

ATTACHMENT August 18, 2022

Federal Authority Advice Record: Designation Request under IAA

Response due by **September 8, 2022**

Summit Mine 14 Project

Department/Agency	Transport Canada
Lead Contact	Holly Poklitar
Full Address	344 Edmonton St Winnipeg MB R3B 2L4
Email	holly.poklitar@tc.gc.ca
Telephone	(204) 688-3872
Alternate Departmental Contact	Adam Downing - adam.downing@tc.gc.ca Team inbox - <Email address removed>

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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?

Specify as appropriate.

Transport Canada has not previously 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.

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.

Transport Canada (TC) may be required to exercise a power or perform a duty or function based on the initial Project description provided, as follows:

- **Approval may be required under the Canadian Navigable Waters Act (CNWA), should any infrastructure impact the navigability of waterways including dewatering and depositing of materials (e.g., mine tailings) under s. 21, 22, and 23 of the CNWA which may require an Order in Council under 24. The project refers to the potential for a water intake structure, a treated water discharge point and the docks for the underground mining option. There may not be an approval needed as it's not a scheduled waterway or a major work, but public resolution and Minor Works Order may still be an option.**

The project description does not list any components that would require approval under the CNWA.

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.

If the proponent requires an approval from Transport Canada, under the CNWA, the department will consider consultation activities undertaken through an assessment process if one occurs. Should the department determine that additional consultation is needed, this would occur before an approval was issued.

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's Navigation Protection Program (NPP) may be able to provide specialist or expert information or knowledge with respect to the *Canadian Navigable Waters Act (CNWA)* and impacts to navigation.

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.

No, 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.

No comment.

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:

- adverse effects on fish and fish habitat;
- adverse effects on migratory birds and species at risk and their critical habitats. Concerns were raised about the yellow-bellied flycatcher, common yellowthroat, black-throated green warbler, harlequin duck, Cassin's vireo, barred owl, and western toad; the requester asserts that these species are known to be near the Project's vicinity;
- changes to the environment that occur on federal lands, including Jasper National Park;
- changes to the environment that occur in a province or territory other than the one where the Project is taking place, including British Columbia;
- adverse effects to multiple waterways due to selenium contamination;
- adverse cumulative effects due to historical and present coal development in the area;
- adverse effects to critical wildlife habitat, including Bighorn sheep, Woodland caribou, grizzly bear and wolverines;
- changes to the environment that could affect the Indigenous peoples of Canada and their ability to practice section 35 rights; and,
- changes occurring to the health, social, or economic conditions of the Indigenous peoples of Canada.

If yes, please specify the program or authority.

TC does not have any programs or authorities that address these concerns.

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?

If yes, please specify.

No comment.

9. 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.

Holly Poklitar

Name of departmental / agency responder

Regional Environmental Advisor

Title of responder

September 8, 2022

Date