

November 19, 2020
ATTACHMENT: Federal Authority Advice Record
Response due by December 9, 2020
Value Chain Solutions - Heartland Complex Expansion Project
Agency File: 81148

Department/Agency	Fisheries and Oceans Canada
Lead IA Contact	Georgina Braoudakis
Full Address	1028 Parsons Road, SW Edmonton. T6X 0J4
Email	<email address removed>
Telephone	<personal information removed>
Alternate Departmental Contact	Laura Phalen (<email address removed>)

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1. 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?

If yes, specify the Act of Parliament and that power, duty or function.

Yes: Based on the initial project description, a *Fisheries Act* paragraph 35(2)(b) Authorization is likely to be required because the project is likely to cause the harmful alteration, disruption, or destruction of fish habitat, and/or death of fish, which is prohibited unless authorized.

Fisheries and Oceans Canada (DFO) also reviews 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*. At this time, there are no aquatic species at risk in the project area. Based on the initial project description, it is unlikely that any power will be exercised under the *Species at Risk Act*.

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2. Is your department or agency in possession of specialist or expert information or knowledge that may be relevant to the conduct of an impact assessment of the Project?

Specify as appropriate.

Yes: DFO possesses expert knowledge of fish and fish habitat, and has the expertise to determine whether it is likely that the project will result in the harmful alteration, disruption, or destruction of fish habitat, or the death of fish. DFO also has expertise to comment on the adequacy of sampling that has been conducted to describe the baseline environment and make comparisons to post-impact outcomes, and whether the avoidance, mitigation, and offsetting measures proposed by the proponent are appropriate and adequate.

3. Has your department or agency considered 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 that would allow the Project to proceed in whole or in part?

Specify as appropriate.

No.

4. Has your department or agency had previous contact or involvement with the proponent or other party in relation to the Project? (for example, enquiry about methodology, guidance, or data; introduction to the project)

Provide an overview of the information or advice exchanged.

We acknowledge that the proponent indicated they have contacted DFO; however, we do not have a record of this communication. We therefore assume they received general advice about submitting a Request for Review to DFO.

5. Does your department or agency have additional information or knowledge not specified, above?

No.

6. From the perspective of the mandate and area(s) of expertise of your department or agency, what are the issues that should be addressed in the impact assessment of the Project, should the Agency determine that an impact assessment is required?

For each issue discussed, provide a concise, plain-language summary that is appropriate for inclusion in the Summary of Issues.

- A. The potential for the project to cause the harmful alteration, disruption, or destruction of fish habitat, or death of fish. To determine this potential, the following information would need to be provided. This may not be an inclusive list:
- a. Accounting of the fish habitat that will be impacted (i.e.: harmfully altered, disrupted, or destroyed), during Project construction, operation, closure, or reclamation including a description of features of the proposed Project.
 - b. A description of water withdrawal and/or water drawdown to waterbodies affected by the proposed Project, and how this will affect the ability of fish to utilize the habitat to carry out life processes.
 - c. A description of erosion and sedimentation risk to waterbodies due to the proposed Project, and how this will affect the ability of fish to utilize the habitat to carry out life processes.
 - d. An assessment of any potential for death of fish due to construction or operation.
 - e. An assessment of cumulative effects to fish and fish habitat in the project area.
- B. Proposed methods to avoid and mitigate impacts to fish and fish habitat, or to avoid the death of fish.
- C. Proposed scientifically defensible methods to compare predicted and actual impacts to fish and fish habitat.
- D. Offsetting plan for any harmful alteration, disruption, destruction to fish habitat, or death of fish.
- a. Monitoring program the proponent will undertake to verify offsetting success using scientifically defensible methods.
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Fisheries and Oceans Canada

Name of Departmental / Agency Responder

Georgina Braoudakis

Title of Responder

03/12/2020

Date _____