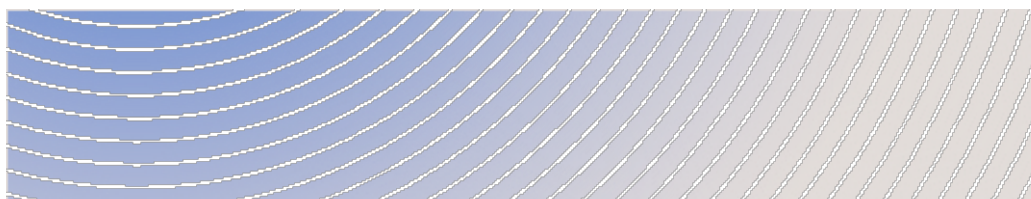


Permitting Plan



GREAT BEAR GOLD PROJECT

MAY 8, 2024

DRAFT VERSION



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1. Introduction

On March 22, 2024 the Impact Assessment Agency of Canada (the Agency) issued an opinion that an impact assessment is warranted for the Great Bear Gold Project (the Project), in alignment with the Government of Canada's Statement on the Interim Administration of the *Impact Assessment Act* Pending Legislative Amendments.

This Permitting Plan was developed by the Agency to outline the federal permits, licences and authorizations (regulatory instruments) that may be required for the Project, should the Project proceed, and following Kinross Gold Corporation's (the proponent) decision to continue to advance the assessment process and proceed with the Planning Phase for the Project.

The Agency may revise the permitting plan during the impact assessment process in response to new information or advice from the proponent, regulators, jurisdictions or other participants in the process, and in order to accommodate any changes with respect to the project that may occur during the assessment.

2. Project Description

The proponent is proposing the construction, operation, decommissioning and abandonment of a new open-pit and underground gold mine with an on-site metal mill, located 23 kilometres southeast of Red Lake, Ontario. As proposed, the Project would include three open-pits and produce up to 60,000 tonnes of ore per day, while the metal mill would process up to 15,000 tonnes of ore per day. The Project would operate for about 20 years.

3. Required Regulatory Instruments Identification and Justification

The following regulatory instruments^{1,2} may be required for the Project:

3.1. Authorization under paragraphs 34.4(2)(b) or 35(2)(b) of the *Fisheries Act*

An authorization under paragraphs 34.4(2)(b) and 35(2)(b) of the *Fisheries Act* may be required for proposed works, undertakings or activities that could result in the death of fish or harmful alteration, disruption or destruction of fish habitat.

The Project may have effects on fish and fish habitat due to project components and activities such as the tailings management facility, waste rock piles, overburden stockpiles, ore stockpiles, watercourse diversions, blasting, water crossings, and dams.

3.2. Authorization to use waters frequented by fish as a Tailings Impoundment Area under subsection 5(1) of the *Metal and Diamond Mining Effluent Regulations*

An authorization may be required through a decision by the Governor in Council to add water bodies frequented by fish to Schedule 2 of the *Metal and Diamond Mining Effluent Regulations* (MDMER) designating them as tailings impoundment areas and allowing for the deposit of waste rock, acutely lethal effluent or effluent of any pH and containing any concentration of a deleterious substance that is prescribed in section 3 of the MDMER in these water bodies. The Project involves a tailings management facility, waste rock pile(s), and ore stockpile(s) impacting waters that may be frequented by fish.

Section 27.1 of the MDMER requires the development and implementation of a fish habitat compensation plan to offset the loss of fish habitat that would occur as a result of the use of a water body frequented by fish for the deposit of a deleterious substance such as mine waste.

¹ Based on information available at the time of this Plan's publication, it is not expected that Natural Resources Canada will be required to issue an authorization or licence under subsection 7(1) of the *Explosives Act* because explosives would be manufactured under an existing licence and the storage of explosives in magazines on the mine site would be permitted by the Province of Ontario.

² Based on information available at the time of this Plan's publication, there may be regulatory requirements under subsection 601.24(1) of the *Aeronautics Act* if any building, structure or object is expected to be over 90 meters. The proponent must meet these requirements and may submit an Aeronautical Assessment Form (AAF); however, it is not expected that Transport Canada will issue permits or approvals related to this regulation.

3.3. Approvals under the *Canadian Navigable Waters Act*

The *Canadian Navigable Waters Act* (CNWA) prohibits the construction or placement of any works in a navigable waterway that may interfere with the public right to navigation without complying with the requirements of the CNWA.

An approval is required for any major work on navigable waters, whether listed or not in the Schedule to the CNWA (paragraph 5(1)(a)). An approval is required for a work, other than a minor work (subsection 4(1)), on navigable waters listed in the Schedule (paragraph 5(1)(b)). A work, other than a major work or minor work, on a navigable water body that is not listed in the Schedule to the CNWA, requires either an approval (paragraph 10(1)(a)) or a public notice and a deposit of information (paragraph 10(1)(b)).

An exemption from the Governor in Council (section 24) is required for the deposit of stone in navigable waters or in a watercourse flowing through navigable waters (section 22) and for the dewatering or lowering of water levels in navigable waters (section 23).

Based on the Detailed Project Description, approvals under section 5, 10, and 24 of the CNWA may be required.

3.4. Authorization under subsection 73(1) of the *Species at Risk Act*

A permit under subsection 73(1) of the *Species at Risk Act* (SARA) can be required if the Project may affect wildlife species listed on Schedule 1 of SARA, as extirpated, endangered, or threatened, any part of their critical habitat, or the residences of their individuals, in a manner prohibited under subsection 32(1), section 33, subsection 58(1), and section 61 of SARA.

Notably, a permit may be required under section 73(1) of SARA if the Project may damage or destroy the residence of a migratory bird species protected under the *Migratory Birds Convention Act*, if the residence description under the SARA defines the residence as protected when unoccupied.

Activities that may affect residences of species at risk birds include, but are not limited to wildlife inventories, site preparation (clearing, grading, deforestation, stripping of vegetative cover, site access, blasting), construction and operation of temporary and permanent works and infrastructure, and filling of wetlands or waterways.

Based on information available at the time of this Plan's publication, it is not expected that the proponent will be required to obtain a permit for any other terrestrial species at risk or their critical habitat because the Project is not on federal lands and there are no prohibition orders in effect on non-federal land near the Project. It is not expected that the proponent will be required to obtain a permit for aquatic species at risk because there are no known aquatic species at risk in the area (should aquatic species at risk be found then an authorization under section 73(1) of the *Species at Risk Act* could be required). The proponent is encouraged to:

- consult the Species at Risk Act Public Registry periodically (<https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry.html>) for any new regulations or prohibition orders affecting species at risk, their residences and critical habitat that may come into effect; and
- understand all general prohibitions and permitting requirements under the *Species at Risk Act* including the Guidelines for permitting under Section 73 of SARA (<https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry/policies-guidelines/permitting-under-section-73.html>).

Additional SARA resources are listed in the Appendices of the [Tailored Impact Statement Guidelines](#) for the Project.

4. Information on Required Regulatory Instruments

Find in the following section, information on applicable regulatory instruments.

4.1. Authorization under paragraphs 34.4(2)(b) or 35(2)(b) of the *Fisheries Act*

4.1.1. Description

This authorization is the responsibility of Fisheries and Oceans Canada (DFO).

Subsection 34.4(1) of the *Fisheries Act* prohibits the carrying on of any work, undertaking or activity, other than fishing, that results in the death of fish. Under paragraph 34.4(2)(b) of the *Fisheries Act*, the Minister of Fisheries and Oceans may issue an authorization with conditions relating to the carrying on of the work, undertaking or activity that result in death of fish.

Subsection 35(1) of the *Fisheries Act* prohibits carrying on any work, undertaking or activity that results in the harmful alteration, disruption or destruction of fish habitat. Under paragraph 35(2)(b) of the *Fisheries Act*, the Minister of Fisheries and Oceans may issue an authorization with conditions relating to the carrying on of the work, undertaking or activity that results in the harmful alteration, disruption or destruction of fish habitat.

4.1.2. Regulatory process

The Fish and Fish Habitat Protection Program from DFO ensures compliance with the provisions of the *Fisheries Act* and the *Species at Risk Act* (SARA). The program considers any proposed work, undertaking or activity that may result in adverse effects on the fish and its habitat.

Provisions of the *Fisheries Act* regarding the protection of fish and fish habitat came into force on August 28, 2019. The proponent is encouraged to consult DFO's [Projects near water](#) website to understand the changes made and ensure compliance of the Project with the new provisions of the *Fisheries Act*.

4.1.2.1. Application submission

It is recommended to request a review of the Project to DFO using the Request for Review form, available on DFO's [Request a review of your project near water](#) website.

An authorization will be required if DFO considers that the Project may result in the death of fish (paragraph 34.4(2)(b)) or in harmful alteration, disruption or destruction of fish habitat (paragraph 35(2)(b)). In order to seek an authorization, the proponent must submit an application to the Minister of Fisheries and Oceans in accordance with the *Authorizations Concerning Fish and Fish Habitat Protection Regulations* (hereafter the Fish and Fish Habitat Regulations). This application is transmitted to the relevant regional office of DFO.

4.1.2.2. Application analysis and consultation

Once an application for authorization is received, it is reviewed to ensure the information and documentation are complete. The information and documentation that must be submitted in an application for authorization are laid out in Schedule 1 of the *Fish and Fish Habitat Regulations*. Among others, the following information is required when submitting an application:

- description of proposed work, undertaking or activity;
- phases and schedules;
- location (maps);
- description of fish and fish habitat (aquatic environment);
- description of effects on fish and fish habitat;
- measures and standards to avoid or mitigate death of fish or harmful alteration, disruption or destruction of fish habitat;
- residual death of fish or harmful alteration, disruption or destruction of fish habitat after the implementation of avoidance and mitigation measures;
- offsetting plan (if required);
- summary of public and Indigenous engagement activities; and
- financial guarantees to cover the cost for the implementation of the offsetting plan.

A decision as to whether the information is complete must be issued within 60 days of receipt of the application. If the application is incomplete or inadequate, the applicant will be informed and provided an opportunity to provide the information or documentation to complete the application. Once the application is deemed complete and adequate, the applicant will be notified.

4.1.2.3. Regulatory decision

The authorization decision under the *Fisheries Act* is made during the 90-day period following the notification that the application is complete and adequate. The process for reviewing the application can be ceased under certain circumstances, which may include: awaiting the outcome of other federal requirements, such as a federal impact assessment; addressing requirements under SARA; consultation with Indigenous Peoples relative to the potential effects of the authorization decision on Aboriginal and treaty rights; and if additional or amended information is required to make the decision. Therefore, this decision can only be made after the Minister's Decision Statement relative to the impact assessment is posted on the Canadian Impact Assessment Registry Internet Site (the Registry). Several factors are taken into consideration when making a determination as to whether to issue an authorization, as described in subsection 34.1(1) of the *Fisheries Act*.

4.1.3. References

Fisheries Act, R.S.C. 1985, c F-14

<https://laws-lois.justice.gc.ca/eng/acts/F-14/>

Authorizations Concerning Fish and Fish Habitat Protection Regulations (SOR/2019-286)

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2019-286/index.html>

Applicant's Guide to Support the *Authorizations Concerning Fish and Fish Habitat Protection Regulations*

<http://www.dfo-mpo.gc.ca/pnw-ppe/reviews-revues/applicants-guide-candidats-eng.html>

Request a review of your project near water

<http://www.dfo-mpo.gc.ca/pnw-ppe/reviews-revues/request-review-demande-d-examen-001-eng.html>

4.1.4. Contact information

For more detailed guidance on this authorization, please contact the DFO Fish and Fish Habitat Protection Program:

Fish and Fish Habitat Protection Program
Fisheries and Oceans Canada
1028 Parsons Road SW
Edmonton, AB T6X 0J4

Email: DFO.OPMiningOilandGasSouth-Exploitationminierepetroliereetq.MPO@dfo-mpo.gc.ca

4.2. Authorization to use waters frequented by fish as a Tailings Impoundment Area under subsection 5(1) of the *Metal and Diamond Mining Effluent Regulations*

4.2.1. Description

Subsection 36(3) of the *Fisheries Act* prohibits the deposit of deleterious substances into waters frequented by fish unless authorized by regulation. The *Metal and Diamond Mining Effluent Regulations* (MDMER) authorize the deposit of deleterious substances under specific conditions, and include provisions to allow the use of waters frequented by fish for the disposal of mine waste. In order to authorize the storage of mine waste in waters frequented by fish, an amendment to Schedule 2 of the MDMER is required to designate those waters as Tailings Impoundment Areas.

Environment and Climate Change Canada (ECCC) is responsible for administering and enforcing the MDMER. DFO provides expert advice to ECCC on fish and fish habitat as well as on the compensation plan for habitat loss related to Tailings Impoundment Areas.

4.2.2. Regulatory process

4.2.2.1. Filing the information

It is the responsibility of the proponent to identify all water bodies affected by the disposal of mine waste, confirm the presence or absence of fish in these water bodies, provide the method used to document the presence or absence of fish, and provide information regarding the connectivity of these water bodies to other water bodies with fish. If the proponent intends to deposit waste rock or effluent containing any concentration of deleterious substances into water frequented by fish, consult the [Guide To The Regulatory Process For Listing Water Bodies Frequented By Fish In Schedule 2 Of The Metal And Diamond Mining Effluent Regulations](#), or contact the Mining and Processing Division within ECCC by email at MDMER-REMMMD@ec.gc.ca.

If the listing of a fish-bearing water body is required, the Proponent must develop an Alternatives Assessment Report in accordance with ECCC's [Guidelines for the Assessment of Alternatives for Mine Waste Disposal](#), to demonstrate that the disposal of waste into waters frequented by fish is the best option from an environmental, technical, economic and socio-economic perspective. In addition, the proponent is required, under subsection 27.1 of the MDMER, to develop a Fish Habitat Compensation Plan to compensate for the loss of fish habitat resulting from the disposal of mine waste.

Providing this information during the impact assessment can reduce the time required for the regulatory amendment process under the MDMER; however, timing is determined by the Proponent.

4.2.2.2. Review of information and consultations

Following the submission of the Alternatives Assessment Report and the Fish Habitat Compensation Plan, ECCC, in collaboration with DFO, will review these documents against ECCC's Guidelines for the Assessment of Alternatives for Mine Waste Disposal, DFO's Policy for applying measures to offset adverse effects on fish and fish habitat under the *Fisheries Act*, and the requirements under subsection 27.1 of the MDMER. During this phase, additional information may be requested from the proponent.

Once the information requirements are complete for both documents, the proponent will participate in consultations (led by ECCC and supported by DFO) with impacted Indigenous communities and the public relative to the proposed listing of water bodies to Schedule 2 of the MDMER.

4.2.2.3. Treasury Board decision

The decision to list a water body to Schedule 2 of the MDMER is made by the Treasury Board, on the recommendation of the Minister.

ECCC prepares the file for the regulatory amendment that includes the regulatory text describing the water bodies (e.g., name and location) and the Regulatory Impact Analysis Statement (RIAS) which is an evidence-based, non-technical synthesis of expected impacts, positive and negative, of the proposed amendment to Schedule 2 of the MDMER. The RIAS is published in the *Canada Gazette* with the text of the proposed regulation.

If the proposed amendment is approved by the Treasury Board, it is published in Part I of the *Canada Gazette* for a 30-day public comment period. In some cases, the proposed amendment may meet conditions for exemption from publication in Part I of the *Canada Gazette*, and will be submitted to Treasury Board for publication in Part II of the *Canada Gazette*. This approach provides for a more efficient regulatory approval process for proposed amendments to Schedule 2 of the MDMER, and aims to shorten the approval time for publication in Part II of the *Canada Gazette*. A Schedule 2 amendment may be exempt from pre-publication in the *Canada Gazette*, Part I, if it meets the conditions outlined in the document [Streamlining the Approvals Process for Metal Mines with Tailings Impoundment Areas](#).

If the conditions for exemption from publication in Part I of the *Canada Gazette* are met, and the Treasury Board approves the exemption, the amendment to Schedule 2 of the MDMER will be published in Part II of the *Canada Gazette*.

If the conditions for exemption from publication in Part I of the *Canada Gazette* are not met, ECCC will publish the proposed amendments in the *Canada Gazette*, Part I, for a 30-day comment period. Following the end of the comment period, ECCC considers the comments in preparing the final regulatory package to make a final recommendation to the Treasury Board. If the regulatory amendment is approved by the Treasury Board, it becomes law on the day it is registered. The regulatory amendment and the Regulatory Impact Analysis Statement are then published in the *Canada Gazette*, Part II.

4.2.2.4. Timelines

The regulatory amendment process generally requires a period of 12 to 18 months following the completion of the Schedule 2 consultations, depending on whether the Streamlining policy is applied.

4.2.3. References

Metal and Diamond Mining Effluent Regulations (SOR/2002-222)

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2002-222/FullText.html>

Streamlining the Approvals Process for Metal Mines with Tailings Impoundment Areas

<https://www.canada.ca/en/environment-climate-change/services/managing-pollution/sources-industry/mining-effluent/metal-diamond-mining-effluent/tailings-impoundment-areas/approvals-process-metal-mines-impoundment-areas.html>

Guide To The Regulatory Process For Listing Water Bodies Frequented By Fish In Schedule 2 Of The Metal And Diamond Mining Effluent Regulations

<https://www.canada.ca/en/environment-climate-change/services/managing-pollution/sources-industry/mining-effluent/metal-diamond-mining-effluent/tailings-impoundment-areas/guide-process-listing-water-bodies-fish-schedule-2.html>

Guidelines for the Assessment of Alternatives for Mine Waste Disposal

<https://www.canada.ca/en/environment-climate-change/services/managing-pollution/publications/guidelines-alternatives-mine-waste-disposal.html>

Policy for Applying Measures to Offset Adverse Effects on Fish and Fish Habitat

<https://dfo-mpo.gc.ca/pnw-ppe/reviews-revues/policies-politiques-eng.html>

4.2.4. Contact information

For more detailed guidance on this authorization, please contact the ECCC Mining and Processing Division:

Mining and Processing Division
Environmental Protection Branch
Environment and Climate Change Canada
351 St. Joseph Boulevard
Gatineau QC K1A 0H3
Email: MDMER-REMMMD@ec.gc.ca

4.3. Approval of works under the *Canadian Navigable Waters Act*

4.3.1. Description

Transport Canada (TC) is the lead department for the administration of the CNWA, where the Minister of Transport is responsible for the approval of works that may interfere with navigation. The mandate of the CNWA is focused on assessing impacts of a work or project on navigation.

The CNWA, requires owners of “works” to comply with requirements of the CNWA for the protection of navigation on navigable waters. As per the CNWA, a work includes “(a) any structure, device or other thing, whether temporary or permanent, that is made by humans, including a structure, device or other thing used for the repair or maintenance of another work; and (b) any dumping of fill in any navigable water, or any excavation or dredging of materials from the bed of any navigable water.” Examples of works are dams, bridges, weirs, causeways, aerial cables, ferry cables among many other types of structures that can meet the above definition. The CNWA also requires a Governor in Council exemption for any proposed prohibited activities (throwing or depositing of materials, dewatering of a navigable water body).

4.3.1.1. Prohibited activities

As per section 23(1) of the CNWA, it is prohibited to take any action that lowers the water level of a navigable water or any part of a navigable water to a level that extinguishes navigation for vessels of any class that navigate, or are likely to navigate, the navigable water in question. If the proponent plans to dewater a navigable waterbody, they must apply for a Governor In Council Exemption.

Transport Canada must determine navigability for the waterways within the footprint of a project that have proposed prohibited activities (dewatering or throwing/depositing). In order for Transport Canada to complete a navigation assessment in a timely and efficient manner, the department must develop a comprehensive understanding of its potential conduct in the project as early as possible. In determining whether a waterway is navigable, these questions are asked:

- What are the physical characteristics (e.g., size and depth)?
- Is it used for transport or travel for commercial or recreational purposes?
- Is it used for transport or travel by Indigenous peoples?
- Is it likely to be used in the future?
- Was it used in the past?
- Is there public access by land or water?
- Are there two or more waterfront owners?
- Is the Crown the only waterfront owner?

The proponent is responsible for providing the information to Transport Canada to facilitate the navigability assessment for any water bodies that have proposed prohibited activities. The proponent should note that Governor in Council Exemption can potentially take one to two years and it is therefore critical that this information be provided to Transport Canada as soon as possible.

4.3.1.2. Major works and in any navigable water

As per subsection 5(1) of the CNWA, owners of major works that may interfere with navigation are required to apply to Transport Canada. The following classes of works established in the Major Works Order are designated as likely to substantially interfere with navigation on any navigable water:

- water control structures;
- bridges;
- ferry cables, excluding the repair and replacement of existing ferry cables;
- causeways; and
- aquaculture facilities.

4.3.1.3. Works in navigable waters listed on the Schedule

The CNWA uses a list of waterways (known as “the Schedule”) to identify navigable waters where project proponents must apply to Transport Canada for approval. The owner of a work – other than a minor work – in, on, over, under, through or across any navigable water that is listed in the Schedule, which may interfere with navigation, must apply to Transport Canada.

4.3.1.4. Works in navigable waters not listed on the Schedule

The owner of a work – other than a major work or a minor work – in, on, over, under, through or across any navigable water that is not listed on the Schedule, which may interfere with navigation, has the option to either:

- apply to the Minister of Transport; or
- seek authorization through the public resolution process.

The owner of a work – other than a major work or a minor work – in, on, over, under, through or across any navigable water that is not listed on the Schedule, which is not likely to interfere with navigation, may proceed if:

- the work, or its construction, placement, alteration, rebuilding, removal or decommissioning, would not interfere with navigation; and
- the owner deposits information and publishes a public notice before beginning the construction, placement, alteration, rebuilding, removal or decommissioning of the work.

4.3.2. Regulatory process

4.3.2.1. Application submission for works

There are different requirements for owners of works regarding approvals, deposit of information and public notice depending on the type of work, and if the work is located on a navigable water listed on the Schedule. With any application to Transport Canada, the owner is required to deposit information

on the proposed work, and to invite interested persons to provide written comments on the owner's proposal to the Minister within 30 days after publication of the notice, or within any other period specified by the Minister. For works that do not interfere with navigation, the owner is required to deposit information on Transport Canada's registry and publish a public notice (a 30 day comment period is not required).

The application process is done online through Transport Canada's External Submission Site. The submission timing depends on the proponent who should consider their operational needs and the time required to process the application. The proponent shall describe the proposed work that could affect navigation and potential alternatives and mitigation strategies to ensure continued navigability.

The minimum information needed to apply for an approval is:

- a completed Application for Approval;
- a map showing the work's exact project location;
- the legal site description and position of the work in latitude and longitude;
- the plan view drawings (top down) with all related dimensions;
- the profile view drawings (side view) with all related dimensions;
- the general arrangement drawing (depicting new and entire existing work);
- a Detailed Project Description;
- the construction methodology explaining how the work will be done; and
- the expected start and end dates.

4.3.2.2. Application analysis and consultation

Transport Canada analyzes the application to see if the file is complete and if the work will have an impact on navigation. Transport Canada may conduct a site visit and may request additional information.

Should Transport Canada have a role in the Project and it is determined that there will be the potential for adverse impacts to section 35 Aboriginal and/or Treaty rights as a result of Transport Canada's Crown Conduct, the department will consult with Indigenous communities. Where possible, consultation activities will be coordinated with other departments, ministries, and the proponent to streamline the consultation process. Information may be provided by the proponent or by Indigenous communities, if possible, as part of the federal impact assessment process. If information is missing or coordination of consultation is not feasible, Transport Canada will consult independently with Indigenous communities to address questions or concerns related to Transport Canada's role in the Project.

Before issuing an approval, the Navigation Protection Program is required by law to consider the following assessment factors:

- the characteristics of the navigable water in question;
- the safety of navigation in that navigable water;
- the current or anticipated navigation in that navigable water;

- the impact of the work on navigation, including as a result of its construction, placement, alteration, rebuilding, removal, decommissioning, repair, maintenance, operation or use (this includes impacts of construction methodology, including temporary works, on navigation);
- the impact of the work, in combination with other works, on navigation, if the Minister of Transport is provided with, or has in his or her possession, information relating to that cumulative impact;
- any Indigenous Knowledge that has been provided to the Minister;
- any comments that the Minister receives from interested persons within the period provided for under subsection 7(4);
- the record of compliance of the owner under CNWA; and
- any other information or factor that he or she considers relevant.

4.3.2.3. Regulatory decision

If the Project proposes a Prohibited Activity (dewatering of a navigable waterbody, throwing or depositing of materials), the proponent must submit an Application for a Governor in Council Exemption. The Exemption process can take one to two years from submission of the completed Application for Exemption. The timeline is subject to the processes and requirements of the Governor in Council. If the Project proposes to construct, place, alter, rebuild, remove or decommission a work in, on, over, under, through or across any navigable water, the works will be subject to the CNWA and may require approval by the Minister of Transport.

The Minister of Transport issues terms and conditions with the approval of a work to mitigate navigation safety risks and protect the public right to navigation.

4.3.3. References

Canadian Navigable Waters Act

<https://www.tc.gc.ca/eng/canadian-navigable-waters-act.html>

Guide to the Navigation Protection Program's Notification, Application and Review Requirements

<https://tc.canada.ca/en/programs/guide-navigation-protection-program-s-notification-application-review-requirements>

Apply to the Navigation Protection Program

<https://tc.canada.ca/en/marine/apply-npp>

Navigation Protection Program External Submission Site

<https://npp-submissions-demandes-ppn.tc.canada.ca/>

4.3.4. Contact information

For more detailed guidance on the CNWA approval process, please contact the Transport Canada regional office:

Navigation Protection Program

Transport Canada, Marine Office
100 South Front Street, 1st Floor
Sarnia ON N7T 2M4
Phone: 519-383-1863
Fax: 519-383-1989
Email: NPPONT-PPNONT@tc.gc.ca

4.4. Permit under subsection 73(1) of the *Species at Risk Act*

4.4.1. Description

Permits are required by those persons conducting activities affecting species listed on Schedule 1 of SARA as extirpated, endangered, or threatened and which contravene SARA's prohibitions where they are in force.

4.4.1.1. General prohibitions

Pursuant to sections 32 and 33 of SARA (general prohibitions), it is prohibited to:

- kill, harm, harass, capture or take an individual of a species listed under SARA as extirpated, endangered or threatened;
- possess, collect, buy, sell or trade an individual of a species listed under SARA as extirpated, endangered or threatened, or any part or derivative of such an individual; and
- damage or destroy the residence of one or more individuals of a listed endangered or threatened species or of a listed extirpated species if a recovery strategy has recommended its reintroduction into the wild in Canada.

The general prohibitions apply to federal species (migratory birds, as defined by the *Migratory Birds Convention Act, 1994*, and aquatic species covered by the *Fisheries Act*) everywhere in Canada and to other listed species where found on federal land.

Under sections 34 and 80 of SARA, prohibitions relative to individuals and residences may apply on lands other than federal lands for species that are not aquatic species or migratory birds protected under the *Migratory Birds Convention Act, 1994* under an Order in Council.

4.4.1.2. Critical habitat prohibitions

Under subsections 58(1) and 61(1) of SARA, no person shall destroy any part of the critical habitat of any listed endangered species or of any listed threatened species — or of any listed extirpated species if a recovery strategy has recommended the reintroduction of the species into the wild in Canada.

The Act requires that critical habitat on federal lands, or for aquatic species anywhere, be legally protected. A ministerial Order may be used to bring the SARA prohibitions relative to critical habitat into force in these circumstances.

Under sections 61 and 80 of SARA, prohibitions relative to critical habitat may apply on non-federal lands under an Order in Council.

4.4.1.3. Applicable situations

Under section 73, the competent minister may enter into an agreement or issue a permit authorizing a person to engage in an activity affecting any listed endangered, threatened or extirpated species, any part of its critical habitat, or the residences of its individuals, 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;
- Affecting the species is incidental to the carrying out of the activity.

4.4.1.4. Responsibilities

ECCC is responsible for all species at risk listed on Schedule 1 of SARA, except for those occurring on lands administered by Parks Canada Agency and for aquatic species, as defined by the *Fisheries Act*. This includes all terrestrial species on federal land and any land affected by a protection order issued under SARA, and for migratory birds wherever they are found.

If a competent department issues an authorization, licence or permit under another federal Act, authorizing a person or organization to engage in an activity affecting a listed terrestrial species, any part of its critical habitat or the residences of its individuals, this authorization, licence or permit can act as a SARA permit, provided that the competent minister is of the opinion that the requirements of subsections 73(2) to (6.1) are met and complies with the requirements of subsection 73(7).

4.4.2. Regulatory process

Proponents must submit an application to ECCC in a manner and form satisfactory to the organization.

4.4.2.1. Application submission for a terrestrial species at risk

To obtain a permit from ECCC, proponents must submit an application using the Species at Risk Permit System found on the [Species at Risk Public Registry](#) and provide the required information detailed in the application.

4.4.2.2. Application analysis and consultation

An analysis of the application is conducted by ECCC upon receipt of the application, although there may be occasions when the competent minister will require additional information. A focus of the analysis is

on how the application meets the pre-conditions listed under subsection 73(3). Authorizations may be issued only if the competent minister is of the opinion that all three of the following pre-conditions are met:

- All reasonable alternatives to the activity that would reduce the impact on the species have been considered and 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 the survival or recovery of the species.

During this analysis stage, and before the regulatory decision, ECCC may undertake additional Indigenous consultations, as required under subsections 73(4) and 73(5) of SARA.

4.4.2.3. Regulatory decision

The *Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations* specify that the competent minister must issue a permit or notify the applicant that the permit has been refused within 90 days following the receipt of the application. This time limit is suspended if the application is incomplete and the applicant is notified. The time limit suspension ends when all the information is received from the applicant.

The Regulations also specify that the 90-day time limit does not apply in the following circumstances:

- Additional consultations are necessary, including consultations with wildlife management boards and bands under the *Indian Act* which are required by subsections 73(4) and (5) of SARA;
- Another Act of Parliament or land claims agreement requires that a decision be made before the competent minister issues or refuses to issue a permit;
- The terms and conditions of a permit previously issued to the applicant have not been met;
- The applicant requests or agrees that the time limit not apply;
- The activity described in the permit application is modified before the permit is issued or refused.

For activities undergoing a federal impact assessment, permit applications are not subject to the 90-day timeline because another Act of Parliament requires that a decision be made before the competent minister issues or refuses to issue a SARA permit. These applications can be reviewed concurrently with the impact assessment to facilitate alignment of the authorization securing processes.

If surveys are necessary to obtain more baseline information about SARA listed species at risk that may be impacted by a project, SARA permits may be required if these surveys affect individuals of species, their residence or critical habitat (for example, if they require capture, handling, fencing, baiting, disturbing of normal behaviour, etc.). Permit applications for these baseline surveys would be subject to the 90-day timeline.

It is the proponent's responsibility to identify and carry out all species at risk surveys necessary to support the permit application and review, and to monitor for additional species being listed during the

planning of their Project. Proponents are invited to consult early with the Canadian Wildlife Service on survey plans.

4.4.3. References

Species at Risk Act (S.C. 2002, c. 29)

<https://laws-lois.justice.gc.ca/eng/acts/S-15.3/>

Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2013-140/index.html>

Permitting for aquatic species at risk under SARA

<https://www.dfo-mpo.gc.ca/species-especes/sara-lep/permits-permis/index-eng.html>

Permitting for terrestrial species at risk under SARA

<https://wildlife-species.canada.ca/SPLEP-SARAPS/index.cfm?fuseaction=home.main&>

Species at Risk Public Registry

<https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry.html>

Guidelines for permitting under Section 73 of SARA

<https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry/policies-guidelines/permitting-under-section-73.html>

4.4.4. Contact information

For more detailed guidance on the Species at Risk permitting process, please contact the regional Environment and Climate Change Canada office:

Canadian Wildlife Service, Ontario Region

Email: wildlifeontario@ec.gc.ca

5. Interpretation

This permitting plan is not a legal document and does not change any existing federal, provincial, or Indigenous legislative or regulatory jurisdiction, right, power, privilege, prerogative or immunity by virtue, nor does it create any new legal powers, duties or legally binding obligations.

6. Contact Information

The Agency office designated for administering the impact assessment of the Project is:

Great Bear Gold Project
Impact Assessment Agency of Canada
Ontario Regional Office
Email: GreatBear@iaac-aeic.gc.ca

7. Summary Table – Anticipated Regulatory Activities

The proponent is strongly encouraged to submit applications in accordance with regulatory timelines outlined in section 4 above. Timely submission of applications and information by the proponent would promote greater efficiency in meeting federal regulatory requirements that would require decisions following an impact assessment process.

ACTIVITY	PHASE				
	Planning	Impact Statement	Impact Assessment	Decision	Post-Decision
Information gathering and engagement with the public and Indigenous communities	<i>Fisheries Act – Proponent</i> MDMER – Proponent CNWA – Proponent	<i>Fisheries Act – Proponent</i> MDMER – Proponent CNWA – Proponent	<i>Fisheries Act – Proponent</i> MDMER – Proponent CNWA – Proponent SARA – Proponent	<i>Fisheries Act – Proponent</i> MDMER – Proponent CNWA – Proponent SARA – Proponent	<i>Fisheries Act – Proponent</i> MDMER – Proponent CNWA – Proponent SARA – Proponent
Application Submission			<i>Fisheries Act – Proponent</i> MDMER – Proponent CNWA – Proponent SARA – Proponent		
Analysis of information and application			<i>Fisheries Act – DFO</i> MDMER – ECCC CNWA – TC SARA – ECCC		
Public and Indigenous Consultation		<i>Fisheries Act – DFO</i>	<i>Fisheries Act – DFO</i> MDMER – ECCC CNWA – TC SARA – ECCC	<i>Fisheries Act – DFO</i>	<i>Fisheries Act – DFO</i>
Regulatory Decision					<i>Fisheries Act – DFO</i> MDMER – Governor in Council CNWA – TC or Governor in Council SARA – ECCC