

**ATTACHMENT: Federal Authority Advice Record: Designation Request under IAA
Response due by March 30, 2020**

NGTL and Foothills West Path Delivery 2022/2023 Projects

Department/Agency	Fisheries and Oceans Canada
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1. Has your department or agency considered whether it has an interest in the Project; exercised a power or performed a duty or function under any Act of Parliament in relation to the Project; or taken any course of action (including provision of financial assistance) that would allow the Project to proceed in whole or in part?

A *Species at Risk Act* permit was issued by Fisheries and Oceans Canada to Stantec Consulting on February 27, 2020. The permit was to conduct initial fish community sampling for habitat assessment at proposed crossing locations. Permit number 19-HCAA-01917.

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2. Is it probable that your department or agency may be required to exercise a power or perform a duty or function related to the Project to enable it to proceed?

A *Fisheries Act* paragraph 35(2)(b) Authorization will be required if the project is likely to cause the harmful alteration, disruption, or destruction to fish habitat and/or a *Fisheries Act* paragraph 34.4(2)(b) Authorization if the project is likely to result in the death of fish. The proponent should submit a Request for Review for DFO which outlines the specific impacts of the project on fish and fish habitat for review under the *Fisheries Act*.

Fisheries and Oceans Canada also review projects for effects to listed aquatic species at risk, any part of their critical habitat or the residences of their individuals in a manner which is prohibited under sections 32, 33 and subsection 58(1) of the *Species at Risk Act*;

Guidance on requesting a review from Fisheries and Oceans can be found at: [https://www.dfo-mpo.gc.ca/pnw-
ppe/reviews-revues/request-review-demande-d-examen-001-eng.html](https://www.dfo-mpo.gc.ca/pnw-
ppe/reviews-revues/request-review-demande-d-examen-001-eng.html)

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3. If your department or agency will exercise a power or perform a duty or function under any Act of Parliament in relation to the Project, will it involve public and Indigenous consultation?

Should a *Fisheries Act* Authorization under paragraph 35(2)(b) or paragraph 34.4(2)(b) be required for the project, Indigenous consultation would be required.

4. Is your department or agency in possession of specialist or expert information or knowledge that may be relevant to any potential adverse effects within federal jurisdiction caused by the Project or adverse direct or incidental effects stemming from the Project?

DFO can provide specialist or expert information or knowledge on assessment of impacts on fish and fish habitat, and aquatic species at risk. Our department may provide information to the proponent in order to avoid and mitigate the negative impacts of the proposed works, undertakings or activities. DFO will be able to evaluate the potential implications to our mandate as more details on the proposed project activities become available, and are submitted to DFO as part of the review process. Multiple watercourse crossing are proposed, many of which will occur in areas that are mapped for distribution of species at risk. DFO will review the fish and fish habitat aspects of this project as well as potential impact to aquatic species at risk.

5. Has your department or agency had previous contact or involvement with the proponent or other parties in relation to the Project?

No previous contact.

6. From the perspective of the mandate and area(s) of expertise of your department or agency, does the Project have the potential to cause adverse effects within federal jurisdiction or adverse direct or incidental effects as described in section 2 of IAA? Could any of those effects be managed through legislative or regulatory mechanisms administered by your department or agency? If a licence, permit, authorization or approval may be issued, could it include conditions in relation to those effects?

Fisheries and Oceans Canada, Fish and Fish Habitat Protection Program, has reviewed the available project information. Based on this information, as proposed, the Project may result in the harmful alteration, disruption or destruction of fish habitat and/or the death of fish and impacts to aquatic species at risk. As such, the project may require authorization under the *Fisheries Act* and/ or *Species at Risk Act*. If an authorization were issued, it would include conditions in relation to the aforementioned effects.

7. Does your department or agency have a program or additional authority that may be relevant and could be considered as a potential solution to concerns expressed about the Project? In particular, the following issues have been raised by the requestor: project splitting, impacts to Aboriginal rights, capacity funding

If yes, please specify the program or authority.

No.

8. Does your department or agency have information about the interests of Indigenous groups in the vicinity of the Project; the exercise of their rights protected by section 35 of the *Constitution Act, 1982*; and/or any consultation and accommodation undertaken, underway, or anticipated to address adverse impacts to the section 35 rights of the Indigenous groups?

To date, DFO has not conducted any consultation and accommodation in relation to this project. If a *Fisheries Act* Authorization under paragraph 35(2)(b) or paragraph 34.4(2)(b) were required, consultation with the affected Indigenous groups would be conducted prior to its issuance.

9. Taking into account your mandate, does your department or agency have a view as to whether the Project should be designated under the *Impact Assessment Act*?

If yes, please specify.

No, DFO does not have a view as to whether this Project should be designated.

10. If your department has guidance material that would be helpful to the proponent or the Agency, please include these as attachments or hyperlinks in your response.

Lisa Wren

Name of departmental / agency responder

A/Team Leader, Triage and Planning
Fish and Fish Habitat Protection Program

Title of responder

April 3, 2020

Date