

Canadian Wildlife Service  
Environment and Climate Change Canada  
9250 49 Street NW, 2nd Floor  
Edmonton, Alberta  
T6B 1K5



ECCC File: 4194-10-5/3295  
Registry File: 80140

December 9, 2020

Melissa Pinto  
Project Manager  
Impact Assessment Agency of Canada  
Canada Place  
Suite 1145, 9700 Jasper Avenue  
Edmonton, Alberta T5J 4C3

**Re: Acknowledgement of receipt of a notification pursuant to ss. 79(1) of the *Species at Risk Act***

Dear Ms. Pinto,

This letter confirms receipt of your letter of notification pursuant to ss. 79(1) of the *Species at Risk Act* (SARA), on September 25, 2020 in the context of the Lynn Lake Gold Project and provides additional information about species that may be in the area of the Project.

Notification: SARA-listed species

Your letter indicates the Lynn Lake Gold Project is likely to affect the following SARA listed species and/or their critical habitat, for which the Minister of Environment and Climate Change Canada (ECCC) is the competent minister under SARA:

a. Mammals, SARA Schedule 1

- I. Woodland caribou (*Rangifer tarandus caribou*), Threatened
- II. Little brown myotis (*Myotis lucifungus*), Endangered
- III. Northern myotis (*Myotis septentrionalis*), Endangered
- IV. Wolverine (*Gulo gulo*), Special Concern

b. Birds, SARA Schedule 1, MBCA

- I. Yellow Rail (*Coturnicops noveboracensis*), Special Concern
- II. Horned grebe (*Podiceps auratus*), Special Concern
- III. Common nighthawk (*Chordeiles minor*), Threatened
- IV. Bank swallow (*Riparia riparia*), Threatened
- V. Barn swallow (*Hirundo rustica*), Threatened
- VI. Olive-sided flycatcher (*Contopus cooperi*), Threatened



VII. Evening grosbeak (*Coccothraustes vespertinus*), Special Concern

c. Birds, SARA Schedule 1

- I. Short-eared Owl (*Asio flammeus*), Special Concern
- II. Rusty Blackbird (*Euphagus carolinus*), Special Concern

d. Amphibians, SARA Schedule 1

- I. Northern Leopard Frog (*Lithobates pipiens*), Special Concern

d. Invertebrates, SARA Schedule 1

- I. Yellow-banded bumble bee (*Bombus terricola*), Special Concern

ECCC recommends you advise the Proponent to consult with ECCC for expertise and advice that is available to the department for these species.

Missing species

Section 79(2) requires notification of all SARA listed species likely to be affected by the project. The following SARA listed species was not identified in the notification letter but can potentially be affected by the project. Species or their critical habitat that need further evaluation include:

a. Birds, SARA Schedule 1, MBCA

- I. Buff-Breasted Sandpiper (*Tryngites subruficollis*), Special Concern

The Buff-Breasted Sandpiper could interact with Project features during migration and would be affected through similar pathways as other migratory shorebirds. The MBCA prohibits the deposition of harmful substances in waters frequented by migratory birds. The baseline surveys conducted by the proponent, in addition to available citizen science records, do not represent the effort required to confidently estimate of the use of the study area by Buff-Breasted Sandpiper given their low density relative to other shorebirds in the area and ephemeral presence during migration. The Proponent should therefore take a conservative approach and assume that Buff-Breasted Sandpiper may interact with the Project. While mitigation measures aimed at other shorebirds are likely to also be effective at reducing the risks posed by the project to Buff-Breasted Sandpiper, as a SAR they are uniquely susceptible to Project effects, which should be acknowledged in the Proponent's Environmental Impact Statement.

Please note, ECCC cannot advise on any missing species for which Fisheries and Ocean Canada (DFO) or the Parks Canada Agency (PCA) is the competent minister under SARA.

COSEWIC-assessed species

The following species is not currently listed under SARA, but has been assessed by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and are likely to be affected by the project:

a. Invertebrates, SARA Schedule 1

I. Transverse Lady Beetle (*Coccinella transversoguttata*)

The Transverse Lady Beetle is a widespread species that is suffering range wide declines. The extent of its occurrence in the Project area is currently unknown, thus the risks posed by the Project are also uncertain. While it may not be necessary to include Transverse Lady Beetle in Proponent's Environmental Impact Statement at this time, the Proponent should be aware of the threats identified in the COSEWIC assessment and proceed under the assumption that Transverse Lady Beetle will be listed under SARA during the life of the Project, requiring further action to meet statutory and regulatory requirements. As such you are advised that it is best practice to consider these species as though they were listed under SARA and to identify ways to avoid and lessen adverse environmental effects to this species and to monitor them.

Jurisdiction

For SARA listed or COSEWIC assessed species on the above list(s) that are not protected under the *Migratory Birds Convention Act* (MBCA) and/or are not located on federal lands, you are also advised to consult the appropriate Provincial government(s) for species-specific technical information. These species include:

a. Mammals, SARA Schedule 1

- I. Woodland caribou (*Rangifer tarandus caribou*), Threatened
- II. Little brown myotis (*Myotis lucifungus*), Endangered
- III. Northern myotis (*Myotis septentrionalis*), Endangered
- IV. Wolverine (*Gulo gulo*), Special Concern

c. Birds, SARA Schedule 1

- I. Short-eared Owl (*Asio flammeus*), Special Concern
- II. Rusty Blackbird (*Euphagus carolinus*), Special Concern

d. Amphibians, SARA Schedule 1

- I. Northern Leopard Frog (*Lithobates pipiens*), Special Concern

d. Invertebrates, SARA Schedule 1

- I. Yellow-banded bumble bee (*Bombus terricola*), Special Concern
- II. Transverse Lady Beetle (*Coccinella transversoguttata*)

General

Section 79 of SARA requires the "person"<sup>1</sup>, as defined in ss. 79(3), responsible for ensuring that federal environmental assessments are conducted to notify the competent minister under SARA of the potential

---

<sup>1</sup> "person" includes an association, an organization, a federal authority as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*, and any body that is set out in Schedule 3 to that Act

adverse effects of a project if it is likely to affect a listed wildlife species (i.e. endangered, threatened and extirpated species as well as species of special concern) or its critical habitat and to identify those effects. If the project is carried out, the “person” must ensure that measures consistent with applicable recovery strategy or action plan are taken to avoid or lessen and monitor those effects. Available recovery strategies and actions plans can be found on the SARA Public Registry:

(<http://www.sararegistry.gc.ca>). Where they are not available proponents are advised to consult COSEWIC assessments, provincial and territorial recovery documents, peer reviewed literature, management plans for species of special concern and species experts, as appropriate.

ECCC’s advice on adverse effects, as a general approach, is guided by information found in recovery documents, most notably the population and distribution objectives, and is consistent with SARA’s protection outcome (as presented in the *Species at Risk Policies: Policy on Critical Habitat Protection on Non-federal Lands* (proposed) that no individual or residence be harmed, or portion of critical habitat be destroyed, except under the conditions (discretion) allowed under SARA itself. Thus, a key foundation of ECCC’s advice is the requirement under SARA ss. 73(3) that:

- all reasonable alternatives that would reduce the impact on the listed species have been considered and that the best solution has been adopted,
- all feasible measures will be taken to minimize the impact of the activity on the species or its critical habitat or the residences of its individuals; and,
- the activity “will not jeopardize survival or recovery” of a species.

### Effective Protection

The SARA competent minister’s role within a federal environmental assessment is to provide technical advice and support to the “person” in addressing s. 79 of SARA and the federal environmental assessment requirements. However, it should be noted that the competent minister also has certain specific obligations related to species and critical habitat protection stemming from SARA itself, separate from federal environmental assessment processes.

Specifically, if the Minister is of the opinion that existing laws/instruments are not effective at protecting individuals, residences, or critical habitat; this may lead the minister to have to conclude that protection is not sufficient. If so, the Minister may be obligated to make a recommendation to Governor in Council for one or several Order(s) (depending upon the circumstances, this may be a s. 34 “Safety Net” type order for protection of individuals, s. 61 “Safety Net” critical habitat protection order or a s. 80 emergency protection order).

### SARA Permits

Permits are required by those “persons” conducting activities that affect species listed on [Schedule 1](#) of SARA as Extirpated, Endangered, or Threatened, that is, activities which contravene the Act's general or critical habitat prohibitions, an Emergency Order issued under s.80 of SARA or regulations made under subs. 53, 59 or 71.

Under subsection 73(2) of SARA, permits may only be issued if the proposed activity falls under one or more of the following purposes: *the activity is scientific research relating to the conservation of the*

*species and conducted by qualified persons; the activity benefits the species or is required to enhance its chance of survival in the wild; or affecting the species is incidental to the carrying out of the activity.*

If you are unsure if your activity is prohibited, please contact your regional ECCC, DFO or PCA office. For more information on SARA permitting please consult *SARA Guidelines* and the SARA Permitting Policy on the Species at Risk Public Registry: [www.registrelep-sararegistry.gc.ca](http://www.registrelep-sararegistry.gc.ca)

Sincerely,

Vanessa Charlwood  
Regional Director  
Regional Operations Directorate  
Canadian Wildlife Service  
Prairie Region

Cc: Jody Small, Head Environmental Assessment South, Prairie and Northern Region, EPOD, ECCC  
Cari-Lyn Epp, Senior Environmental Assessment Officer, Prairie and Northern Region, EPOD, ECCC