



Canadian Environmental  
Assessment Agency

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Ottawa ON K1A 0H3

Agence canadienne  
d'évaluation environnementale

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*

July 21, 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.

This Order supersedes the Order issued on June 20, 2017.

**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).

Section 6.4.5 of the Brucejack Gold Mine Project Environmental Assessment Report, concerning species at risk, 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>

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 High Priority Site #6B to allow the passage of the Western Toad was observed. The undersigned also noted that there was no fencing which would allow access to the wildlife tunnel by the Western Toad 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 number 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 to allow the passage 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 only one wildlife tunnel to allow passage of the Western Toad at High Priority Site #6B, as 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.

Following the submission of comments by Pretium Resources Inc. to the Agency on June 30, 2017 the undersigned understands that:

- The Memorandum is being updated to better reflect the best locations for toad tunnels to protection Western Toad migration corridors;
- The recommended size of toad tunnels is at least 1 metre in diameter, as per British Columbia's *Guidelines for Amphibian and Reptile Conservation during Urban and Rural Land Development in British Columbia*;
- The installation of toad tunnels during the summer months could coincide with migration periods of Western Toads and the presence of migratory birds;

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

therefore, the construction of toad tunnels during this period could lead to mortality events of Western Toads, or loss of migratory bird habitat;

- The proponent is capable of constructing toad tunnels in the fall or spring months, outside of the migration periods for the Western Toad; and,
- The proponent requires more than 10 days to compile and submit monitoring data.

The measures to be taken below were developed taking into account the proponent's representations.

### **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 April 30, 2018:**

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 British Columbia's *Guidelines for Amphibian and Reptile Conservation during Urban and Rural Land Development in British Columbia*;
2. Install three wildlife tunnels and associated fencing at High Priority Site #3 shown in Figure 4.1-1 (Annex II) that are at least 1 metre in diameter, taking into account British Columbia's *Guidelines for Amphibian and Reptile Conservation during Urban and Rural Land Development in British Columbia*;
3. Install a wildlife tunnel and the associated fencing at Medium Priority Site #1 shown in Figure 4.2-1 (Annex III) that is at least 1 metre in diameter, taking into account British Columbia's *Guidelines for Amphibian and Reptile Conservation during Urban and Rural Land Development in British Columbia*; or in the alternative, install an additional wildlife tunnel and associated fencing at High Priority Site #6, taking into account *British Columbia's Guidelines for Amphibian and Reptile Conservation during Urban and Rural Land Development in British Columbia*; and,
4. Install a wildlife tunnel and associated fencing at Medium Priority Site #2 (Annex IV) that is at least 1 metre in diameter, taking into account British Columbia's *Guidelines for Amphibian and Reptile Conservation during Urban and Rural Land Development in British Columbia*; or in the alternative, create a tunnel by installing additional natural substrate below existing bridge crossings along the road segment with directional fencing.

Within 30 days of implementing the required measures 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, with dimensions, 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 original or updated Memorandum the Proponent implemented in constructing or installing the wildlife tunnels.

**Monitoring and reporting:**

1. Monitor and record the presence and movement of the Western Toad, taking into account the monitoring recommendations in British Columbia's *Guidelines for Amphibian and Reptile Conservation during Urban and Rural Land Development in British Columbia*. The monitoring shall be carried out at all wildlife tunnels and the fenced areas leading to each of the wildlife tunnels from the date of the installation of the tunnel and fencing through August 31, 2018;
2. Take measures to mitigate the effects of non-compliance with CEAA 2012 until toad tunnels are installed, taking into account the recommended activities to prevent road mortality where construction of tunnel crossing structures is not possible in British Columbia's *Guidelines for Amphibian and Reptile Conservation during Urban and Rural Land Development in British Columbia*; and
3. Report the information found during the monitoring undertaken to comply with this Order to the undersigned no later than September 30, 2018.

**EFFECTIVE DATE OF THE ORDER**

This Order takes effect immediately on July 21, 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 CEAA 2012 is an offence under subsection 99(2) of CEAA 2012.

**DATE OF ISSUANCE**

This Order is issued on July 21, 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:

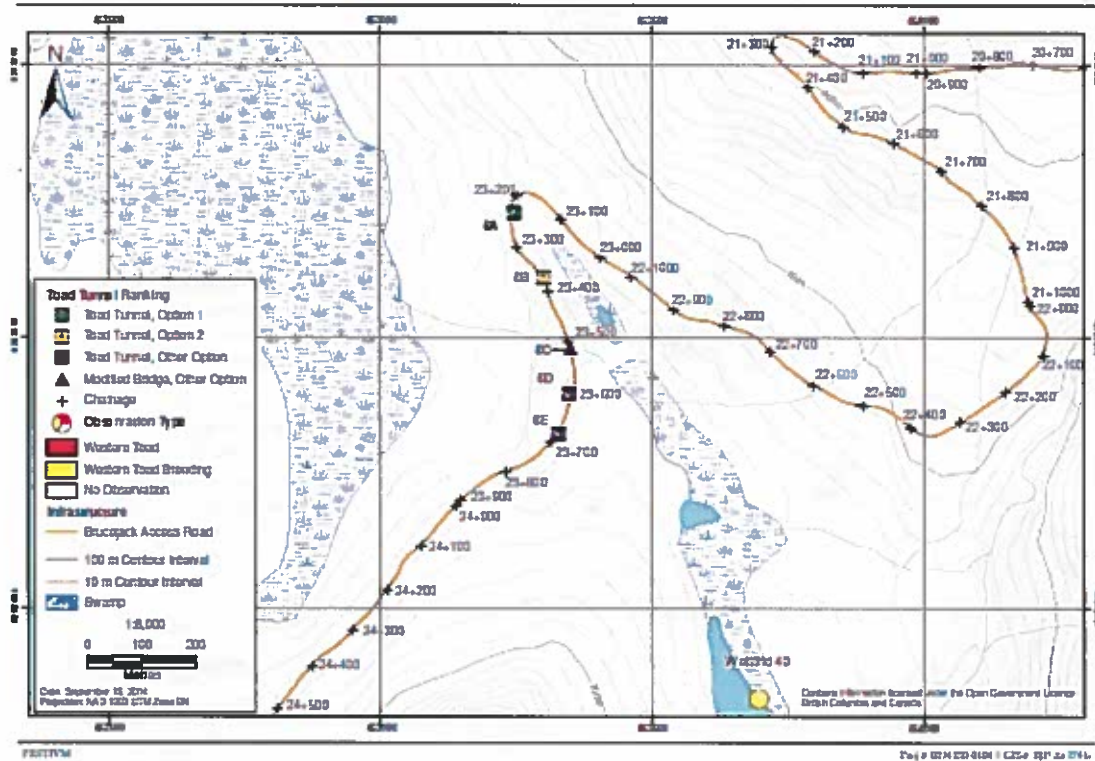
94(3) Any person to whom an order is given under subsection (1) must comply with the Order given.

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



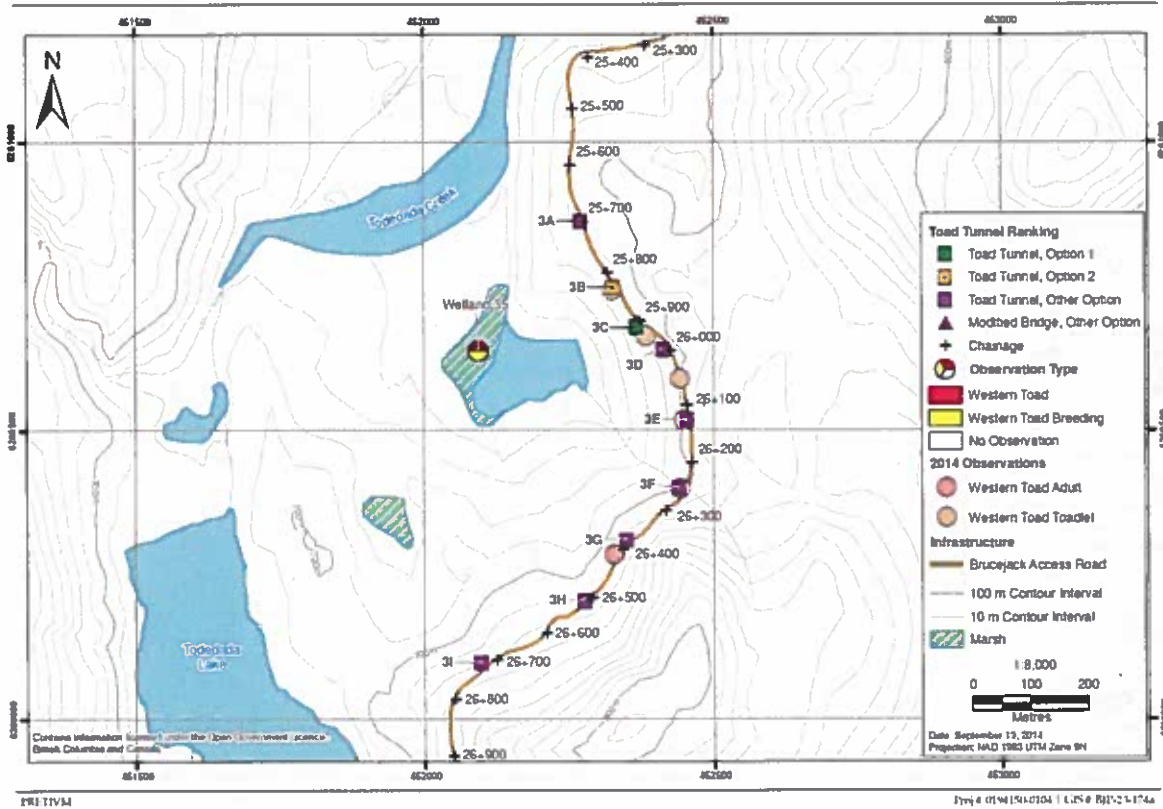
# ANNEX I

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



# ANNEX II

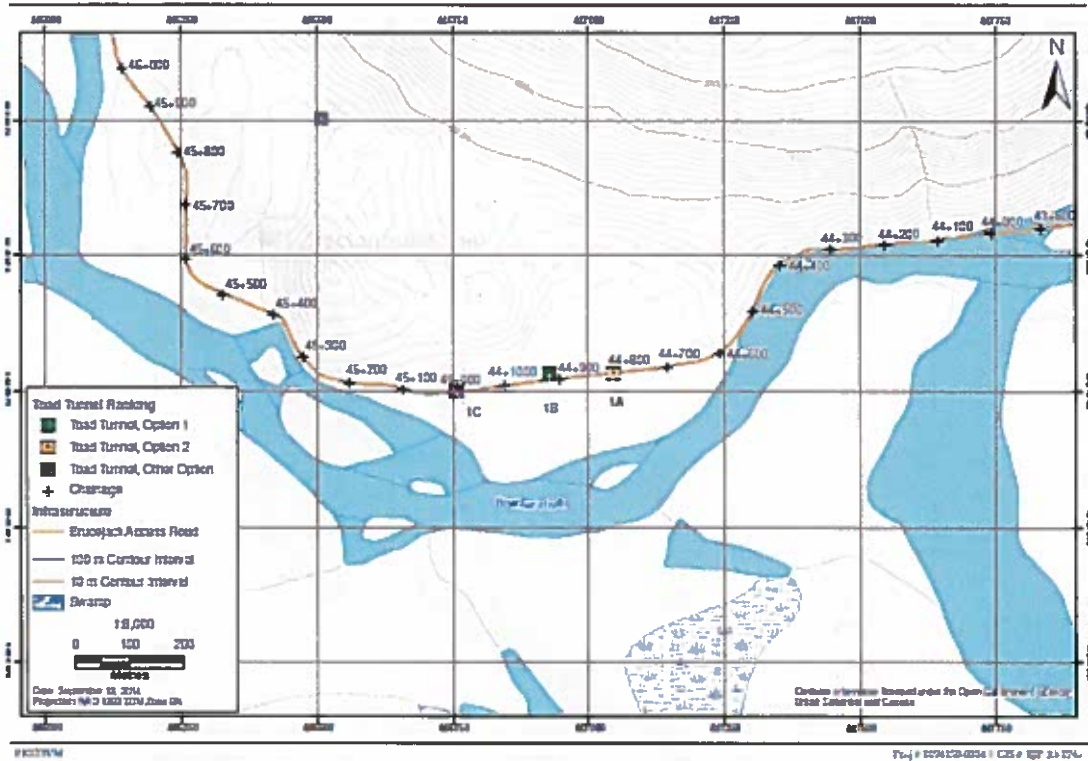
Figure 4.1-1  
 Site #3: High Priority Site for Installation of Western Toad Mitigation Structures



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 4.2-2**  
**Site #2 Medium Priority Site for Installation of Western Toad Mitigation Structures**

