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June 11, 2021

RE: Response to the Ontario Critical Minerals Strategy Discussion Paper

We, the Wabun Tribal Council, are writing in response to the request from the Ontario Government for comment on its Critical Minerals Framework Discussion Paper. We have reviewed the discussion paper and have a number of comments and concerns that, if addressed, will strengthen the strategy by ensuring benefit for Indigenous communities in Ontario. As First Nations in the busiest area of mineral exploration in Ontario, and perhaps Canada, we have a wealth of experience working with industry to ensure all parties operate under certainty, clarity and consistency. Our comments reflect this experience.

This response addresses the four questions posed to Indigenous communities within the discussion paper. These questions are listed below, with our comments following. Our response also offers comments and suggestions for the proposal to engage in mining and exploration related regulatory and policy reform. We trust that these comments and concerns will be carefully considered and addressed in the development of Ontario's Critical Minerals Strategy.

1. What opportunities do you see for Indigenous communities participating in resource development?

Any mineral strategy embarked on by the Ontario government needs to incorporate existing processes developed by the Wabun Tribal Council (WTC) regarding resource development. The Wabun Tribal Council was an active participant in Ontario's work to modernize the *Mining Act*. Through that process, we were able to ensure existing WTC Agreements regarding resource and land use were recognized and considered by mining and exploration proponents. The new strategy should also be implemented with a recognition of any existing WTC Agreements.

Additionally, the Ontario government should embed the sharing of economic gains with Indigenous communities into the strategy and any subsequent legislation. This will ensure that any costs we bear from mining of critical minerals are tied to a benefit we gain from that development.

Resource Revenue Sharing (RRS) Agreements are already utilized in the forestry and mining sectors in Ontario. Through these agreements, Indigenous communities are guaranteed a percentage of revenues

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generated from resource development on their traditional lands. The agreements were developed collaboratively and set out a clear formula for how revenues are distributed.

As the province is aware, partners often engage in equity sharing arrangements, where ownership of a project is shared with the affected Indigenous communities. **Equity Sharing** is highly beneficial as it promotes transparency between the proponent and the Nations while allowing the Nations to have authority in project decisions and a fair share of benefits generated by projects. Ontario Power Generation (OPG) has a number of Equity Sharing agreements with Indigenous communities across Ontario. These arrangements are a result of OPG's commitment to pursue long-term partnerships with Indigenous communities. This commitment is part of the OPG formal Indigenous Relations Policy. A similar policy in the mining and refinement sectors can provide those same benefits for Nations in the area.

We gain most when we receive a share of the revenue from development projects. Our communities have benefited from Impact and Benefit agreements, inclusive of clauses that guarantee contract opportunities for Indigenous-owned business in construction, operation, and/or closure of development projects. We also support these types of measures and would like to see them as part of the Critical Minerals Strategy. However, benefits from procurement opportunities are limited in time and scale. This is why we need opportunities for revenue and equity sharing throughout the lifetime of the project.

We would like to see opportunities for Resource Revenue Sharing, equity sharing, and IBAs, inclusive of procurement in the Critical Mineral Strategy as well as any legislation that may follow.

2. What are the barriers that Indigenous communities face in participating in resource development?

Indigenous communities have many barriers to participation in development projects on their land. The greatest of these barriers is the capacity to engage in contract bidding processes, whether or not there are procurement agreements in place. Proponents generally award contracts to very large businesses, which creates a barrier to many of the small Indigenous-owned and operated businesses. These issues were echoed by nations during discussion on the May 19, 2021 hearing regarding the Strategy. During this hearing, individuals mentioned their desire to develop capacity to hire and train more staff, purchase equipment, and develop expertise in areas needed in resource development. We feel this is an ongoing issue that must be addressed in this strategy; the strategy should describe a plan to provide smaller Indigenous firms resources to participate in the competitive contract market.

3. What supports might assist Indigenous communities with taking advantage of the many opportunities of a critical minerals strategy?

The number one support Indigenous communities need to take advantage of these opportunities is investment. We need financial support to build the capacity needed to participate fully in the mining sector. With investment from the province, Indigenous communities will gain the tools required to be players in this industry. These tools are not just for construction and operation of the mine itself, but also

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for managing the variety of tasks alongside the main earthmoving activities. The WTC and other Indigenous communities have long expressed the desire to develop their own workforce that can manage environmental monitoring, provide economic support, conduct legal work, and carry out other tasks supplementary to development. To progress in these areas, Nations require significant investment from the province. The proposed strategy should acknowledge this need and provide a framework for addressing it.

Indigenous communities would also highly benefit from requiring proponents and contractors to engage in community-based education. Anyone working in the area must have a thorough understanding of the cultural heritage and history of the people and of the land they are working in. This was expressed during the hearing on May 19. Indigenous communities expect that those who enter the land understand the connection that the Indigenous communities have and the weight that connection carries. The Ontario government should provide significant investment to build these programs in collaboration with Indigenous communities.

The Ontario government should also invest in education for the community members themselves. Education of Indigenous community members on critical minerals and how they are mined is essential. Community members should be given opportunities to learn about new projects and technology, as well as the safety of these minerals. Any educational programs should include the possible uses, benefits and dangers of the minerals included in this strategy.

As a part of that capacity, as well, there should be further resources allocated to the staffing for participation in the critical minerals business sector. Our time for review of permits, licenses and projects is valuable, and we currently have insufficient staffing, arrangements, administration and resources to plan effectively.

We would like to see The Aboriginal Participation Fund grow. The WTC relies on this fund to retain multiple staff members. The forthcoming Critical Minerals Strategy along with the expected increased mineral development creates a growing need for response from Indigenous communities. Therefore, we suggest an increase to this fund to support these communities to participate in future discussions and represent community interests.

4. What kinds of initiatives or partnerships could create more opportunities for participation in critical minerals projects and the supply chain?

There is a growing need to address environmental concerns for power supply in remote communities. The Critical Minerals Framework Discussion Paper has included information on the creation of renewable power sources, an area where remote Indigenous communities can benefit significantly. Communities should be considered for development and use of renewable power sources such as wind and solar. This will provide them an environmentally safe and off-grid alternative to traditional power structures.

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Existing mines can also benefit from renewable power supplies. Proponents of any new mining development should explore the use of electrical mining equipment to combat emissions and transition to a renewable future. This would be highly advantageous to the communities who rely on the surrounding land and water and should be part of any future development strategies.

The focus of the discussion paper is heavily on the supply chain for electric vehicle development. Electric vehicles may not be of great advantage or use in communities. The Critical Mineral Strategy should include a focus on supply chains for products that will benefit all Indigenous communities, not only those who live in urban areas where the electric vehicle market is focused.

5. Regulatory and Policy Reform

As discussed under the first topic, the WTC would like to see resource revenue sharing and equity sharing opportunities built into legislation. Relying on a proponent to build these agreements into their development process is less effective than having it required in legislation. Benefits to communities from these agreements have been proven in the forestry, mining, and hydroelectric generation sector and in other industry across Canada. Making these agreements required by law will provide communities assurance that they will see benefits from any projects on their traditional lands. It will also provide proponents certainty that they have appropriately received consent for their projects from local Indigenous communities. If the Ontario government creates a framework and process for building these agreements, proponents will have a streamlined way to engage with Indigenous communities.

Similarly, proponents should be required to establish Memorandum of Understandings with affected Indigenous communities and complete Environmental Assessments at the time that early exploration is permitted. With these in place, Indigenous communities can start a relationship with proponent throughout the exploration stages and be fully informed about what they can expect as mineral deposits are mapped and a mine is developed. All phases from exploration to closure of a mine require ongoing review and consent from Indigenous communities.

The topic of regulatory reform should be expanded to include existing brownfield projects on Indigenous lands, which have a serious negative effect on the communities that have not benefited from project agreements. The WTC would like to strongly emphasize the need to widen the range of projects included in legislation that requires agreements with Indigenous communities. This range must include existing brownfield projects, projects currently under review, and incoming projects.

The two most important aspects of any development project are that nearby communities have a clear right to ongoing review of projects and that their consent is necessary for exploration and development activities to begin and continue. Legislated requirements for agreements provide certainty and clarity for all parties. The best possible outcome for development occurs when a strong relationship is built between the proponents and the communities at all stages of the project. With The Critical Mineral Strategy, the

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Ontario government intends to create a favourable environment for mineral development. Indigenous communities should have free, prior and informed consent for any existing and forthcoming development.

7. Closure:

We, the Wabun Tribal Council, have reviewed the Critical Minerals Framework Discussion Paper and are now requesting a session with Ontario government to discuss the integration of our comments into your draft Policy. We would like to ensure these comments have been included in the strategy and we would like a clear rationale for any comments that are not addressed. We request this session and feedback to occur before July 30, 2021 to ensure timely communication.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jason Batise', is written over the typed name and title. The signature is stylized and somewhat illegible due to its cursive nature.

Jason Batise
Executive Director
Wabun Tribal Council