



Canadian Environmental  
Assessment Agency

Agence canadienne  
d'évaluation environnementale

160 Elgin St., 22<sup>nd</sup> floor  
Ottawa ON K1A 0H3

160, rue Elgin, 22<sup>e</sup> étage  
Ottawa ON K1A 0H3

**Notice of Issuance of an  
Order  
Pursuant to section 94 of the  
*Canadian Environmental Assessment Act, 2012***

June 20, 2017

**File #:** CEAA Registry - 80034

**PURPOSE OF THE NOTICE**

The purpose of this Notice is to notify Pretium Resources Inc. (the Proponent), to whom the Order is directed, that the undersigned Enforcement Officer designated under section 89 of the *Canadian Environmental Assessment Act, 2012*, (CEAA 2012) has issued an Order.

**AUTHORITY**

This document constitutes an Order issued to the Proponent of the Brucejack Gold Mine Project, pursuant to section 94 of the CEAA 2012.

**NAME OF PERSON(S) TO WHOM THIS ORDER IS DIRECTED**

This Order is directed to the following:

Pretium Resources Inc.  
1600-570 Granville Street  
Vancouver, BC  
V6C 3P1

c/o

Max Holtby, P. Geo.  
Director, Permitting  
Pretium Resources Inc.  
Suite 2300 Four Bentall Centre  
PO Box 49334  
1055 Dunsmuir Street  
Vancouver, BC V7X 1L4

## **ORDER**

After conducting site inspections of the designated project and reviewing the memorandum from Environmental Resources Management (ERM) provided by the Proponent, the undersigned has reasonable grounds to believe that there is a contravention of the Canadian Environmental Assessment Act, 2012 (CEAA 2012), as the Proponent has allegedly not complied with Condition 8.4 of the federal decision statement issued under section 54 of CEAA 2012.

### 1. Condition 8.4 – Species at risk, states:

“8.4 The Proponent shall construct wildlife tunnels and fencing along the access road to allow passage of the Western Toad (*Anaxyrus boreas*) beneath the road as close as possible to existing migration corridors taking into account British Columbia's Guidelines for Amphibian and Reptile Conservation during Urban and Rural Land Development in British Columbia.”

By failing to comply with a condition of the decision statement issued by the Minister of the Environment for the Brucejack Gold Mine Project, the Proponent has contravened paragraph 6(b) of CEAA 2012.

In so doing, the Proponent has allegedly committed an offence contrary to subsection 99(1) of the CEAA 2012, punishable on summary conviction and liable, for a first offence, to a fine of not more than \$200,000 and, for any subsequent offence, to a fine of not more than \$400,000. Furthermore, subsection 99(4) of CEAA 2012 states that if an offence under subsection 99(1) of the CEAA 2012 is committed or continues on more than one day, it constitutes a separate offence for each day on which it is committed or continued.

### **REASONABLE GROUNDS**

I, Nicolas Courville, Senior Enforcement Officer, employed by the Compliance Promotion and Enforcement Unit of the Canadian Environmental Assessment Agency (the Agency) and designated pursuant to section 89 of CEAA 2012, have reasonable grounds to believe that these are the relevant facts surrounding the contravention.

### **FACTS**

The Western Toad is a species of special concern listed in Part 4 of Schedule 1 of the *Species at Risk Act* (SARA).

Between November 2 and November 4, 2016, a site inspection of the Brucejack Gold Mine Project was conducted by the undersigned. In the course of the inspection, the presence of a single wildlife tunnel located at Site #6B to allow the passage of the Western Toad was observed. The undersigned also noted that there was no fencing to allow access by the Western Toad to the wildlife tunnel as required by condition 8.4.

Mr. Max Holtby, Director, Permitting, Pretium Resources Inc., who was present during the inspection, was asked to provide additional information in regards to the quantity of wildlife tunnels that were to be installed and their locations. On November 9, 2016, Mr. Holtby provided the undersigned with a Memorandum dated October 23, 2014 prepared for the Proponent by ERM and entitled "*Selection of Western Toad Mitigation Sites along Brucejack Access Road*" (the Memorandum).

The Memorandum identifies multiple locations for wildlife tunnels and fencing for the movement of the Western Toad during its migration and identifies migration corridors. It also provides information to the Proponent to assist and enable the Proponent to comply with condition 8.4.

Between May 16, 2017 and May 18, 2017, a second site inspection of the Brucejack Gold Mine Project was conducted by the undersigned.

In the course of the inspection, the undersigned again observed the presence of only one wildlife tunnel to allow passage of the Western Toad at priority Site #6B, shown on Figure 4.1-2 (Annex I) of the Memorandum. In addition, no fencing which would give the Western Toad access to the existing tunnel was observed.

Section 6.4.5 of the Brucejack Gold Mine Project Environmental Assessment Report states that:

"Mortality from vehicle collisions will be mitigated by cutting vegetation low near road edges to increase visibility, restricting access to non-authorized users (limits traffic volume), imposing speed limits, requiring vehicles to yield to wildlife species at risk, and building wildlife corridors ("toad tunnels" beneath the access road) to enable western toad migrations. Emergence and migration periods for western toad (July to August) will be identified as high-risk periods."<sup>1</sup>

## **MEASURES TO BE TAKEN**

Under the authority given to me pursuant to subsection 94(1) of CEEA 2012, I hereby order you to take the following measures:

### **By August 1, 2017:**

1. Install fencing, giving access to the wildlife tunnel at High Priority Site #6B, shown on Figure 4.1-2 (Annex I). The fencing must be constructed and installed taking into account the *Best Management Practices for Amphibians and Reptiles in Urban and Rural Environments in British Columbia*;

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<sup>1</sup> <http://www.ceaa-acee.gc.ca/050/document-eng.cfm?document=102017>

2. Install three wildlife tunnels that are at least .80 metres high and at least 1.80 metres wide, as recommended in the Memorandum at the High Priority Site #3 shown in Figure 4.1-1 (Annex II) of the Memorandum; and their fencing taking into account the *Best Management Practices for Amphibians and Reptiles in Urban and Rural Environments in British Columbia*;
3. Install a wildlife tunnel that is at least .80 metres high and at least 1.80 metres wide, as recommended in the Memorandum at the Medium Priority Site #1 shown in Figure 4.2-1 (Annex III) of the Memorandum; and its fencing taking into account the *Best Management Practices for Amphibians and Reptiles in Urban and Rural Environments in British Columbia*;
4. Either install a wildlife tunnel that is at least .80 metres high and at least 1.80 metres wide, as recommended in the Memorandum at the Medium Priority Site #2 (Annex IV) and its fencing taking into account the *Best Management Practices for Amphibians and Reptiles in Urban and Rural Environments in British Columbia*, or in the alternative install additional natural substrate below existing bridge crossings along the road segment with directional fencing.

#### **Monitoring and reporting**

5. Monitor and record the presence and movement of the Western Toad, including its use of all wildlife tunnels and the fenced areas leading to each of the wildlife tunnels from installation through August 31, 2017, taking into account the *Best Management Practices for Amphibians and Reptiles in Urban and Rural Environments in British Columbia*;
6. Take measures to mitigate the effects of non-compliance with the Act, (the non-installation of toad tunnels) during the migration period (July and August 2017) of the Western Toad; and
7. Report the information found during the monitoring required at item 5 to the undersigned no later than September 10, 2017.

Within 30 days of implementing the required measures to provide wildlife tunnels to allow passage of the Western Toad beneath the access road as close as possible to the existing migration routes of toads in accordance with this Order and with condition 8.4 of the decision statement, the Proponent shall provide the undersigned with:

- a) a description of the wildlife tunnels constructed or installed by the Proponent;
- b) the geographic co-ordinates of the location of the tunnels, including latitude and longitude; and
- c) identification of which aspect of the Memorandum the Proponent implemented in constructing or installing the wildlife tunnels;

**EFFECTIVE DATE OF THE ORDER**

This Order takes effect immediately on June 20, 2017 at the time of delivery of the order to the Proponent. Nothing in this Order shall be construed as reducing, increasing, or otherwise affecting what may be required of the Proponent to comply with all applicable legislative or legal requirements.

**COMPLIANCE WITH THIS ORDER IS MANDATORY**

Failure to comply with an Order issued under section 94 of CEEA 2012 is an offence under subsection 99(2) of CEEA 2012.

**REVIEW OF THE ORDER**

The recipient of an order has 10 business days following the issuance of the order to provide comments. A request for an opportunity to be heard does not suspend the order.

After careful consideration of the information received during the opportunity to be heard, the CEEA 2012 enforcement officer may decide to confirm, amend or revoke the order. The CEEA 2012 enforcement officer must provide a copy of that decision to the person(s) to whom the order was issued. If the CEEA 2012 enforcement officer decides to uphold or amend the order, the enforcement officer must also provide a copy of the order.

**REVIEW BY THE REVIEW OFFICER**

A person to whom an order under section 94 of CEEA 2012 is issued may, following the opportunity to be heard by the CEEA 2012 enforcement officer, request a review of the order by the review officer including the alleged non-compliance and the supporting facts and evidence.

A request for a review by the review officer must be made within 30 days after the opportunity to be heard by the CEEA 2012 enforcement officer. The request for a review must be made in writing and include all relevant information to enable a review officer to commence the review, including whether the applicant is asking for suspension of the order during the conduct of the review.

The Proponent may address its request to:

CEAA Review Officer  
Place Bell Canada, 22<sup>nd</sup> Floor  
160 Elgin Street  
Ottawa, Ontario  
K1A 0H3

A request for a review does not suspend the operation of the Order and compliance is mandatory. Should the Proponent want the Order to be suspended while it is being reviewed, that demand must be included in its request. If the Proponent is not satisfied

with the outcome of the review, the Proponent can apply for judicial review of the Order by the Federal Court of Canada (Trial Division).

Should the Proponent not wish to seek review of the Order with the Agency, the proponent may directly apply for judicial review of the Order by the Federal Court of Canada (Trial Division).

Should a person seek judicial review of the Order by the Federal Court of Canada (Trial Division), the Order is not automatically suspended. The person must specifically make that request to the Court.

**DATE OF ISSUANCE**

This Order is issued on June 20, 2017, by Senior Enforcement Officer Nicolas Courville.

<Original signed by>

Nicolas Courville  
Senior Enforcement Officer  
Compliance Promotion and Enforcement Unit  
Canadian Environmental Assessment Agency

Please note that in accordance with the Compliance and Enforcement Policy for the Canadian Environmental Assessment Act, 2012 and the Canadian Environmental Assessment Agency's policy on transparency, this Order will be posted on the Agency's Compliance Promotion and Enforcement website.

## IMPORTANT

### COMPLIANCE AND PENALTIES

#### 1. Contravention of CEAA 2012

6 The proponent of a designated project must not do any act or thing in connection with the carrying out of the designated project, in whole or in part, if that act or thing may cause an environmental effect referred to in subsection 5(1) unless...

(b) the proponent complies with the conditions included in the decision statement that was issued under subsection 31(3) or 54 to the proponent with respect to that decision statement.

54(1) the decision maker must issue a decision statement to the proponent of a designated project that ...

(b) includes any conditions that are established under section 53 in relation to the designated project and that must be complied with by the Proponent.

99(1) Any proponent who contravenes section 6 is guilty of an offence punishable on summary conviction and is liable, for a first offence, to a fine of not more than \$200,000 and, for any subsequent offence, to a fine of not more than \$400,000.

99(4) If an offence under (1) or (2) is committed or continued on more than one day, it constitutes a separate offence for each day on which it is committed or continued.

Decision Statement issued under section 54 of the CEAA 2012 on July 30, 2015  
Condition 8.4

The Proponent shall construct wildlife tunnels and fencing along the access road to allow passage of the Western Toad (*Anaxyrus boreas*) beneath the road as close as possible to existing migration corridors taking into account British Columbia's Guidelines for Amphibian and Reptile Conservation during Urban and Rural Land Development in British Columbia.

#### 2. Order:

94(1) If a person designated to verify compliance with this Act believes on reasonable grounds that there is a contravention of this Act, they may, among other things, order a person to

(a) stop doing something that is in contravention of this Act or cause it to be stopped; or

(b) take any measure that is necessary in order to comply with this act or to mitigate effects of non-compliance.

3. Failure to comply with an Order:

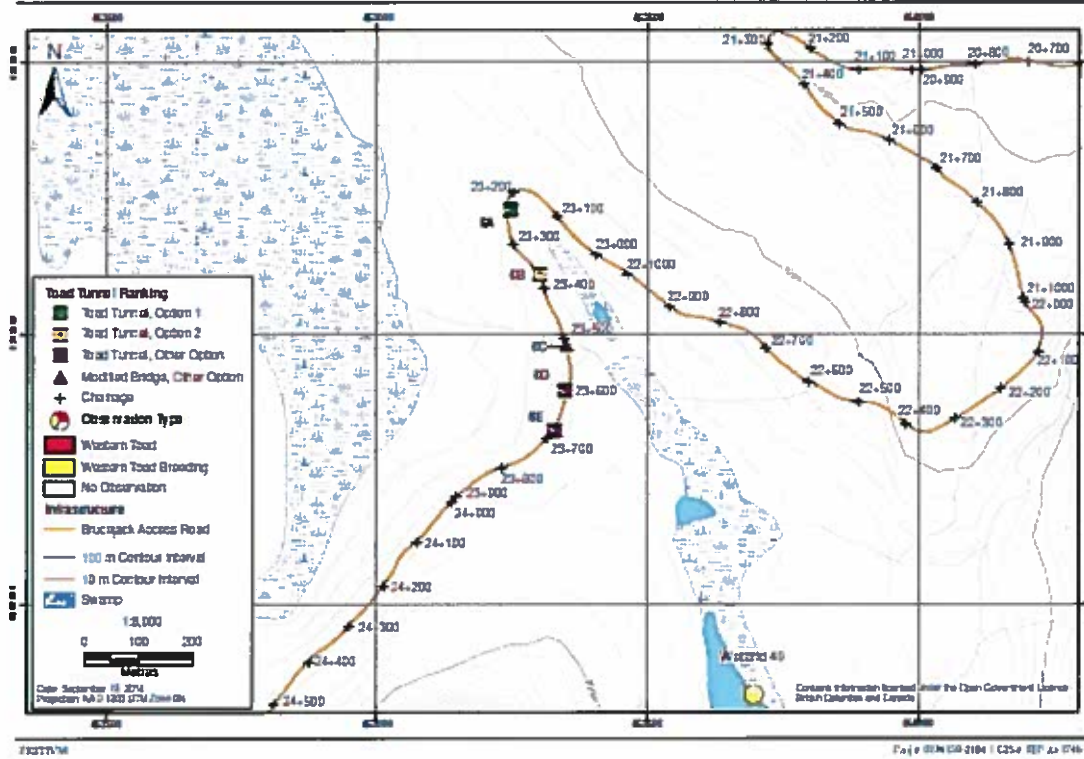
94(3) Any person to whom an order is given under subsection (1) must comply with the Order given.

99(2) A person who contravenes subsection 94(3) is guilty of an offence punishable upon summary conviction and is liable, for a first offence, to a fine of not more than \$200,000 and for any subsequent offence, to a fine of not more than \$400,000



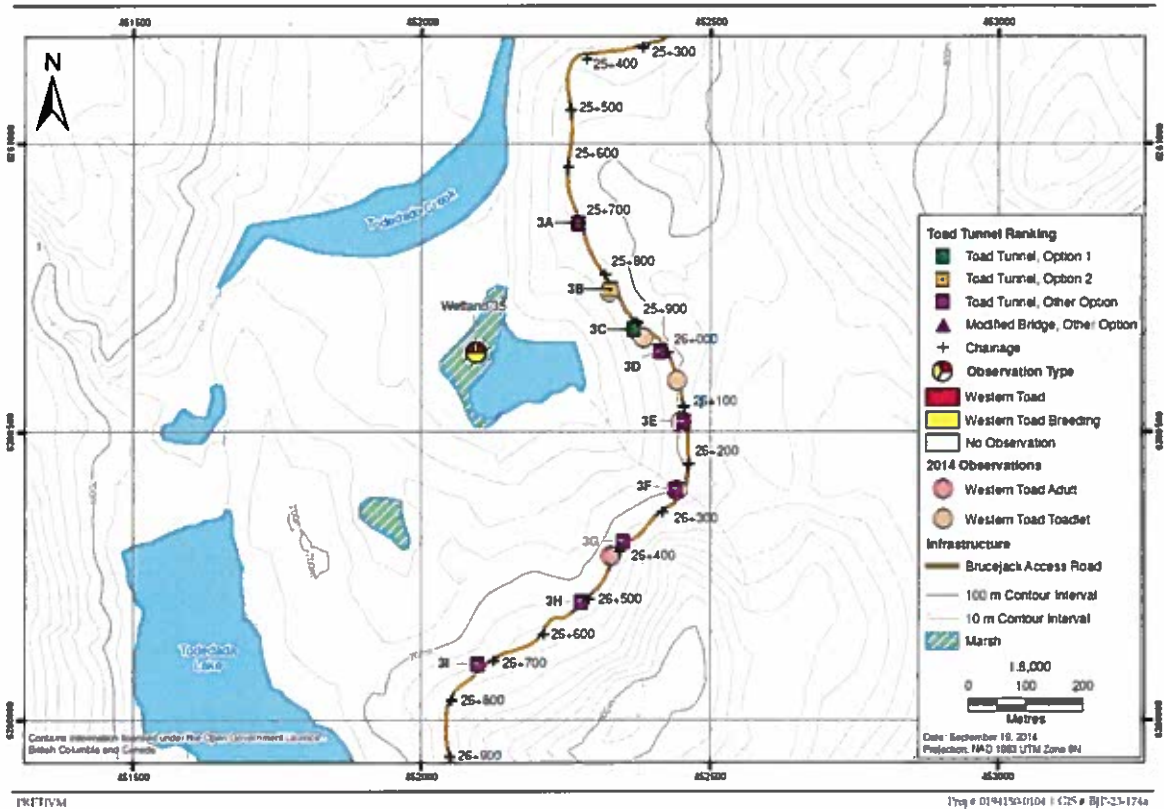
# ANNEX I

Figure 4.1-2  
 Site # 6 High Priority Site for Installation of Western Toad Mitigation Structures



# ANNEX II

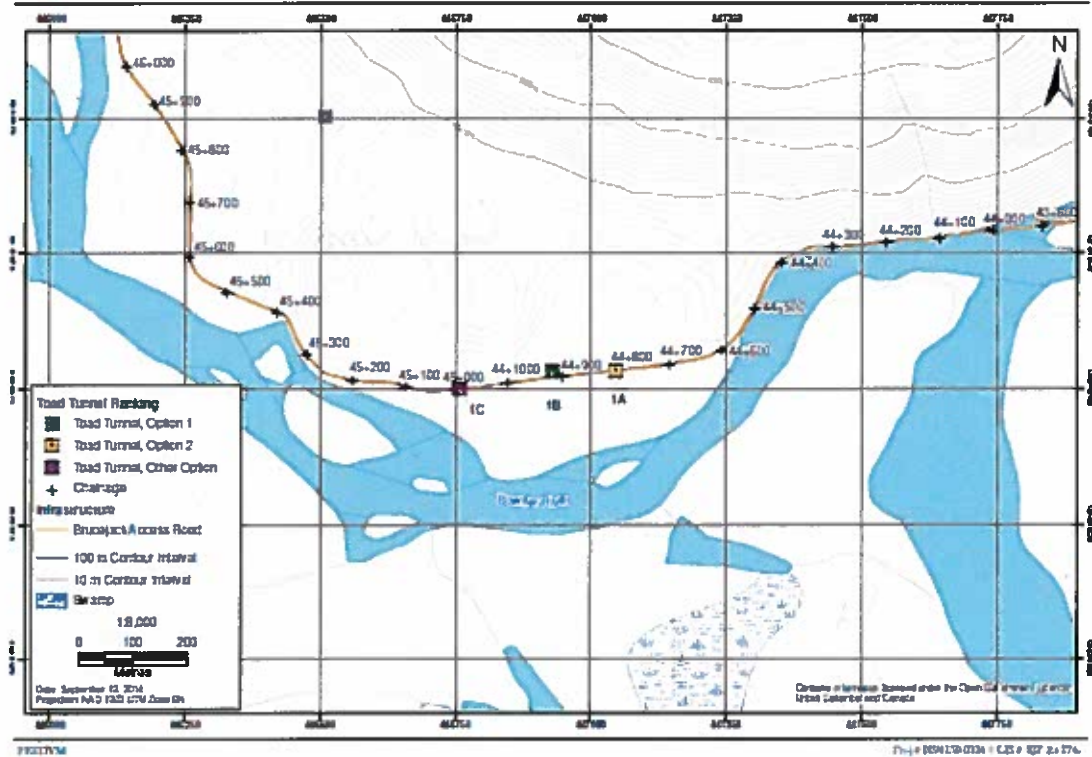
Figure 4.1-1  
Site #3: High Priority Site for Installation of Western Toad Mitigation Structures



Annex II: Site #3: High Priority Site for Installation of the Western Toad Mitigation Structures

# ANNEX III

Figure 4.2-1  
 Site # 1: Medium Priority Site for Installation of Western Toad Mitigation Structures



# ANNEX IV

Figure 4.3-3  
 Site # 2 Medium Priority Site for Installation of Western Toad Mitigation Structures

