



[BY E-MAIL]

September 15, 2024

Environment and Climate Change Canada

c/o Mr. Steven Guilbeault

House of Commons

Ottawa, Ontario, Canada

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SUBJECT: COMMENTS ON THE FEDERAL GOVERNMENT'S EMERGENCY DECREE TO PROTECT THE HABITAT OF THE BOREAL CARIBOU IN QUEBEC (*Rangifer tarandus*)

Hello,

MiningWatch Canada and the Coalition Québec Meilleure Mine hereby submit their joint comments on the Government of Canada's Emergency Order to Protect Boreal Caribou Habitat in Quebec (hereinafter, the "Federal Order") as part of the consultation process announced on June 19, 2024 and ending today¹.

ABOUT OUR ORGANIZATIONS

Founded in 1999, **MiningWatch Canada** (MWC) brings together some thirty member organizations that collectively represent several hundred thousand individuals across Canada. Over the past 25 years, MWC has become a key player, with more than 200 investigations, interventions, reports and legal actions on as many mining projects nationally and internationally. The environment, human rights, aboriginal rights, corporate transparency and accountability - these are just some of the issues that justify MWC's interventions at both community and public policy levels. MWC was also a member of the advisory committee to the Ontario Minister of Mines, the federal environmental assessment reform and the national inquiry of the Commissioner of the Environment and Sustainable Development into the application of the federal Metal and Diamond Mining Effluent Regulations in Canada. MWC has been involved in some twenty legal actions, including four in the Federal Court and the Supreme Court of Canada, relating to mining issues across the country.

¹ Environment and Climate Change Canada, *Imminent threats to caribou, boreal population*, online: <<https://registre-especes.canada.ca/index-fr.html#/consultations/980>> (accessed September 6, 2024).

Founded in 2008, the **Coalition Québec meilleure mine** (QMM) today brings together some forty organizations that collectively represent over 250,000 individuals from every region of Quebec. The coalition includes citizens' organizations, environmental organizations, unions, academics and doctors' associations. For more than 15 years, the QMM Coalition has been at the heart of debates affecting the mining sector, and has helped to raise awareness among public decision-makers and a broad cross-section of Quebec society on a number of issues affecting this sector. The coalition has made a positive contribution to redefining public policy in the mining sector, notably the Mining Act, mining royalties, financial guarantees for reclamation, the environmental framework, social acceptability, territories incompatible with mining activity, as well as Quebec's positions on uranium and asbestos, and more recently on critical and strategic minerals. Since 2008, coalition members have participated in some 15 environmental assessments of mining projects in Quebec, including ten inquiries by the Bureau d'audiences publiques sur l'environnement (BAPE) and three before the Canadian Environmental Impact Assessment Agency (CEIA). Since 2014, QMM has been an active member of the Quebec Minister of Mines' Advisory Committee.

BACKGROUND

On May 10, 2024, the Minister of the Environment and Climate Change (hereinafter "the Minister") determined that the boreal caribou faced imminent threats to its recovery, under the terms of section 80 of the *Species at Risk Act*².

On June 19, 2024, the Government of Canada mandated the Minister "to proceed with the drafting of an emergency order to protect boreal caribou habitat and prohibit activities that could harm the species and its habitat"³. On the same day, a national consultation was launched to gather comments on the subject.

As stated in the Environment and Climate Change Canada (ECCC) Discussion Document :

The proposed scope of the Emergency Order is to **respond to imminent threats** and protect boreal caribou and their habitat **in the three populations identified as most at risk** in Environment and Climate Change Canada's assessment of imminent threats. These are the Val-d'Or, Charlevoix and Pipmuacan populations. Interim protection zones within or adjacent to boreal caribou ranges and the proposed prohibitions that would apply to these zones are presented in this discussion document⁴.

The consultation invites the public to comment on two elements:

- 1) **Specify the exact area** to be covered by the decree **and the activities that would be prohibited**, and
- 2) **Identify and mitigate**, as far as possible, **the potential impact of the emergency decree**⁵.

Our comments contribute to the study of these issues by providing a detailed analysis of the situation prevailing in the Val-d'Or caribou population's interim zone, focusing particularly on the imminent threats posed by the mining industry. Since the issues identified are universal, however, our observations and recommendations are intended to apply generally and similarly to the other two target herds, the Charlevoix and Pipmuacan herds.

² *Species at Risk Act*, R.S.C., s. 80.

³ ECCC, *Discussion paper: Proposed scope of an order under section 80 of the Species at Risk Act to ensure the protection of the caribou, boreal population (Rangifer tarandus)*, online: <<https://www.canada.ca/fr/environnement-changement-climatique/services/registre-public-especes-peril/reenseignements-connexes/document-travail-proposee-decret-article-80-protection-caribou-population-boreal.html#toc9>> (accessed September 6, 2024).

⁴ *Id.*

⁵ *Id.*

OUR CONCERNS AND RECOMMENDATIONS

In the Discussion Paper presenting the scope of the federal decree, section 3.2 determines the "initial exclusions from the provisional zone covered by [the] decree":

Protected areas, private lands, municipally-managed lands and federal lands already covered by a critical habitat protection order under section 58 of SARA would be excluded from provisional areas covered by an order. [1] Federal or provincial projects approved or undergoing environmental or impact assessment, [2] active mining facilities, [3] expansions of active mining facilities, [4] mining projects in advanced stages of development, and [5] projects whose primary resources are on Canada's Critical Minerals List, regardless of their stage of development, **would also be excluded from the Order-in-Council area in order to limit socio-economic impacts** (see Appendix 1 for rationale)⁶.

We maintain that it is important to withdraw these exclusions concerning mining activities, considering that they pose an imminent threat to the survival of caribou.

Indeed, both Indigenous knowledge and scientific literature agree that mining activities represent harmful impacts for the caribou. Allowing these operations in the provisional zones covered by the decree would be equivalent to authorizing activities that pose imminent threats to the survival of the herds. If the federal decree were to be adopted as proposed, the Val-d'Or caribou population would see its critical habitat continue to be disturbed at levels exceeding the conservation objectives sought, due to the mining activities that would be allowed to continue.

1. Federal or provincial projects approved or undergoing environmental or impact assessment

Probe Gold's Novador project, located between two parts of the interim zone, is currently being assessed by the Impact Assessment Agency of Canada (IAAC). ECCC already considers that this project is likely to pose a risk to woodland caribou, since the IAAC, which reports to the Ministry, has required the proponent to analyze the impacts of its project on the Val-d'Or caribou and its habitat, as attested by the individualized guidelines submitted by the IAAC on August 13, 2024⁷.

In our opinion, these risks are considerable and constitute a threat within the meaning of the Act, given that the proponent holds mining titles within the provisional zone⁸. At the very least, the federal government should require the proponent Probe Gold to abandon its mining claims located within the protection zone covered by the federal decree.

What's more, the promoters of the Novador project are not looking to mine critical minerals, but rather gold, a mineral substance that is of virtually no use in the fight against climate change.

⁶ ECCC, *Discussion paper, op. cit.* section 3.2, emphasis added.

⁷ Government of Canada, ECCC, Impact Assessment Agency of Canada, *Individualized Impact Assessment Guidelines - Novador Gold Project*, section 8.11 "Species at Risk and their Habitat", p. 84, online: <<https://iaac-aeic.gc.ca/050/documents/p86020/158480F.pdf>> (accessed September 6, 2024). To read our comments on the draft guidelines, see Coalition Québec meilleure mine, *Commentaires sur les versions provisoires des Lignes directrices de l'étude d'impact et du Plan de participation du public - Projet Novador*, online: <<https://quebecmeilleuremine.org/2024/06/28/novador-commentaires-versions-provisoires-des-lignes-directrices-etude-dimpact-plan-participation-public/>> (consulted September 6, 2024).

⁸ Gouvernement du Québec, Ministère des Ressources naturelles et des Forêts, GESTIM, online: <https://gestim.mines.gouv.qc.ca/MRN_GestimP_Presentation/ODM02201_menu_base.aspx> (accessed September 6, 2024).

2. Active mining facilities

Agnico Eagle's Akasaba West mine, which has begun operations, immediately adjoins the provisional zone. The consequences of operations, particularly in terms of nuisances such as noise and dust emissions, are likely to affect the recovery of caribou within the provisional zone. It should be emphasized that the *raison d'être* of the Akasaba West mine is not the mining of critical minerals, but rather of gold, a mineral substance that is of virtually no use in the fight against climate change. Copper is mined on a secondary basis, but it is gold that makes the project economically viable.

3. Expansion of existing mining facilities

Mining project expansions are a frequent occurrence. In Val-d'Or's critical caribou habitat alone, there have been at least two mine expansions in operation over the past decade: Eldorado Gold's Lamaque mine, and the Canadian Malartic mine with its Odyssée project. This possibility also exists for the Akasaba West mine. Similarly, if the Novador project is authorized after the impact assessment, it could eventually extend into the area covered by the federal decree.

4. Mining projects in advanced stages of development

In the absence of any clarification in the Discussion Document, the subjective notion of "mining project at an advanced stage of development" opens the door for the industry to claim the pursuit of mining projects of all kinds. In our view, it would be preferable simply to abolish this category.

Radio-Canada recently reported that "the imposition of an emergency decree could also affect some 10 mining projects in Quebec, most of them gold mines at various stages of exploration"⁹. Still according to Radio-Canada, "Ottawa calculates potential losses for the mining sector at between \$20 and \$45 million"¹⁰. On this subject, and considering that the historical profits associated with gold mining in the Abitibi-Témiscamingue region amount to tens of billions of dollars, we believe that the potential losses associated with this sector are not sufficient to justify an exclusion from the federal decree for mining activities, regardless of their stage of development.

5. Projects with primary resources on Canada's Critical Minerals List, regardless of their stage of development

As our appended map entitled "Mining presence in the provisional zone of the federal decree | Caribous de Val-d'Or" shows, the provisional zone of the federal decree is almost entirely covered by mining titles. In fact, as of September 5, 2024, 3453 mining titles covered all or part of the provisional zone, for a surface area of some 1725km².

The vast majority of these claims are mineral exploration claims that have been acquired since 2020, coinciding with the publication of the *Plan québécois pour la valorisation des minéraux critiques et stratégiques*, one of whose main objectives was to encourage the acquisition of mining claims for the exploration of these minerals¹¹. A summary analysis of the companies holding claims in this region,

⁹ Radio-Canada, *Le Québec perdrait jusqu'à 900 M\$ avec un décret fédéral de protection du caribou*, Thomas Gerbet, September 9, 2024, online: <<https://ici.radio-canada.ca/nouvelle/2102893/decret-protection-caribou-pertes-economie-quebec-ottawa-etude-impact>> (consulted September 9, 2024).

¹⁰ *Id.*

¹¹ Gouvernement du Québec, Ministère de l'Énergie et des Ressources naturelles, *Plan québécois pour la valorisation des minéraux critiques et stratégiques*, 2020, online: <<https://www.quebec.ca/gouvernement/politiques-orientations/plan-quebecois-valorisation-mineraux-critiques-strategiques>> (accessed September 6, 2024).

carried out in 2022, showed that the vast majority of companies holding these mining titles are focused on the search for lithium. This metal is included in Canada's list of "critical minerals"¹² .

The actual picture of existing mining claims in the Val-d'Or caribou interim area and other herds clearly demonstrates the need to repeal the exclusion from the federal mining decree for substances on Canada's critical minerals list. Otherwise, anthropogenic impacts will remain beyond the thresholds targeted for the recovery of caribou populations and their habitats.

Converting logging roads into mining roads

Scientific literature has established that logging roads are responsible for a large proportion of the imminent threats to caribou and their habitats, both in terms of loss of vegetation cover and as predation corridors for caribou predators such as gray wolves and black bears. In the critical habitat of the Val-d'Or caribou, as in those of other herds, restoring or "closing" forest roads is an essential measure to ensure the caribou's survival.

That said, even if the federal decree were adopted as proposed and prohibited forestry activities in interim zones, we fear that logging roads that fragment caribou habitat would escape the obligation to restore them, to be reclaimed by the mining industry as "mining roads".

Indeed, it is widely known that mining exploration companies are major users of logging roads to move their heavy drilling equipment into the boreal forest, which is otherwise difficult to access. According to our analysis of Bill 63, responsibility for mining roads, formerly administered by the Quebec Ministry of Transport, would be transferred to the Quebec Ministry of Natural Resources and Forestry (MRNF) if the bill were adopted¹³ . It should be noted that the MRNF has no specific powers or resources to ensure adequate supervision of these roads.

Taking for granted the MRNF's favoritism towards the mining industry over caribou protection, there is every reason to fear that the MRNF will neglect the closure of forest roads to restore caribou habitat by instead decreeing them "mining roads" the day after the federal decree is adopted. We anticipate the possibility that the Quebec Minister of Natural Resources and Forestry will state that she does not want to close roads that could promote the development of critical and strategic minerals.

In short, we fear that if the federal decree keeps the door open to mining development, the anthropogenic habitat disturbances associated with the roads will remain the same. Caribou would find themselves surrounded by predators running up mining roads instead of logging roads.

¹² Government of Canada, Ministry of Natural Resources, *Canadian Critical Minerals Strategy*, 2022, online: <<https://www.canada.ca/fr/campagne/mineraux-critiques-au-canada/la-strategie-canadienne-sur-les-mineraux-critiques.html>> (accessed September 6, 2024).

¹³ Coalition Québec meilleure mine, *Analyse du projet de loi 63*, p. 14 et seq. online: <<https://quebecmeilleuremine.org/wp-content/uploads/2024/07/2024-07-16-QMM-Analyse-PL63.pdf>> (consulted September 6, 2024).

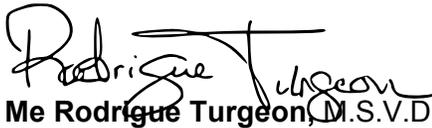
CONCLUSION

Acknowledging the obligations of Canada's Minister of the Environment and Climate Change to act to ensure the protection and recovery of the boreal caribou and its habitat, we believe that the Government of Canada's proposed emergency order to protect boreal caribou habitat in Quebec must be improved.

By underlining the Government of Canada's recognition of the importance of "prohibiting activities likely to harm the species and its habitat"¹⁴ and by taking into account that all mining activities pose an imminent threat to the survival of caribou, it is with this in mind that we recommend that Canada's Minister of the Environment and Climate Change amend his draft decree by repealing the exclusions concerning mining activities, and by prohibiting all mining activities within provisional zones, regardless of their stage of development or the mineral substances sought.

We thank you in advance for your attention and diligence in responding to these comments, and assure you of our full cooperation in providing any additional information you may deem relevant to the issues at hand.

Yours sincerely



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¹⁴ ECCC, *Menaces imminentes pour le caribou, population boréale*, op. cit.

Présence minière dans la zone provisoire du décret fédéral | Caribous de Val-d'Or

