

Federal Authority Advice Record Form

Eskay Creek Revitalization Project – Skeena Resources Ltd.

Response due by September 7, 2021

Please submit the form to: EskayCreek@iaac-aeic.gc.ca

Agency File: 005791 Registry Reference No.: 82839

Department/Agency	Transport Canada
Lead IA Contact	Suman Atwal
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Alternate Departmental Contact	Suzanne L'Heureux – Senior Regional Environmental Supervisor Suzanne.lheureux@tc.gc.ca , 604-836-9371

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.

Transport Canada (TC) may be required to exercise a power, or perform a duty or function with respect to the Canadian Navigable Waters Act (CNWA) based on the Initial Project Description provided.

Under the CNWA, the Major Works Order requires an Application for Approval for certain works on any navigable waters that meet certain criteria ([Major Works Order \(justice.gc.ca\)](#)). Water Control Structures are included as a Major Work if it meets the criteria set out in the Order. If the proposed structure at Tom MacKay Lake meets the following then an Application for Approval to TC's Navigation Protection Program (NPP) under s.5(1)(a) of the CNWA would be required:

1 The following water control structures are designated as major works:

- **(a)** dams that
 - **(i)** are capable of impounding at least 30 000 m³ of water, and
 - **(ii)** are at least 2.5 m high, measured from the bed of the navigable water; and
- **(b)** structures for the diversion of water if they
 - **(i)** are placed across a navigable water,
 - **(ii)** divert water from a navigable water into another navigable water, and
 - **(iii)** change the water level or water flow of at least one of those navigable waters.

TC requires further detailed project information to confirm whether or not TC would be required to issue an approval to allow the project to proceed.

Below is the contact information for our regional specialist regarding navigation, assigned to this file, should the proponent have questions regarding appropriate templates/forms.

Conal Kavanagh
Navigation Protection Officer, Navigation Protection Program
Transport Canada / Government of Canada

Agent de protection de la navigation, Programme de protection de la navigation
Transports Canada / Gouvernement du Canada
Suite 600 – 800 Burrard Street/ 800, rue Burrard, bureau 600
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Tel: 604-418-0337

Website: <https://www.tc.gc.ca/eng/programs-621.html>
Online application guide: <https://www.tc.gc.ca/eng/programs-673.html>
Online application: <https://wwwapps.tc.gc.ca/Prog/3/NWAR-RLEN-E/en/Account/Login>
Email: NPPAC-PPNPAC@tc.gc.ca

There are additional powers, duties or functions that may be applicable to the project and require compliance, but may not require a project-specific approval enabling the project to proceed. These could include:

Obstruction Clearance Permit – Canadian Aviation Regulations

TC may need to issue an Obstruction Clearance Permit in relation to the construction associated with the Project. As more detailed specifications for the project infrastructure are developed, they should be assessed for any marking/lighting requirements per Canadian Aviation Regulations (CAR) 601 - Division III - Marking and Lighting of Obstacles to Air Navigation and Standard 621 - Obstruction Marking and Lighting. The regulation can be accessed online at:

<http://www.tc.gc.ca/eng/acts-regulations/regulations-sor96-433.htm>.

Emergency Response Assistance Plan (ERAP) program

Dangerous Goods (DGs) must be handled, offered for transport and transported in accordance with the TC TDG Act/Regulations. There is a regulated Emergency Response Assistance Plan (ERAP) program (Part 7 of the TDG Regulations) that requires a company transporting certain types of DGs to have an ERAP before they can be transported. The ERAP must be approved by TC and the company must have received a registration number from TC before they are allowed to ship ERAP-able products. Anyone who handles, offers for transport, imports and/or transports DGs must comply with TDG regulations. This includes holding a valid TDG certificate, completing the appropriate documentation, using the proper means of containment, reporting any reportable spills and holding a valid ERAP when required. <http://www.tc.gc.ca/eng/tdg/clear-part7-374.htm>.

If the transport of dangerous goods, requiring an ERAP, is offered by a third party (i.e. other than the proponent), then TC would not have to exercise power, duty, or function (i.e. approving the ERAP) to enable the Project to proceed. This would be the third party's responsibility to have their ERAP approved by TC.

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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?

Impacts to navigation resulting from the project

Transport Canada's Navigation Protection Program (NPP) would be able to provide specialist or expert information or knowledge with respect to the CNWA and impacts to navigation. The Canadian Navigable Waters Act authorizes and regulates interferences with the public right to navigation. The primary purpose of the Act is to regulate works and obstructions that may interfere with navigation in Canada's navigable waters.

Transportation of dangerous goods

Dangerous goods must be handled, offered for transport and transported in accordance with the Transportation of Dangerous Goods Act and associated Regulations.

TC's Transportation of Dangerous Goods Directorate conducts work related to the safe transportation of dangerous goods and the prevention and response to incidents involving dangerous goods. The group's activities consist of:

- Developing and enforcing safety standards for the safe transportation of dangerous goods;
- Conducting compliance monitoring of modal (air, rail, marine, road) shippers and importers, assessing emergency response assistance plans, means of containment standards and facilities; and,
- Operating the Canadian Transport Emergency Centre to provide advice on emergency response operations for incidents involving dangerous goods.

Marine Shipping

TC holds expertise knowledge for various aspects of marine shipping that may apply to this Project assessment.

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?

The previous 2005 Eskay Creek mine application resulted in a Governor in Council exemption for a s.22 prohibited activity under the Navigable Waters Protection Act, and is still applicable. Link for reference [Proclamation Exempting Tom MacKay Lake from the Operation of Section 22 of the Act \(justice.gc.ca\)](http://justice.gc.ca)

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)

No

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 and Engagement.

4.1.1 Access, Transportation and Power

The Project will not significantly increase the marine traffic using the Port of Stewart via the Portland Canal. The port facilities in Stewart have been reviewed and approved for up to 180 vessels/year (DFO 2009). Currently marine traffic is estimated at 30 vessels/year, many sailing with under-utilized onboard capacity. During operations, the Project is estimated to require up to 8 (20,000 dmt) vessels per year for shipping of concentrates with irregular shipments of bulk supplies or oversized project components. This level of traffic can easily be accommodated within the currently approved levels of marine traffic and the under-utilized on-board capacity of the existing marine traffic.

If marine shipping will be considered in this assessment TC may provide more input. TC would appreciate if the detailed project description would provide updated information to the 2009 data to understand the levels of existing and future marine traffic.

Depending on the size and volume of water control structures proposed on Tom Mackay Lake and within the context of the Canadian Navigable Waters Act, TC would be looking for information related to impacts of the work on navigation, including but not limited to such factors as the characteristics of the navigable waterway in question, the current or anticipated navigation on that navigable water, the safety of navigation in that navigable water, any comments or knowledge provided by interested persons or Indigenous groups, and any other information that the Minister considers relevant.

Suman Atwal

Name of Departmental / Agency Responder

Regional Environmental Advisor

Title of Responder

September 7, 2021

Date