



March 21, 2022

Mr. Andrew Williams  
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Pine Point Mining Limited  
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Dear Mr. Williams:

**Approval of the Wildlife Management and Monitoring Plan for Pine Point Mining Ltd.'s Confirmation and Exploration Program**

In a letter dated April 30, 2021, the Department of Environment and Natural Resources (ENR) informed Pine Point Mining Ltd. (PPML) that it was required under Section 95 of the *Wildlife Act* to submit a Tier 01 Wildlife Management and Monitoring Plan (WMMP) for their Confirmation and Exploration Program (Mackenzie Valley Land and Water Board (MVLWB) Permit MV2020C0017 and Licence MV2020L8-0012) for approval by the Minister of ENR.

ENR received version 1.1 of PPML's WMMP on August 18, 2021, and initiated a public review of the document through the MVLWB Online Review System. PPML responded to comments made on the WMMP and incorporated feedback into version 2.1 of the WMMP submitted to ENR for approval on December 22, 2021.

ENR has reviewed version 2.1 of the WMMP in light of the comments submitted on the publicly reviewed version, PPML's responses to reviewer comments and recommendations, and relevant correspondence.

This letter is to notify PPML that I have approved the WMMP with five conditions outlined in the attached Reasons for Decision. Please contact Dr. James Hodson, Wildlife Biologist, at (867) 767-9237, extension 53227 or [james.hodson@gov.nt.ca](mailto:james.hodson@gov.nt.ca) if you have any questions.

Sincerely,

Erin Kelly, Ph.D.  
Deputy Minister  
Environment and Natural Resources

Attachment

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c. Honourable Caroline Cochrane  
Premier

Minister Shane Thompson  
Environment and Natural Resources

Chief Louis Balsillie and Band Council  
Denínu Kųé First Nation

Chief Darryl Marlowe and Band Council  
Łutsel K'e Dene First Nation

Chief Edward Sangris and Band Council  
Yellowknives Dene First Nation (Dettah)

Chief Fred Sangris and Band Council  
Yellowknives Dene First Nation (Ndilq)

Chief Michael Vandell  
Deh Gáh Got'ie First Nation

Chief Lloyd Chicot  
Ka'a'gee Tu First Nation

Chief Kenneth Cayen  
West Point First Nation

Chief Gerry Cheezeie  
Smith's Landing First Nation

Chief David Poitras  
Salt River First Nation #195

Chief April Martel  
Kátł'odeeche First Nation

Shaleen Woodward  
Principal Secretary

Martin Goldney  
Secretary to Cabinet/Deputy Minister  
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Shawn McCann  
Deputy Secretary, Indigenous and Intergovernmental Affairs  
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Dr. Brett Elkin  
Assistant Deputy Minister, Operations  
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Julian Kanigan  
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Heather Sayine-Crawford  
Director, Wildlife and Fish  
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Tony Vermillion  
Superintendent, South Slave Region  
Environment and Natural Resources

President Garry Bailey  
Northwest Territory Métis Nation

President Clifford McLeod  
Fort Providence Métis Council

President Trevor Beck  
Hay River Métis Government Council

President Allan Heron  
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Vice-President Marc Whitford  
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Annie Boucher  
Executive Director  
Akaitcho Territory Government

Greg Nyuli  
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Deh Gáh Got'ie First Nation

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Ka'a'gee Tu First Nation

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Chief Executive Officer  
Yellowknives Dene First Nation

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North Slave Métis Alliance

Mark Cliffe-Phillips  
Executive Director  
Mackenzie Valley Review Board

Shelagh Montgomery  
Executive Director  
Mackenzie Valley Land and Water Board

## **Attachment: Reasons for Decision - Approval of the Wildlife Management and Monitoring Plan (WMMP) for Pine Point Mining Ltd.'s Confirmation and Exploration Program**

The Minister of Environment and Natural Resources (ENR) has approved the Pine Point Mining Ltd. (PPML) Confirmation and Exploration Program Wildlife Management and Monitoring Plan (WMMP), version 2.1, dated December 22, 2021, with five conditions.

### **Requirement for a Wildlife Management and Monitoring Plan**

Under subsection 95(1) of the *Wildlife Act*, a developer may be required to prepare a WMMP for approval by the Minister of ENR, and to adhere to the approved plan if the Minister is satisfied that the proposed development is likely to:

- a) result in a significant disturbance to big game or other prescribed wildlife;*
- b) substantially alter, damage or destroy habitat;*
- c) pose a threat of serious harm to wildlife or habitat; or*
- d) significantly contribute to cumulative impacts on a large number of big game or on habitat.*

The WMMP Guidelines describe the factors that were considered by the Minister in determining whether a WMMP would be required for the Confirmation and Exploration Program. On April 30, 2021, a letter was sent to PPML providing the determination that a WMMP was required for this development.

### **Opportunity for Public Review**

Public review of Version 1.1. of the WMMP dated August 18, 2021 submitted to ENR by PPML occurred through the MVLWB Online Review System (ORS) and parties were notified of the opportunity to submit comments via the MVLWB's distribution list on August 19, 2021. Public commenting closed on September 20, 2021. Through that process, comments were received by Denínu Kųé First Nation (DKFN), Fort Resolution Métis Government (FRMG), Environment and Climate Change Canada (ECCC) and ENR. PPML's responses to the comments were posted to the MVLWB ORS on October 4, 2021.

Several organizations on the MVLWB's distribution list commented on PPML's earlier Wildlife Protection Plan (dated November 17, 2020) which was submitted with the applications for Land Use Permit MV2020C0017 and Water Licence MV2020L8-0012, as well as submitting comments and recommendations with respect to potential impacts and mitigation measures for wildlife and wildlife habitat as part of Technical Interventions and Public Hearing submissions during the MVLWB's Water Licence proceedings. In Appendix A of version 2.1 of the WMMP, PPML has provided summary tables indicating how they responded to comments from different parties from these phases of the Water Licence proceedings, and which sections of the WMMP address specific comments.

## ENR's Review

ENR staff have reviewed and commented on the WMMP not only to provide advice on aspects of the WMMP but also to take the views of other parties into consideration when determining the extent to which the WMMP meets the legislated requirements of section 95 of the *Wildlife Act*. ENR staff provided comments to PPML on all versions of the WMMP, including version 1.0 (November 2020) and 1.1 (July 2021).

ENR has reviewed the WMMP from several perspectives. For the purpose of approval, ENR has primarily focused on the content of the WMMP as it relates to the requirements of the *Wildlife Act*. Section 95(2) of the *Wildlife Act* requires that a WMMP include:

- (a) *a description of potential disturbance to big game and other wildlife included in the regulations, potential harm to wildlife and potential impacts on habitat;*
- (b) *a description of measures to be implemented for the mitigation of potential impacts;*
- (c) *the process for monitoring impacts and assessing whether mitigative measures are effective; and*
- (d) *other requirements that are outlined in the regulations.*

ENR has also considered the extent to which the WMMP addresses:

- Comments made during the WMMP public review process;
- Comments made during the public review of Land Use Permit MV2020C0017 and Water Licence MV2020L8-0012 applications, and technical interventions and public hearing interventions for Water Licence MV2020L8-0012.

Furthermore, in approving the WMMP, the Minister of ENR also considers Section 35 consultation obligations. ENR relies on regulatory processes to help fulfill the Crown's duty to consult and has taken these processes into account in assessing the adequacy of consultation and accommodation for the approval of the WMMP. ENR notes that during the above-mentioned reviews, comments related to wildlife and wildlife habitat were submitted by DKFN, FRMG, and Kátł'odeeche First Nation. During the public review of the WMMP (v. 1.1), ENR did not note any concerns raised by Indigenous governments or Indigenous organizations related to potential impacts from the mitigation and monitoring programs described in the WMMP on asserted or established Aboriginal and/or treaty rights. The ENR has meaningfully considered all comments received during this consultation process, and now considers this consultation completed.

## Rationale

ENR is satisfied that the PPML Confirmation and Exploration Program WMMP meets the necessary content outlined in subsection 95(2) of the *Wildlife Act*. While the requirements in the *Wildlife Act* are relatively high-level, the WMMP Guidelines provide further guidance as to what ENR is looking for when assessing whether a WMMP meets the requirements. ENR is confident that the WMMP is comprehensive in identifying the potential impacts of this project on wildlife and wildlife habitat values that were identified throughout the various review

processes and that the mitigation measures to be implemented to minimize the impacts of the project on wildlife and wildlife habitat to the extent practicable are sufficiently described. Similarly, the WMMP contains a suite of monitoring actions that may trigger enhanced mitigation measures, to avoid potential impacts and to assess whether mitigative measures are being implemented and working effectively.

Specific comments on particular issues are as follows:

### **1) Mitigation and monitoring measures for Whooping Crane**

ENR acknowledges that PPML has worked with ECCC to include and further develop mitigation and monitoring measures for whooping crane in the WMMP. Although ENR does not have the authority to require or approve aspects of a WMMP that pertain to wildlife species that are under the management authority of the federal government (e.g. migratory birds as defined under the *Migratory Birds Convention Act*, 1994), ENR has identified some concerns about the potential impacts of the proposed whooping crane aerial survey on boreal caribou, which is a territorially-managed wildlife species. In WMMP Appendix C – Whooping Crane Nesting Monitoring Procedure, PPML is proposing to conduct aerial surveys of potential suitable whooping crane nesting habitat that overlaps areas within 5 km of potential drilling locations. The surveys would be conducted by helicopter on transects spaced 400 m apart, at altitudes of 30-100 m above ground level. The surveys are proposed to take place between May 16 and June 6, 2022, which is within the sensitive calving period for boreal caribou. While ENR supports PPML conducting aerial surveys to detect and protect whooping crane nesting sites, given the wide extent of the proposed survey area and evidence of caribou use of the project area during the calving season, ENR is of the view that the survey could cause substantial disturbance to female boreal caribou and their calves. ENR discussed these concerns with the Canadian Wildlife Service (CWS) of ECCC, and CWS advised that the survey methods could be adjusted so that transects are spaced 1 km apart and flown at an altitude of 1000 ft. (300 m) while still allowing for detection of whooping crane nests. CWS also advised that the surveys be conducted between May 15 and May 31. The outcome of this discussion was communicated to PPML by CWS via e-mail on February 1, 2022, and PPML's response indicated they agreed to revise the survey protocols.

**Condition 1:** PPML shall amend the aerial survey protocols for whooping crane nests to fly at an altitude of no less than 1000 ft. (300 m), to increase transect spacing to 1 km, and to conduct the surveys between May 15 and May 31. PPML shall use maps of caribou collar data provided by ENR (as outlined in WMMP Appendix C – Caribou Monitoring Procedure) to identify where the survey area may overlap with caribou calving locations, and avoid flying over those areas if they do not appear to contain suitable whooping crane nesting habitat. If boreal caribou are observed during the survey PPML shall ascend to a higher altitude and avoid circling over them.

## 2) Caribou Monitoring

WMMP Section 6.1 and Appendix C – Caribou Monitoring Procedure outline PPML's proposed monitoring approach to mitigate potential impacts to boreal caribou through 1) the use of regularly updated collar data maps provided by ENR during the most sensitive periods for boreal caribou – late-winter and calving, 2) pre-clearing surveys which will be conducted within a 500 m radius around areas where clearing or blasting activity will take place, and 3) incidental observations of caribou within 500 m of exploration areas during the less sensitive seasons. FRMG asked PPML to comment on the feasibility of using collar data maps year-round to trigger mitigation measures. ENR is of the view that the use of collar data maps should focus on the most sensitive times of year for boreal caribou, namely the late-winter and calving seasons when boreal caribou movements are more restricted. During the remainder of the year when caribou are moving greater distances each day, they may be able to more easily avoid areas of active exploration activity, and there may be less impact to them from disturbance. In response to FRMG's comment, PPML did respond that "*it was originally proposed that ground searches would only be initiated during sensitive seasons, but in response to earlier comments, PPML agreed to extend these surveys to all times of year and regardless of the presence of collared caribou*". ENR finds that Section 6.1.1.3 (pg. 18) and Appendix C – Figure 3 of the WMMP are inconsistent with PPML's response to FRMG, because during the period between 16 July and 15 March, it is stated that "*exploration activities will be suspended if caribou are incidentally observed by exploration crews within 500 m of the area*". This implies that pre-clearing ground searches will not occur at all times of year. ENR is of the view that the WMMP should more clearly reflect PPML's commitment to conduct pre-clearing surveys year-round and that Appendix C – Figure 3 should be revised accordingly to include pre-clearing surveys in addition to incidental sightings. Although Appendix C – Pre-Clearing Survey Procedure (page 22) states "*The purpose of this procedure is to detect large mammals and raptor nests ahead of any activity associated with the drilling program (e.g. drilling, vegetation clearing activities, and blasting); and to detect caribou within 500 m of any exploration site.*", it is not made clear that these surveys would occur year-round.

ENR appreciates the inclusion of the three flowcharts in Appendix C (Figures 1-3) as they clearly outline the protocols for the use of collar data maps, pre-clearing surveys and incidental caribou observations; however, there are inconsistencies in the description of these procedures in Section 6.1.13 of the WMMP which leads to some confusion. For example the WMMP states on page 18 that "*PPML will only consider commencing pre-clearing surveys, exploration, blasting, and other disturbance activities if satellite collar data indicates that there are no collared caribou within pre-defined "cautionary zones" around sites of the exploration activity (Table 4)*", but Table 4 (pg. 19) states that during the late-winter period "*If collared caribou are within the Cautionary Zone, entry to new exploration sites or entry to sites that have been dormant for more than two days will be delayed or suspended within the cautionary zone until there are no more collared caribou data within the cautionary zone **or**, a pre-clearing survey search for caribou and fresh caribou sign within 500 m of the site will be conducted to*

*confirm absence prior to clearing new work sites and prior to returning to previously cleared sites that may have been dormant for more than two days prior to starting up drilling or pitting, or prior to any blasting activities.”* Appendix C – Figure 1 is consistent with the above statement from Table 4, and indicates that, during the late-winter period, a pre-clearing survey can take place when there are still caribou collar locations within a cautionary zone. While ENR does not have an issue with the approach outlined in Table 4 and Appendix C – Figures 1 and 2, PPML should ensure consistency in describing these procedures in different sections of the WMMP so that they are not misinterpreted by PPML staff that are responsible for implementing them.

ENR notes that PPML has not yet provided an updated shapefile for the exploration areas of interest that includes an attribute field with the site ID labels used in Figures 3 and 4 of the WMMP (pgs. 16-17). ENR requires this information to display on the maps of collar data that will be provided to PPML during the late-winter and calving seasons.

**Condition 2:** PPML shall update Section 6.1 and Appendix C – Caribou Monitoring Procedure to ensure that written descriptions of protocols match those displayed in the flowcharts in Appendix C – Figures 1, 2 and 3 and to clarify that pre-clearing surveys will occur year-round.

**Condition 3:** PPML shall provide ENR with an updated shapefile of exploration areas of interest that includes an attribute field with the site ID labels used in Figures 3 and 4 of the WMMP (pgs. 16-17).

### **3) Updates to boreal caribou resource selection function models during the project**

FRMG recommended that, as part of the WMMP, PPML commit to re-doing the resource selection function (RSF) analysis for the Pine Point area midway through project activities and propose additional mitigations if there was a marked decrease in boreal caribou use of the area beyond an agreed upon threshold. ENR does not agree with part of PPML’s response to this recommendation in which they suggest that changes to habitat use from the project would not be detectable because the project will be undertaken in areas that are already disturbed and because of the presence of other activity at the Pine Point area. The project includes several exploration sites (e.g. W85, N99, Z155, and R67) that are within and adjacent to areas that are currently used by boreal caribou, as is evident from the map of collar locations in Figure 3 of the WMMP, and which are not within the primary areas of disturbance from historical mining activity. However, ENR is of the view that it is beyond the scope of the Tier 1 WMMP required for this specific project to conduct further RSF analyses to assess changes in habitat use. ENR suggests this level of effects monitoring would be more appropriate to include in the Tier 3 WMMP required for the Pine Point Mine Project which is currently in the early stages of Environmental Assessment.

#### **4) Wildlife Incident Reporting**

Appendix C - Bird Nesting and Bat Roosting Activity Procedure (page 19) states that if a species at risk is found, the environmental manager will email ECCC ([cwsnorth-scfnord@ec.gc.ca](mailto:cwsnorth-scfnord@ec.gc.ca) and [dalfnord-wednord@ec.gc.ca](mailto:dalfnord-wednord@ec.gc.ca)) to determine an appropriate course of action. ENR reminds PPML that raptors, bats, and other non-migratory bird species at risk are under territorial management authority and any such instances should also be reported to ENR.

Appendix C - Wildlife Incidental Reporting Procedure (pg. 26) should be renamed to Appendix C - Wildlife Incident Reporting Procedure as it is focused on wildlife incidents that require immediate reporting. This section also incorrectly directs PPML staff to report incidents to the GNWT-ENR North Slave Emergency number. Wildlife incidents should be reported to the GNWT-ENR South Slave Region wildlife emergency numbers which are **1-867-872-0400** (Fort Smith) or **1-867-875-7460** (Hay River). Wildlife Incident Records (WMMP Appendix C – Pg. 28) should be submitted to [ENR\\_SouthSlave@gov.nt.ca](mailto:ENR_SouthSlave@gov.nt.ca). Any vehicle collisions with big game species should be reported within 24 hours to **1-866-762-2437**.

**Condition 4:** PPML shall revise Appendix C - Bird Nesting and Bat Roosting Activity Procedure and Appendix C - Wildlife Incidental Reporting Procedure to include the appropriate ENR South Slave Region contact information for reporting wildlife incidents or to seek advice in instances where the nest of a territorially managed bird species or bat roost is encountered.

#### **5) Appendix A: Conformity Tables for Wildlife Management and Monitoring Plan Version 1.1. and Version 2.0**

ENR notes that Conformity Table A-1 which outlines comments, recommendations and PPML responses with respect to the public review of Version 2.0 of the WMMP is incomplete. Comments and recommendations submitted by FRMG are missing from the table.

**Condition 5:** PPML shall add comments and recommendations made by FRMG on version 2.0 of the WMMP, and PPML's responses to them, to Appendix A – Table A-1.

#### **Decision**

Subject to Conditions 1-5 listed above, the Minister of ENR approves the WMMP for the Confirmation and Exploration Program. PPML is required to submit for public posting a finalized WMMP to ENR within 30 days that incorporates Conditions 1-4 issued in this letter.