

**ATTACHMENT****Federal Authority Advice Record: Designation Request under IAA****Response due by December 13, 2021**

PADCOM Potash Solution Mining Project

Department/Agency	Transport Canada
Lead Contact	Holly Poklitar
Full Address	344 Edmonton Street, Winnipeg, Manitoba
Email	holly.poklitar@tc.gc.ca
Telephone	(204) 688-3872
Alternate Departmental Contact	<a href="mailto:PNRProgramsEA-ProgrammesEERPN@tc.gc.ca">PNRProgramsEA-ProgrammesEERPN@tc.gc.ca</a> (General inbox)

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?

Specify as appropriate.

**Transport Canada has not 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.**

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?

If yes, specify that power, duty or function and its legislative source.

**Per the environment act proposal (EAP), the project will not use surface water and the manufacturing facility will not require infrastructure that interacts with surface water, navigable or otherwise.**

**However, the EAP does not at this time provide enough detail for the Navigation Protection Program (NPP) to make a determination if an approval will be required under the *Canadian Navigable Waters Act* (CNWA). Further details are required with respect to watercourse crossing locations/methods, transmission line location, and modelling of potential impacts of water levels in any navigable waters (e.g. Assiniboine River).**

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?

Specify as appropriate.

Should *Canadian Navigable Waters Act* (CNWA) approvals be required, TC would undertake a review of potential adverse impacts on potential or established Aboriginal or Treaty Rights recognized and affirmed in section 35 of the *Constitution Act, 1982*. TC will participate in any coordinated ‘whole of government’ Indigenous consultation resulting from the IAA process. In the regulatory phase, TC will use the IAA process, to the extent possible, for the review and approval of applications received for the Project, however further consultation may still be required if the IAA process does not address all issues within TC’s mandate. Further consultation and reconciliation discussions could include more detailed information on Transport Canada processes, safety and oversight procedures, as well as accommodation discussions, if deemed necessary.

---

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?

Specify as appropriate.

Transport Canada can provide the following regulatory information:

**1) Impacts on water quantity due to withdrawal from aquifer**

Prohibited activities under the *Canadian Navigable Waters Act* (CNWA) that require an exemption by Order in Council include throwing or depositing floating materials, throwing or depositing sinking materials, and dewatering. “Dewatering” means that no person shall 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. Only the Governor in Council has authority to exempt waters from the application of these prohibitions, if it is in the public interest to do so.

**2) Pipeline crossings of watercourses, rail and transmission lines**

Under the *Canadian Navigable Waters Act* (CNWA), owners of works who propose to construct, place, alter, rebuild, remove or decommission works that are in, on, over, under, through or across any navigable water may be required to apply to Transport Canada for an approval, or seek authorization through the public resolution process. Minor works in any navigable waterway are allowed to proceed without review from Transport Canada, so long as the work and/or waterway meet the criteria and the owner follows the requirements established in the Minor Works Order. The proponent may wish to review the Minor Works Order and determine if any of their proposed work (e.g. any watercourse crossings) is within the parameters established by the Order (<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2021-170/index.html>). Transport Canada’s Navigation Protection Program recommends the proponent use the Project Review Tool found on its External Submission Site (<https://npp-submissions-demandes-ppn.tc.canada.ca/projectreview-outildexamenduprojet>) to assist in determining potential requirements under the CNWA.

---

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

Provide an overview of the information or advice exchanged.

**Transport Canada has not had previous contact or involvement with the proponent or other parties in relation to the Project.**

---

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?

Specify as appropriate.

The EAP does not provide any description regarding potential project effects to navigation. However, it is likely that any interference to navigation from the Project could be addressed through Transport Canada’s

**regulatory process and with imposed conditions outlined in the *Canadian Navigable Waters Act (CNWA)* approval(s) that may be granted for the Project.**

---

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 requester:
- a. Impacts on water quality through expected or accidental release (e.g., hot brine spills/leaks)
  - b. Impacts on water quantity due to withdrawal from aquifer
  - c. GHG emissions
  - d. Pipeline crossings of watercourses, rail and transmission lines
  - e. Effects to fish and fish habitat

If yes, please specify the program or authority.

**Transport Canada does not have any programs or additional authorities related to the issues raised by the requester that may be relevant other than those highlighted in response to Question 4.**

---

8. 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.

**Navigation Protection Program Project Review Tool - <https://npp-submissions-demandes-ppn.tc.canada.ca/projectreview-outildexamenduprojet>**

Holly Poklitar  
\_\_\_\_\_  
Name of departmental / agency responder

Regional Environmental Advisor  
\_\_\_\_\_  
Title of responder

December 13, 2021  
\_\_\_\_\_  
Date