximity (500-1000m) to the proposed Eagle's Nest mine, is expected to absorb its waste, and is a major tributary that flows into the Attawapiskat River.⁵² Tributaries of the Muketei River provide habitat for several important fish species which were identified in Wyloo's Draft EA/EIS Report.⁵³ These include large-bodied fish species, such as Northern Pike (*Esox lucius*), Walleye (*Sander vitreus*), White Sucker (*Catostomus commersonii*), and Shorthead Redhorse (*Moxostoma macrolepidotum*). These waters also support smaller-bodied fish such as Finescale Dace (*Phoxinus neogaeus*) and Brook Stickleback (*Culaea inconstans*), which contribute to the overall health of the aquatic ecosystem. However, it is the Lake Sturgeon that are of the most cultural and spiritual significance to Neskantaga and adverse effects to sturgeon thus present the greatest threat to our way of life from this development.

For thousands of years, Neskantaga members have protected and relied on sturgeon, our kin. Former Chief Wayne Moonias has emphasized that sturgeon are an important food source for the community and members take pride in being stewards of the fish.⁵⁴ Knowledge has been passed down through generations to protect the health of the population.⁵⁵ Sturgeon are highly vulnerable to habitat disturbances, requiring uninterrupted migration routes and specific spawning conditions to survive.⁵⁶ The Eagle's Nest mine threatens to sever these connections by fragmenting critical fish habitat through road construction, stream crossings, and industrial activities. Two watercourse crossings on Eagle's Nest mine site roads will pass over drainage streams leading to the Muketei River, a system that includes wetlands and ponds essential for small-bodied fish and juvenile sturgeon.⁵⁷ The construction of culverts and bridges at these crossings will not only result in fish habitat loss and flow alterations but could also impede fish passage, effectively cutting Lake Sturgeon off from their spawning and feeding grounds.

The Muketei flows into the Attawapiskat where the two rivers meet at a fork, approximately 200km west of James Bay. Within the watershed, peatlands provide up to 50% of the discharge water for the higher order tributaries of the Attawapiskat River, including the Muketei River.⁵⁸ Surface water flows and fish habitat may also be affected by underground mine dewatering.⁵⁹ Additionally, dewatering could kill incubating eggs and larvae, further reducing recruitment and population stability. For this reason, it is essential to understand the hydrological connectivity of patterned peatland complexes (i.e., how water

⁵¹ Moonias 2023 Affidavit *supra* note 3 at para 14. see also Turner *supra* note 35.

⁵² Natural Resources Canada & Impact Assessment Agency of Canada. (2023, October 1). Attawapiskat Watershed Region. Natural Resources Canada, Open Science and Data Platform. <https://osdp-psdo.canada.ca/dp/en/search/metadata/NRCAN-ROF-1-2C82DC9C-FB7D-4B75-ACE6-E69F57B0EB45>.

⁵³ Draft EIA.

⁵⁴ Moonias 2023 affidavit; see also Turner *supra* note 24.

⁵⁵ *Ibid*.

⁵⁶ Ministry of Natural Resources, *Lake Sturgeon - Ontario Recovery Strategy Series* (Queen's Printer for Ontario, 2011), online at <<https://iaac-aeic.gc.ca/050/documents/p54755/143419E.pdf>>.

⁵⁷ Draft EIA *supra* note 2.

⁵⁸ Orlova, J., & Branfireun, B. A. (2014). Surface water and groundwater contributions to streamflow in the James Bay Lowland, Canada. *Arctic, Antarctic, and Alpine Research*, 46(1), 236-250.

⁵⁹ Draft EIA *supra* note 2 at s 6.4.5.4.

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transfers from peatland to streams to tributaries in downgradient channels), in order to predict how these systems will function under pressure from both new mines and the increasingly water-limited conditions expected as climate change intensifies in the future.⁶⁰

Construction activities at Eagle's Nest will also introduce noise, tremors, and temporary flow disruptions, likely causing habitat avoidance and displacing fish from key areas.⁶¹ Increased sedimentation from erosion, airborne dust, and riparian vegetation removal will degrade water quality, affecting food availability, and spawning conditions.⁶² Mine effluent, including treated sewage effluent and mine water originating from underground workings, will also be released and affect water quality.⁶³ Sturgeon, which rely on clean, well-oxygenated gravel beds for spawning, may experience significant reproductive declines due to sediment deposition smothering their eggs.⁶⁴ Elevated turbidity and contaminants from mine effluent, even when treated, can disrupt fish physiology, reduce reproductive success, and alter the sensitive aquatic ecosystem that supports sturgeon and other species.⁶⁵

The physical and chemical disturbances caused by Eagle's Nest may increase stress levels in fish, suppressing their immune systems, reducing feeding efficiency, and lowering reproductive fitness.⁶⁶ For a species like the Lake Sturgeon, which has long generation times and low reproductive rates, these cumulative effects pose an existential threat. The construction of all-season roads will also open access to previously remote fish-bearing waters, increasing fishing and poaching pressure on an already at-risk species.⁶⁷ Overharvesting, combined with habitat degradation, could further push sturgeon populations toward collapse.

Neskantaga land users and knowledge keepers have long understood that sturgeon are deeply sensitive to changes in their environment. Community members have shared this information countless times, including in a 2022 CBC article about the Attawapiskat River and the proposed Ring of Fire development.⁶⁸ These lived experiences and inter-generational knowledges serve as powerful evidence that the species is highly vulnerable to development.

⁶⁰ Balliston, Nicole, Owen Sutton, and Jonathan Price. "Solute Depletion and Reduced Hydrological Connectivity in Subarctic Patterned Peatlands Disturbed by Mine Dewatering." *Science of The Total Environment* 913 (February 2024): 169442. <https://doi.org/10.1016/j.scitotenv.2023.169442>; International Panel on Climate Change (2013). *The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*. Edited by Stocker TF, Qin D, Plattner G-K, Tignor M, Allen SK, Boschung J, Nauels A, Xia Y, Bex V, Midgley PM. Cambridge University Press, Cambridge, UK and New York, NY, USA, 2013. 1535.

⁶¹ *Draft EIA supra* note 2 at s 6.6.5.6.

⁶² *Ibid* at 6.4.5.3.

⁶³ *Ibid*.

⁶⁴ Ministry of Natural Resources, *Lake Sturgeon - Ontario Recovery Strategy Series* (Queen's Printer for Ontario, 2011), online at <<https://iaac-aeic.gc.ca/050/documents/p54755/143419E.pdf>>.

⁶⁵ *Draft EIA supra* note 2 at s 6.6.5.6.

⁶⁶ *Ibid* at s 6.6.5.6.

⁶⁷ *Draft EIA supra* note 2 at s 4.4.1.

⁶⁸ *Turner supra* note 24.

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Blasting activities for road construction and aggregate extraction may create shockwaves that can kill or injure fish and disrupt aquatic habitats.⁶⁹ Chemical residues from explosives may leach into the water, introducing toxic compounds that further stress fish populations. Given the significance of Lake Sturgeon to Neskantaga First Nation, both as a food source, a cultural keystone species and as part of the ecological integrity of our homelands, these impacts present significant risk to our s.35 harvesting rights. The continuation of practices of care-taking and harvesting of sturgeon by Neskantaga First Nation members shows how profound an impact it will have on our people and s.35 rights if the lake sturgeon are adversely affected by the Eagle's Nest project. If the mine jeopardizes its survival, it threatens our way of life.

B. Effects on Migratory Birds

The Eagle's Nest mine threatens the birds that are integral to the Attawapiskat river system, including migratory birds and waterfowl that Neskantaga has relied on for generations. Our people hunt waterfowl as part of our way of life, harvesting geese, ducks, and other species.⁷⁰ As former Chief Wayne Moonias has shared, these birds are not just a food source; they are woven into the "practice of our traditional way of life".⁷¹ The loss of habitat, increased disturbances, and greater outsider access to remote hunting areas from this Project will have lasting consequences for both the birds and our ability to sustain our way of life.

The Project is located within the Ontario Shield Ecozone, in a region rich with wetlands, forests, and waterways that provide critical breeding, feeding, and staging habitats for migratory birds.⁷² Notably, burns occupy 8.1% of the ecoregion, the highest percentage recorded in Ontario, resulting in an already partially fragmented ecozone. The mine site itself consists of conifer forest, woody wetland, and non-woody wetland.⁷³ Importantly, within the greater area of the Project, the highest bird species richness has been recorded at the mine site (64 species). These habitats will be directly impacted by the Project through deforestation, wetland destruction, and infrastructure development, reducing available nesting sites, food resources, and shelter for countless bird species.

According to the proponent's draft environmental report, the Project location is habitat for eleven migratory bird species at risk (SAR) under the *Migratory Birds Convention Act*, including Canada Warbler, Sandhill crane (a recovering population in North America), Common Nighthawk, Olive-sided Flycatcher, Barn Swallow, Black Tern, and Yellow Rail.⁷⁴ In the proponent's preliminary assessment, Common Nighthawk and Olive-sided Flycatcher were observed within the mine site area, while Canada Warbler was documented in the broader regional study area.⁷⁵ These protected species face potential impacts

⁶⁹ *Draft EIA supra* note 2 at 6.6.5.6.

⁷⁰ *Moonias 2023 Affidavit supra* note 3 at para 14.

⁷¹ *Ibid.*

⁷² *Draft EIA supra* note 2 at s 6.8.2.

⁷³ *Ibid* at 3.12.4.3.

⁷⁴ *Ibid* at s 6.8.3 and table 6.8.-1.

⁷⁵ *Ibid* at s 3.12.4.3.

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from the Project including loss of available habitat from the development, sensory disturbance from the mine related activities, and mortality due to increased collisions with vehicles and other infrastructure.⁷⁶

For waterfowl, which are central to Neskantaga's seasonal harvests, the effects of the Project could be devastating. The Muketei River and surrounding wetlands provide essential feeding and nesting habitats for species such as American Wigeon, Blue-winged Teal, Bufflehead, Common Goldeneye, Common Merganser, Northern Pintail, Tundra Swan, and Snow Goose.⁷⁷ While the proponent claims Canada Geese were the only waterfowl observed at the mine site, many waterfowl use the broader regional watershed, and the Project's environmental footprint will extend well beyond the immediate mine site. Habitat fragmentation, increased human disturbance, and industrial traffic along newly built roads will displace birds from critical breeding and migratory staging areas. The impacts of habitat loss and sensory disturbances will be compounded by increased access to the area which could result in overharvesting of waterfowl, particularly if hunting pressure intensifies from outside communities.⁷⁸ This directly threatens Neskantaga's ability to sustainably harvest birds as we have always done, respecting the natural cycles and ensuring future generations can continue our traditions. The birds that migrate through our homelands are not simply resources; they are part of our way of life.⁷⁹ Their protection must be a priority, and the full impacts of this Project must be assessed through a process that respects our knowledge, rights, and responsibility as stewards of these lands.

So far, only a preliminary assessment has been conducted, which does not provide reliable or comprehensive data on the Project's full impact on migratory birds. A federal impact assessment is essential to ensure that the full range of effects on bird populations, including habitat loss, sensory disturbances, and increased mortality risks, are properly evaluated and minimized. Without this, the long-term survival of these species and Neskantaga's ability to continue our traditional ways of life will be placed in jeopardy.

C. Changes to the Environment on "Federal Lands"

The proposed Eagle's Nest Project threatens to disrupt the lands and waters that sustain us. While "federal lands" are narrowly defined in Canadian settler law, our homelands extend far beyond reserve boundaries, encompassing the interconnected Attawapiskat watershed.⁸⁰ Any changes to water quality, flow, or sedimentation at the mine site could have consequences not just for the most proximate First Nations, but also for the Attawapiskat First Nation, whose reserve lands lie downstream.⁸¹ The Muketei River, which runs adjacent to the mine site, drains into the Attawapiskat River, meaning that contamination

⁷⁶ *Ibid* at table 6.8-1.

⁷⁷ *Ibid* at 6.8.3.

⁷⁸ *Ibid* at 6.8.6.2.

⁷⁹ *Moonias 2023 Affidavit* at *supra* note 2 at para 14.

⁸⁰ *Ibid* at para 13.

⁸¹ Natural Resources Canada, "Canada Lands - Ontario", online at https://clss.nrcan-rncan.gc.ca/data-donnees/sgb-maps-dag-carte/carte-index-map/CL-MAP-TC-CARTE-ON.pdf?_gl=1*cu2ukb*_ga*NDA5ODMyNjQ4LjE3MjQ3NjgyNzk.*_ga_C2N57Y7DX5*MTc0MTczODY2OC4zLjAuMTc0MTczODY2OC4wLjAuMA.

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or disruptions caused by the mine's construction and operation will not stay contained.⁸² They will flow through the ecosystem, affecting Indigenous peoples, their way of life, and constitutionally protected rights such as harvesting rights.

The physical impacts of the Project extend beyond direct discharges. Dust from the mine site, all-season roads, and construction activities will settle onto lakes, rivers, and wetlands, introducing sediment and industrial byproducts into the watershed.⁸³ Increased erosion caused by road clearing and blasting for aggregate extraction will send even more sediment into streams, smothering fish spawning beds, reducing water clarity, and affecting the availability of food sources for aquatic life.⁸⁴ The mine's surface water diversion systems and wastewater discharges will also interfere with natural hydrological patterns.⁸⁵ Together, these impacts will have a cumulative and detrimental effect on the water levels and quality of the Attawapiskat watershed.

Beyond the immediate threats to water and wildlife, the Project will contribute to broader environmental changes that will have long-term impacts, including for Indigenous peoples on reserve lands. Climate change is already a pressing issue not just for Canadians at large, but for Indigenous peoples on reserve who routinely deal with evacuations for flooding and wildfires made more common and more severe by climate change. Industrial development in the Ring of Fire, including the Eagle's Nest mine, may accelerate this trend. The proponent's own assessment states that the Project will generate over 1,822 kilotonnes of CO₂ equivalent over its lifetime.⁸⁶ This is an enormous and unacceptable climate burden which will further fuel the climate crisis. These emissions will stem from diesel-powered equipment, mine operations, road construction, aggregate extraction, and waste management.⁸⁷ These are not merely numbers. They represent a direct contribution to a global crisis already destabilizing our ecosystems and traditional practices.

Of even more critical importance, however, is the Project's disruption to the peatlands in the area. Peatlands are one of the most significant carbon storage ecosystems on Earth, covering only 3% of the planet's land surface but storing more carbon in their soils than any other type of ecosystem.⁸⁸ The Hudson Bay Lowland, where the Project is located, is the second-largest peatland complex in the world and holds a significant portion of Canada's vast peatland carbon stock. The peatlands in this region have been storing carbon for thousands of years, with layers of peat building up slowly over time as plants absorb carbon dioxide from the atmosphere and deposit it into the soil. When disturbed, peatlands release carbon at an accelerated rate, turning them from a long-term carbon sink into a source of greenhouse gas emissions. This Project threatens to degrade these ancient carbon stores and accelerate climate

⁸² *Draft EIA supra* note 2, figure 6.4-1.

⁸³ *Ibid* at s 6.4.5.2.

⁸⁴ *Ibid* at 6.4.5.3.

⁸⁵ *Ibid* at s 6.4.5.4.

⁸⁶ *Ibid* at s 6.2.7.

⁸⁷ *Ibid* at table 6.2.-2.

⁸⁸ Wildlife Conservation Society Canada, "Northern Peatlands in Canada" (November 8, 2021), online at <<https://storymaps.arcgis.com/stories/19d24f59487b46f6a011dba140eddbe7>>.

change.

Wyloo claims that the mine will primarily be located on uplands rather than peatlands, but without a proper assessment of the full project footprint this claim cannot be verified.⁸⁹ Over 40 hectares of peatland have already been identified as being at risk of degradation within the mine site, and the true extent of damage could be much greater when considering the cumulative impacts of future “induced” development that will rely on the construction of the Eagle’s Nest Project and its associated infrastructure.⁹⁰ Draining peatlands for construction will not only release stored carbon but will also increase the risk of wildfires, further accelerating the release of greenhouse gases. The destruction of these peatlands is a loss for us and our future generations, who are stewards of these lands. Without a full and transparent assessment of these impacts, the damage to the peatlands, and to the climate, water, and wildlife they support, could be irreversible.

D. Changes to the Land that could Affect the Indigenous Peoples of Canada

We are deeply concerned about the environmental changes the Eagle’s Nest mine may bring to our homelands. Our people have lived on these lands since time immemorial, relying on the water, air, and wildlife to sustain our way of life. The impacts of mining and road construction threaten not only our ability to live as we have always lived, but also our very survival as a people.

The Attawapiskat watershed is the heart of our homelands. It is where we practice our traditional way of life, where we hunt, fish, trap, and gather. It is where our ancestors are buried and where our sacred ceremonies take place. Any disturbance to the watershed is a direct threat to our way of life and survival. Former Chief Wayne Moonias has made clear that “since time immemorial, Neskantaga members have relied upon the Attawapiskat watershed to practice our traditional way of life, including teachings on the land, hunting, fishing, trapping, and gathering plants, berries, and medicines”.⁹¹

We are particularly concerned about mining activities disturbing the land, causing irreversible damage to our homelands on the river system. Our people are worried that once the lands and waters are damaged, they are not going to go back to their original richness. In fact, there is no guarantee that the damage caused by mining operations will ever be repaired. Mining companies change ownership frequently, and their promises to restore the land often go unfulfilled.⁹² Besides concerns around environmental restoration, there is no clarity on social closure plans for the mine site, which is essential for such a project and can be established through impact assessment.

The magnitude of the proposed mining projects is something the community cannot fully comprehend because they have not been provided with clear and accessible information. We wonder how we can

⁸⁹ Wyloo, “A New Benchmark for Sustainable Mining” (2025), online at <https://wyloo.com/wp-content/uploads/2025/03/20250224-WylooROF-Fact-Sheet.pdf>.

⁹⁰ *Draft EIA supra* note 2 at table 6.8-5.

⁹¹ *Moonias 2023 Affidavit supra* note 3 at para 14.

⁹² See e.g. The Kam Kotia Mine Disaster [[Link](#)].

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make an informed decision when we can't imagine what it's going to look like. We have been told that there could be 30 or 40 mines in our homelands, some going as deep as the height of the CN Tower. We need to be fully informed before any decision on this kind of activity can be made.

E. Changes Occurring to the Health, Social or Economic Conditions of the Indigenous Peoples of Canada

Neskantaga First Nation faces an ongoing struggle to sustain the health, well-being, and social fabric of our community. The proposed Eagle's Nest mine threatens to deepen the ongoing social emergency we are already experiencing. The influx of transient workers, and the social challenges that come with resource extraction may have profound and irreversible consequences on our people. These are not hypothetical worries; they are realities we have seen play out in other First Nations. There are well-documented risks associated with the influx of transient workers to a previously remote region, as we detail below. These changes could have profound and irreversible consequences on all of the remote First Nations of the region. These risks have not been assessed for the Eagle's Nest mine.

For our community, the prospect of an industrial camp so close to our lands is terrifying. Industrial projects like the Eagle's Nest mine are known to bring an influx of mostly male transient workers who live in isolated work camps with little ties to nearby communities.⁹³ These camps have been directly linked to increased rates of violence against Indigenous women and girls, including sexual violence and human trafficking as indicated in the Missing and Murdered Indigenous Women and Girls Report.⁹⁴ Mining operations across Canada have repeatedly failed to address the systemic racism and sexism that fuel these harms that put Indigenous women, girls and two-spirit individuals at great risk. The risks and consequences of this violence cannot be ignored and must be appropriately understood and mitigated through a rigorous and comprehensive impact assessment. These are significant adverse effects within federal jurisdiction and Canada has promised to address these types of risks.⁹⁵

The social challenges that come with mining operations extend further. As there becomes greater access to remote locations and transient workforces move in, so do drugs and alcohol, which may exacerbate addiction issues in remote First Nation communities. Right now in our community, we are struggling with the daily challenges from addiction. What's going to happen if this mine is developed? Losing control over what enters our communities is a serious concern that must be understood, and at the very least effectively mitigated.

Neskantaga's health and social service infrastructure is already stretched beyond its limits. The

⁹³ Adam Bond and Leah Quinlan, *Indigenous Gender-based Analysis for Informing the Canadian Minerals and Metals Plan* (September 2018), online at https://www.minescanada.ca/sites/minescanada/files/2022-06/indigenous-gender-based-analysis-cmmp_.pdf.

⁹⁴ *The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (Ottawa: Privy Council Office, 2019)

⁹⁵ We note that s.9(2)(b) of the Act specifically mentions adverse effects on the rights of Indigenous women as a factor the Minister may consider in deciding whether to make an order.

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community has been under a boil-water advisory for nearly 30 years.⁹⁶ We lack adequate housing, and our members are forced to leave the community to access healthcare, education, and other basic services.⁹⁷ With the introduction of the Eagle's Nest project, our already overburdened social services will face even greater pressure. Substance abuse, mental health crises, and increased rates of violence will require intervention and support that we simply do not have the resources to provide.

An impact assessment must be conducted to fully understand and address the far-reaching consequences of the proposed Eagle's Nest project on Neskantaga First Nation. The risks to health, social and economic conditions posed by transient workforces, increased violence against Indigenous women and girls, the infiltration of drugs and alcohol, and the overburdening of an already strained health and social services demand thorough scrutiny.

Conclusion

These supporting materials demonstrate that the Eagle's Nest mine poses the risk of significant adverse effects on Indigenous peoples, fish and fish habitat, and migratory birds – risks that fall squarely within uncontested, core areas of federal jurisdiction under the *Impact Assessment Act*. Further, all of the factors in s.9(2) weigh in favour of designation – public concern; adverse effects on s.35 rights, including of Indigenous women; the opportunity to usefully feed into an ongoing Regional Assessment; the fact that no other environmental or impact assessment is being conducted; and other considerations, such as potential adverse effects on Canada's ability to meet its climate change commitments.

We do, of course, recognize that much has changed in the environmental/impact assessment policy landscape over the past several months due to the impact of Trump tariffs on economic policy broadly. Both Ontario and Canada have rushed to pass legislation that provides mechanisms through which specific areas (Special Economic Zones in Ontario) and specific projects (Projects in the National Interest under the Building Canada Act) can be subject to regulations that would waive the regular application of various laws, with environmental/impact assessment laws being specifically targeted. However, we wish to point out that legal requirements to conduct investigations into the likely adverse effects of government approval of proposed activities on s.35 rights – such as a new mine in a remote location – survive the waiver of particular environmental/impact assessment statutes. Possible adverse effects on constitutionally protected Aboriginal and Treaty rights must be investigated and understood before government can make approvals – the Honour of the Crown depends on this.

As such, we further request that, pending your decision on this designation request, federal

⁹⁶ Neskantaga First Nation, online: <https://neskantaga.com>

⁹⁷ *Moonias 2023 Affidavit supra* note 3 at para 32.

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authorities refrain from issuing any project-enabling authorizations that could function as strategic, higher-level decisions with s.9(1) implications, to preserve the integrity of the federal impact-assessment pathway and uphold the honour of the Crown.

We call on you, Minister, to recognize the serious potential consequences of the Project going forward without adequate regulatory oversight and to exercise your power to designate the Eagle's Nest mine for a full federal impact assessment under section 9(1) of the *Act*.