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August 1, 2025

**BY E-MAIL (anna.liu@ontario.ca) AND E-FILING (ERO)**

Environmental Registry of Ontario  
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Attention: Anna Liu (Senior Program Support Coordinator, Priority Program Services)  
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**RE: Permit to Take Water (PTTW) Amendment Application by Evolution Mining  
Gold Operations  
ERO No. 025-0751; MECP Application Reference No. 1000302552**

We are writing in response to your email of July 11, 2025, notifying Grassy Narrows of Evolution Mining Gold Operations' ("Evolution") Permit to Take Water ("PTTW") renewal application at the Red Lake Operation.

As elaborated below, while the Ministry has provided virtually no information to allow for meaningful review of the renewal PTTW, Grassy Narrows independently confirmed that in fact the renewal application relates to an amended PTTW that was approved by the Director on June 23, 2025 without any notice or consultation with Grassy Narrows and without posting to the ERO. Grassy Narrows requires more information and more time to meaningfully respond to the application.

Contrary to the Ministry's view that the renewal is an administrative matter for which no consultation is required, the Crown has a duty to consult, accommodate and obtain Grassy Narrows consent and has failed to meet this obligation. This duty is heightened by the fact that Grassy Narrows was not even notified, nor was it consulted, accommodated and did not give its consent when the original PTTW was approved nor when it was amended. Renewal of the amended PTTW will contribute to the already significant contamination of the English Wabigoon River system and watershed (including

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Balmer Lake, Balmer Creek, Red Lake, and the Chukuni River) with severe impacts on the environment and on the health and well being of Grassy Narrows.

### **Summary of the Permit Application**

This proposal is for the renewal of an existing amended PTTW Number 5361-DHCHK9. The ERO posting for this renewal application provides only the following limited information:

This proposal is for the renewal to Permit to Take Water No. 5361-DHCHK9 in Balmertown, Red Lake, District of Kenora, Ontario for mining purposes. Details of the water takings are as follows:

#### **Source Name: Pumphouse at Campbell Complex, Balmertown**

- purpose: industrial
- maximum rate per minute (litres): 5,678
- maximum number of hours of taking per day: 24
- maximum volume per day (litres): 8,176,464
- maximum number of days of taking per year: 365
- period of taking: January 1 - December 31 every year for 10 years

#### **Source Name: Balmer Lake 2 (Red Lake Complex), Balmertown**

- purpose: industrial
- maximum rate per minute (litres): 2,067
- maximum number of hours of taking per day: 24
- maximum volume per day (litres): 2,976,000
- maximum number of days of taking per year: 365
- period of taking: January 1 - December 31 every year for 10 years

#### **Source Name: Balmer Lake 3 (New Pumphouse at Red Lake Complex), Balmertown**

- purpose: industrial
- maximum rate per minute (litres): 100

- maximum number of hours of taking per day: 24
- maximum volume per day (litres): 144,000
- maximum number of days of taking per year: 365
- period of taking: January 1 - December 31 every year for 10 years

MECP has qualified the proposed water taking as a Category 1 permit (“water takings are anticipated to have a lower risk of causing an unacceptable environmental impact / interference”). Grassy Narrows does not have any information about the rationale for qualifying the PTTW as Category 1.

However, Grassy Narrows discovered independently that the Director approved an amended PTTW with the same number (5361-DHCHK9) on June 23, 2025 with an expiration of September 30, 2025. Thus, it appears that the amended PTTW that Evolution seeks to renew was approved without notice to Grassy Narrows or posting on the ERO.

According to the amended PTTW, the Ministry’s conditions on “monitoring” are limited to maintaining “a record of all water takings” including the dates and times of water takings, the rates of pumping, and the total measured amounts of water pumped for each day that water is taken. There is a further condition that the taking of water must not stop the streamflow or interfere with downstream uses of water or with the natural functions of the stream.

There are no conditions to monitor or prevent the contamination of the groundwater, lake or river systems that may be a consequence of the water takings.

Grassy Narrows has not yet had an opportunity to obtain advice from its experts about the potential adverse consequences of this particular PTTW, but on May 30, 2025, Grassy Narrows provided Ontario with a preliminary report from Dr. Kevin Morin about the Red Lake Gold Operation that raises significant concerns.

### **Potential for Serious Adverse Consequences**

Dr. Morin’s review of the information made available to Grassy Narrows raises significant concerns about the Red Lake Gold Operation, its historical contamination of the watershed and a current elevation in contaminant concentrations for sulphate and arsenic. By way of a high-level summary, Dr. Morin found that:

- Based on more than 70 years of mining, environmental contamination of surface waters, groundwater, sediments and soils is widespread and significant around and downstream of the Red Lake Operation;
- Current surface water and groundwater locations that are being treated as “background” are in fact contaminated;

- There are significant ongoing cumulative contaminant effects on Balmer Lake, Balmer Creek, Red Lake and the Chukuni River. Evolution acknowledges that Balmer Lake and Balmer Creek are contaminated but erroneously characterizes this contamination as “irreversible”;
- Evolution released major amounts of contamination, to the point where aqueous contaminant concentrations of sulphate and arsenic increased up to 100 times downstream in the Chukuni River. Planned conditions for an amended Environment Compliance Approval could make the problem worse, and have been developed without details on the inflowing aqueous chemical concentrations and the effluent aqueous chemical concentrations and without any consistent and reliable treatment for ammonia;
- There are likely labelling errors in the Evolution contaminant monitoring data that make the data provided entirely erroneous for the locations it is meant to apply to;
- Monitoring at two surface-water-only point-source discharges upstream are not sufficient to protect water quality, sediment quality, flora, and fauna around the RLO area;
- Potentially hazardous-waste treatment-sludge management at the Red Lake Operation currently involves 1) sludge surrounded by relatively coarse waste rock that appears to allow sludge to physically pass laterally through and into the surrounding Tailings Storage Facility; 2) no reported basal liner that prevents leaching from the sludge to pass downward into the tailings porewater and from there into the surrounding environment; 3) no cover to prevent both the wind transport of potentially hazardous sludge into the surrounding environment and the redissolving by precipitation; 4) an unknown amount of sludge due in part to the lack of water quality prior to treatment, that is, not knowing the aqueous concentrations that will be reporting for treatment; 5) Evolution added the transfer of potentially hazardous Bateman treatment sludge to the Red Lake sludge lagoons without updating the expected impacts on the physical and chemical aspects of sludge management;
- Evolution has not provided the comprehensive monitoring database and documents that Grassy Narrows requires in order to obtain an independent review of the information;
- The currently used, limited water-quality guidelines and objectives for the Red Lake Operation are based on the Metal and Diamond Mine Effluent Regulations (MDMER), which are sufficiently high to allow some forms of toxicity to persist. Dr. Morin recommends that Evolution should use guidelines issued by the Canadian Council of Ministers of the Environment (CCME) for water and sediments designed to be safe for all aquatic life forms and life stages, and that those guidelines should

be adapted to site-specific issues like bioaccumulation, methylation of elements like mercury and arsenic, and cumulative effects. This approach would allow any sensitive species now eradicated in the Red Lake Operation area to return after proper remediation and its surrounding contaminant sources under CCME and other site-specific guidelines.

We note that the Evolution ECA does not protect the environment from discharges of contaminated effluent resulting from the proposed water taking. However, even if it did, there are a number of environmental impacts that arise from the taking of the water itself, which are not addressed by the ECA at all. These include:

1. Water takings change the level and flow of surface and ground water in a large area surrounding the point of water taking. These changes can cause the water to become contaminate through ML-ARD (see MEND). This contamination would occur well outside of the water that is collected for treatment and discharge under the ECA.
2. Dr. Morin has identified a number of sources of fugitive discharges of mine water that is proposed to be taken under this PTTW after it has become contaminated through contact with mine waste and mine processes. This fugitive discharge would not be collected for treatment and discharge under the ECA.
3. The taking of water and the altering of surface flows have likely impacts on fish, and other aquatic biota which are not reliably predicted, prevented, nor monitored in this proposed permit.

Thus, the project as a whole and the renewal of the amended PTTW have the potential to have adverse impacts on the land, waters, fish, fish habitat, and the Grassy Narrows people who use them. Grassy Narrows people rely on the fish, which play an important role in their way of life, sustenance, and livelihood. The fish in this water system have already been harmed by mercury poisoning and industrial activity as a result of the Crown's failures to protect the river system in the past.

Grassy Narrows is particularly concerned that renewal of the amended PTTW will result in the release of toxins and substances such as sulphate that stimulate mercury methylation into local waterbodies and the English River and that these toxins will be taken up by the fish that Grassy Narrows people eat. Indeed, Dr. Morin's review of the current condition of the river system confirms that the existing permits are not protective of the environment or Grassy Narrows.

The Ontario Land Tribunal granted Grassy Narrows leave to appeal in similar circumstances, when MECP granted a PTTW to Great Bear Resources for advanced exploration in the Red Lake area (Great Bear then withdrew the impugned PTTW and the

appeal did not proceed). It is instructive to consider some of the reasons why the OLT in March 2025 granted the Grassy Narrows leave application:<sup>1</sup>

“[37] ... the Tribunal finds that given the possible release of contaminants and the potential for methylmercury production as a result of the proposed water takings under the Permit, it appears that there is a threat of serious environmental harm from water takings under the Permit. The Director and Permit Holder rely largely on monitoring and adaptive management as tools to address potential contamination; however, in circumstances where even a small amount of contamination can cause significant health and environmental harm, the use of monitoring and after-the-fact adaptive management measures have little use or effect. In those circumstances, the damage will already have been done.

...

[47] Based on the evidence before the Tribunal, the Grassy Narrows community has suffered from a history of mercury contamination, which has impacted its members’ rights, health, and well-being, including premature death, elevated suicidality, disease, poverty, and food insecurity. Based on the Permit Holder’s studies, the Director determined that the anticipated risk of environmental harm from mercury and other contamination would be low and, as a result, he failed to comprehensively consider the cumulative effects of such contamination if it occurs despite the low risk. Given the environmental conditions, history of mercury and other contamination, and the environmental and health impacts of past contamination, the Tribunal finds that the Director should have considered the cumulative effects of the proposed takings and discharges should contamination occur. Based on this, the Tribunal finds that it appears that there is good reason to believe that no reasonable person, having regard to the MECP’s SEV on cumulative effects, could have made the decision to issue the Permit.

...

[62] Based on the evidence and submissions before it, the Tribunal finds that the Applicant has established that there are data and information gaps, and an absence of analysis on key environmental factors in the Permit Holder’s studies and research. The Applicant’s experts produced comprehensive evidence demonstrating that the Permit Holder’s data and studies are incomplete. Based on this, the Tribunal finds that the Applicant has presented an arguable case that the Director did not have the necessary data and studies before him to enable him to consider both the Permit Holder’s reasonable needs for water and the water needs of the ecosystem for it to perform its natural functions. As a result, the Tribunal finds that there is good reason to believe that no reasonable person,

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<sup>1</sup> *Grassy Narrows First Nation v Ontario (Environment, Conservation and Parks)*, [2025 CanLII 21796](#) (ON LT).

having regard to the MECP's SEV on the ecosystem approach, could have made the decision to issue the Permit.”

All of these concerns are present at the Red Lake Operation and with respect to the proposed renewal of the amended PTTW.

### **Failure to Consult, Accommodate and Obtain Consent**

When MECP provided notice of the application to renew the amended PTTW, you stated that “this application is considered administrative and as such, in the Ministry's view, it does not engage the Duty to Consult.”

Thus, the Ministry appears to take the position that is legally required to post the renewal application on the ERO for public comment but has no obligation to consult with First Nations that may be adversely impacted by the permit. That is not a tenable legal position.

Moreover, as noted above, the renewal application relates to amendments to the PTTW that were made without any notice to or consultation with Grassy Narrows. It is equally untenable to suggest that the Ministry can simply fail to consult an amendments to a PTTW and then avoid its section 35 obligations in respect of a “renewal” application of those amendments.

This unreasonable approach to the Crown's duties and obligations to Grassy Narrows is heightened by the fact that Grassy Narrows was not even notified, nor was it consulted, meaningfully accommodated and did not give its consent when the original PTTW was approved that was later amended and is now seeking renewal.

Such a longstanding failure to meaningfully engage, and the attempt to justify it through a bad faith administrative sleight of hand is utterly inconsistent with the Honour of the Crown.

The Crown is aware of Grassy Narrows concerns about the Evolution operation at Red Lake. Since at least January 17, 2025, Grassy Narrows has been expressing concern that Evolution was submitting, and Ontario was considering, multiple permit applications without providing any notice to Grassy Narrows.

On April 10, 2025, Grassy Narrows Lands Protection Team requested a meeting with MECP to discuss Evolution's plans and proposed a meeting date of May 20th. After multiple follow ups, MECP advised it was not available on the proposed date. Eventually a meeting date of June 11<sup>th</sup> was agreed upon.

As noted above, on May 30 Grassy Narrows provided Dr. Morin's report on the Red Lake Operation.

On June 10, 2025, MECP provided materials relating to some of Evolution permit applications. Information about the PTTW renewal that is the subject of this letter was not included in the information provided.

On June 11, 2025, Ontario finally made itself available for a meeting with Grassy Narrows. Grassy Narrows sent the following questions in advance of the meeting:

1. What contaminants are being put into Grassy Narrows' headwaters by the RLO and vicinity?
2. Do any of these contaminants exceed levels allowed by Ontario?
3. Are any of these contaminants dangerous for Grassy Narrows people who use the waterways and eat the fish?
4. Are these contaminants bioaccumulating in fish and in other life?
5. Is the company currently in compliance with their existing permits?
6. Has the existing ECA been successful in preventing environmental and human impacts?
7. Is the current WTP capable of preventing environmental and human impacts?
8. Are any contaminants of concern missing from the monitoring and regulation of RLO?
9. When did Ontario learn about the problems listed in the Morin report and have they been remedied?
10. Does Ontario accept Morin's recommendations and commit to implement them? If not, why?
10. Do the RLO properties and their vicinity require remediation?
11. Does the current and proposed work at RLO take into account site specific considerations including cumulative impacts, Grassy Narrows, mercury, methylation, bioaccumulation?
12. What new permits or amendments are planned and when?
13. When will Ontario provide the missing information noted in Morin's report and Source's letter?
14. Will Ontario provide Grassy Narrows with the complete consultation record related to the opening, expansion, and ongoing operation of the existing RLO?

15. Will Ontario provide capacity support for Grassy Narrows' reasonable costs of engagement on this project? The proponent has yet to support nearly all of Grassy Narrows' request for capacity support.

These questions are largely a repetition of questions that Grassy Narrows has been asking RLO and Ontario since it was first contacted about this project, without receiving meaningful answers to date. At the meeting, Grassy Narrows explained that information about current contamination is essential in order to meaningfully assess the potential cumulative impacts of any new permit applications on already existing contamination. MECP refused to answer any of these questions and took the indefensible position that the above questions are not relevant to its "consultation" on Evolution's permit requests.

Representatives from MECP indicated that Dr. Morin's troubling report remains under review.

At and following the meeting, Grassy Narrows asked Ontario for the following:

- (a) provide the Team with a copy of the provincial permitting slide deck that was mentioned but not presented during the meeting;
- (b) provide the Team with written answers (with supporting documentation) to the above questions, most of which arise from Dr. Morin's report which is under review by the Ministry of the Environment, Conservation Parks.
- (c) schedule a new Zoom meeting to discuss the information submitted to the Team under paragraph (b) and ANA's concerns after the Team and its experts have had a sufficient opportunity to review the information; and
- (d) pause the approvals process for new or amended permits, licences or instruments currently being considered by Ontario in relation to RLO.

To date, Ontario has provided its slide deck but nothing further. The renewal application for the amended PTTW was not referenced in this slide deck. To date, the Ministry has not responded to any of Grassy Narrows' substantive questions listed above.

On July 11, 2025, for the first time, Ontario provided notice that the PTTW renewal application had been posted to the ERO for comment with a closing date of August 3, 2025. There is minimal information about the renewal PTTW available on the ERO website and MECP has not provided any additional information.

We reiterate our expectation that the Crown will notify Grassy Narrows when a proponent has applied for a permit or authorization and to provide full information, capacity support, and sufficient time so that Grassy Narrows can review the relevant documents, assess their impacts, engage with their community and experts, carry out their governance process, and provide comments before a decision is made. Failing to

do so is disrespectful to Grassy Narrows and inconsistent with the duty to consult, the standard of free, prior and informed consent, and the spirit of reconciliation.

On June 17, 2025 we requested again that you pause the review process relating to the Red Lake Operation and not make any decisions until Grassy Narrows has been meaningfully consulted, accommodated, and have given consent. As MECP is well aware, there are multiple important deadlines for comment on other mining proposals in the Red Lake area with overlapping and onerous deadlines being imposed for response. In this case, Grassy Narrows was given 23 days and virtually no information to permit a meaningful response.

MECP has not responded to these requests, and we must assume MECP intends to proceed in the absence of meaningful engagement with Grassy Narrows. On behalf of Grassy Narrows, we reiterate the demand for an extension of time until such time that the information noted above is provided, Dr. Morin's recommendations have been implemented and the Lands Protection Team has obtained independent and expert advice about the renewal PTTW.

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