

Boat Harbour Remediation Project - Draft Potential Conditions  
Environment and Climate Change Canada Comments November 14, 2024

Department	Condition #	Suggested change to mitigation / follow-up requirement	Context/rationale for change
ECCC-01	<b>4.X Migratory Birds</b>	<p>ECCC recommends adding a condition to avoid impacts to ground and burrow nesting birds, as follows:</p> <p>The Proponent shall cover all stockpiles or patches of bare soil during the migratory bird nesting period (mid-April to late August) in a manner that discourages birds from nesting in work areas.</p>	<p>As stated on page 22 of the draft EA report, ground-nesting and burrowing migratory bird species, including species at risk (e.g. Bank Swallow, Common Nighthawk) may be attracted to nesting in working areas. Page 22 also states that the proponent committed to covering any large piles or patches of bare soil to discourage nesting by these species. If left uncovered these areas should be inspected for evidence of nesting by a qualified individual (as per 4.2). Any nests discovered should be protected by a set back distance (as per Condition 4.3) to prevent damage, disturbance, and/or destruction of nests and offspring of Common Nighthawk and other ground-nesting migratory birds.</p>
ECCC-02	<b>4.2 Migratory Birds</b>	<p>ECCC recommends that the condition be revised and expanded (added text in bold, removed text in strikethrough) as follows:</p> <p>The Proponent shall determine the presence, or likely presence, of migratory bird nest(s) protected under the <i>Migratory Birds Convention Act</i> (MBCA) and its regulations <b>and residences protected under the <i>Species at Risk Act</i> (SARA)</b> that may be adversely affected by any Designated Project activity prior to initiating the activity.</p>	<p>ECCC notes that the residences (e.g. nest, structure housing the nest, structure used for roosting) of some species at risk are protected under the <i>Species at Risk Act</i> wherever they are found. Therefore, to avoid impacts to species at risk, the proponent must also identify residences protected under the <i>Species at Risk Act</i>.</p> <p>ECCC also notes that this condition does not include details on the way the Proponent shall determine the presence, or likely presence, of migratory bird nest(s). SARA migratory bird residences (e.g. Bank Swallow, Barn Swallow) and nests of migratory bird species listed on Schedule 1 of the MBR 2022 (e.g. Pileated Woodpecker, Great Blue Heron) would require species-specific nest surveys. For potentially occupied nests, the ECCC Guidelines to avoid harm to migratory birds shall be followed to avoid intrusive nest surveys or searches in complex habitats (e.g., forests, wetlands) because these are disruptive to breeding birds and often ineffective for locating nests, and in turn,</p>

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			ineffective at preventing the incidental disturbance, damage, or destruction of migratory bird nests, eggs, and individuals.
ECCC-03	<b>4.3 Migratory Birds</b>	<p>ECCC recommends that the condition be revised and expanded (added text in bold, removed text in strikethrough) as follows:</p> <p>The Proponent shall delineate, as determined by and under the direction of a qualified individual, set back distances around the nest(s) whose presence or likely presence is determined pursuant to condition 4.2 within which that activity shall not occur while those nests and/or residences are protected under the Migratory Birds Convention Act, 1994 and its regulations <b>and/or the <i>Species at Risk Act</i></b>.</p>	<p>ECCC notes that the residences (e.g. nest, structure housing the nest, structure used for roosting) of some species at risk are protected under the <i>Species at Risk Act</i> wherever they are found. Therefore, to avoid impacts to species at risk, the proponent must also implement measures to protect residences under the <i>Species at Risk Act</i>.</p> <p>Environment and Climate Change Canada’s Guidelines to avoid harm to migratory birds provides outcomes that shall be met by set-back distances including being implemented until the young have permanently left the vicinity of the nest.</p>
ECCC-04	<b>4.4 Migratory Birds</b>	<p>ECCC recommends that the condition be revised and expanded (added text in bold, removed text in strikethrough) as follows:</p> <p>The Proponent shall control lighting within the Site Study Area during all phases of the Designated Project to mitigate adverse effects on migratory birds while meeting health and safety requirements for Designated Project employees and contractors.</p>	<p>ECCC refers IAAC to the condition 7.2 of the Decision Statement for the Marathon Palladium Mine, which could be considered to add specificity to this condition to avoid disturbance, injury, or death of migratory birds resulting from attraction to or avoidance of artificial lighting at night:</p> <p>“The Proponent shall develop, prior to construction and in consultation with Biigtigong Nishnaabeg and other Indigenous groups, mitigation measures to reduce ambient lighting within the Designated Project area to mitigate adverse environmental effects of the Designated Project, including on the current use of lands and resources for traditional purposes and migratory birds. The Proponent shall implement these measures during all phases of the Designated Project in a manner that does not interfere with</p>

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			<p>operation and safety requirements. As part of these measures, the Proponent shall:</p> <ul style="list-style-type: none"><li>• optimize lighting design to reduce the total amount of lighting needed;</li><li>• use directional lighting that targets only the areas where lighting is required;</li><li>• use shielded fixtures to reduce glare and light leakage in directions where light is not required; and,</li><li>• place light fixtures on poles or buildings at the lowest possible height.”</li></ul>
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