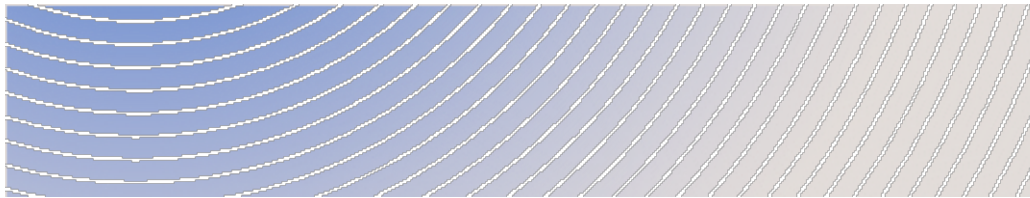


Analysis Report



WHETHER TO DESIGNATE THE **GREAT BEAR ADVANCED EXPLORATION PROJECT** IN ONTARIO PURSUANT TO THE *IMPACT ASSESSMENT ACT*

September 17, 2024



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Catalogue Number: En106-273/2024E-PDF

ISBN 978-0-660-73631-0

This document has been issued in French under the title: *Projet d'exploration avancée Great Bear - Rapport d'analyse*.



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Purpose

The Impact Assessment Agency of Canada (IAAC) prepared this report for consideration by the Minister of Environment and Climate Change (the Minister) in their response to the request to designate the Great Bear Advanced Exploration Project (the physical activities referred to as the Project) pursuant to section 9 of the amended *Impact Assessment Act* (the IAA).

Context of Request

On June 17, 2024, the Minister received a request to designate the Project from Asubpeeschoseewagong Netum Anishinabek (Grassy Narrows First Nation). In the letter, Grassy Narrows First Nation asserts that the proposed activities of the Project are substantial and constitute a designated project. The letter expressed concerns about species at risk, adverse effects to fish and fish habitat, migratory birds, transboundary flows, the health, social, and economic conditions of Indigenous Peoples, as well as adverse impacts to Aboriginal and Treaty Rights. Concerns include potential for the Project to contaminate local waterways and contribute to historic methylmercury contamination of the English-Wabigoon River system. Another concern raised is the adequacy of regulatory processes to oversee water quality and quantity management.

On August 8, 2024, IAAC sent a letter to Kinross Gold Corporation (the Proponent) notifying them of the designation request and requesting information. The Proponent responded to IAAC on August 20, 2024. In addition, IAAC requested input from relevant federal authorities, Ontario provincial ministries, and three other potentially affected Indigenous communities: Lac Seul First Nation, Wabauskang First Nation, and Northwestern Ontario Métis Community.

Advice on applicable legislative mechanisms and potential effects due to the Project was received from Crown-Indigenous Relations and Northern Affairs Canada, Environment and Climate Change Canada (ECCC), Employment and Social Development Canada, Fisheries and Oceans Canada (DFO), Health Canada, Indigenous Services Canada, Natural Resources Canada, Transport Canada, and Women and Gender Equality Canada. The Ontario Ministry of the Environment, Conservation and Parks (MECP), Ministry of Mines (MINES), Ministry of Natural Resources, Ministry of Citizenship and Multiculturalism, and Ministry of Tourism, Culture and Gaming, also provided advice and input to IAAC on applicable legislative mechanisms.

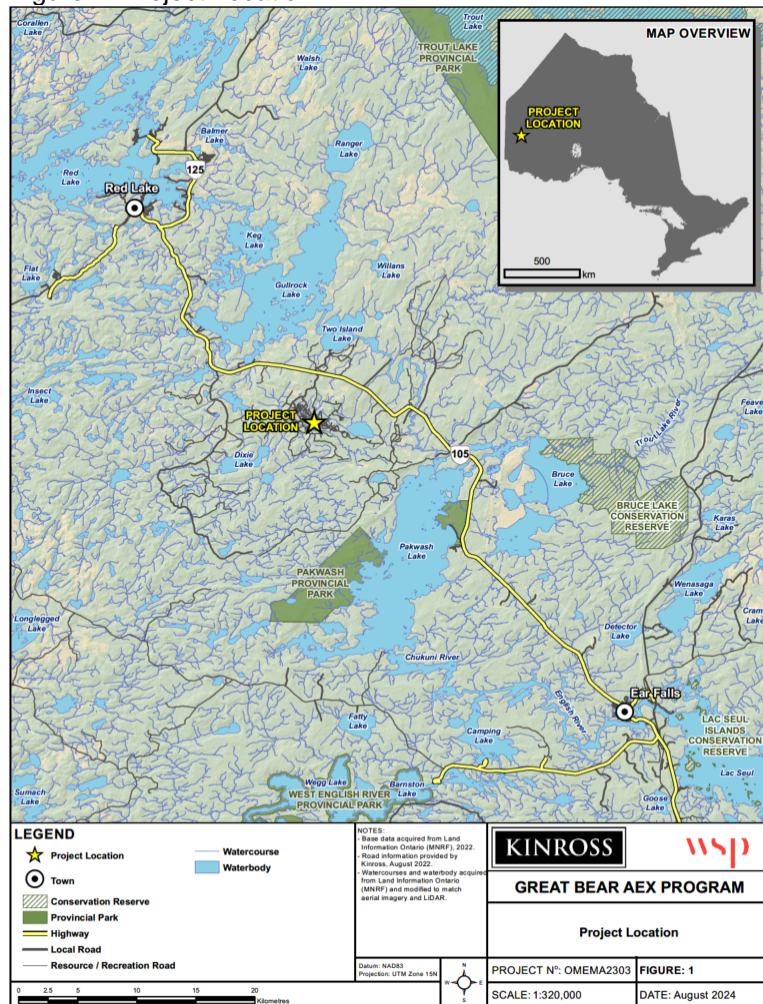
IAAC also received a response from Northwestern Ontario Métis Community.

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Project Context

Project overview

The Proponent is proposing to construct and operate a gold exploration project located 25 kilometres southeast of Red Lake, Ontario (Figure 1), at the same location as the proposed Great Bear Gold Mine¹. As proposed, the Project would include a temporary work camp, underground infrastructure, and two surface portals to access the underground infrastructure. The Project would operate for four years and extract up to 60,000 tonnes of ore for off-site quality testing.

Figure 1: Project Location



Source: Proponent Submission, August 2024

¹ <https://iaac-aeic.gc.ca/050/evaluations/proj/85832>

Project components and activities

The Project would include two surface exploration portals and ramps to be constructed to access the underground workings. Industrial haul trucks would move waste rock and ore samples to the surface where they would be placed in stockpiles. Ore samples would be processed through a bulk crusher for transportation off site for testing. Pending the results of studies, the waste rock stockpiles may be partially transferred underground or otherwise covered to manage the generation of acid rock. The maximum ore production rate per day is approximately 1000 tonnes per day.

Other activities and components include the establishment of a temporary camp using semi-permanent infrastructure. A water management system composed of water collection ditches and ponds would be constructed to divert non-contact water away from project components and to collect mine water for treatment prior to discharge to the Chukuni River. Domestic sewage would be treated on-site and may be transported off-site to a licensed facility.

Key project components would include:

- Two surface portals (approximately 6 x 6 metres in size);
- Underground ramps (approximately 600 metres in depth, 9,000 metres in length);
- Waste rock stockpile (up to 1,000,000 tonnes);
- Ore stockpile (up to 60,000 tonnes);
- Overburden stockpile;
- Bulk sample crusher (400 to 1,000 tonnes per day);
- Explosives magazine;
- Haul roads;
- Temporary camp infrastructure, including office trailers, a maintenance shop, a truck shop and wash bays;
- Groundwater wells (for domestic purposes);
- Water management system, including
 - Non-contact water diversion ditches;
 - Contact water collection ditches;
 - Mine water collection ponds;
 - Water treatment system;
 - Effluent discharge pipe to the Chukuni River;
- Natural gas pipeline;
- Power generation system employing either onsite power generators or a connection to a pre-existing Hydro-One 115-kilovolt transmission line that crosses the property.



Analysis of Designation Request

Authority to designate the Project

The Regulations identify the physical activities that constitute designated projects. Advanced exploration is not included in the Regulations. The most comparable items to the Project in the Regulations are:

18 The construction, operation, decommissioning and abandonment of one of the following:

(c): a new metal mine, other than a rare earth element mine, placer mine or uranium mine, with an ore production capacity of 5 000 t/day or more; and

(d): a new metal mill, other than a uranium mill, with an ore input capacity of 5 000 t/day or more.

According to the Proponent's information, the Project would generate, over four years, up to 60,000 tonnes of ore bulk sample at a maximum capacity of 1000 tonnes per day and no metal mill is proposed.

Therefore, the Project, as currently proposed, is not included in the Regulations.

The carrying out of the Project has not substantially begun and no federal authority has exercised a power or performed a duty or function that would permit the Project to be carried out, in whole or in part.

Given this understanding of the Project, the Minister's authority to designate under subsection 9(1) of the IAA is not limited.

Existing legislative mechanisms

Key federal and provincial legislative mechanisms and provisions that are or may be relevant to the Project are summarized below. Some mechanisms (authorizations, approvals and permits) include Indigenous consultation and public engagement.

Federal Legislative Mechanisms

Fisheries Act

The *Fisheries Act* provides protection for fisheries and their ecosystems. Through the Fish and Fish Habitat Protection Program, DFO reviews projects for their impacts to fish and fish habitat by ensuring compliance with the *Fisheries Act* and *Species at Risk Act* (SARA). Through this program, DFO may provide a Letter of Advice to the Proponent containing information to avoid and mitigate the negative, project-related impacts to fish and fish habitat.

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A *Fisheries Act* authorization would be required if the Project is likely to cause the harmful alteration, disruption, or destruction to fish habitat and/or is likely to result in the death of fish. The application process for an authorization would include Indigenous consultation.

The *Fisheries Act* also prohibits the deposit of deleterious substances into waters frequented by fish, unless authorized by regulations or other federal legislation.

Species at Risk Act

For aquatic species at risk, a permit may be required from DFO for activities that may cause effects. Species that are both a migratory bird protected under the *Migratory Birds Convention Act, 1994*, and listed on Schedule 1 of SARA as endangered, threatened or extirpated receive protections under both pieces of legislation. For some species, their inactive nest and/or roost sites are protected under SARA.

For other species listed in Schedule 1 of SARA as Extirpated, Endangered, or Threatened, a permit may be required from ECCC (i.e. under section 73 of SARA) for activities on federal lands that may affect a listed species, any part of its critical habitat, or the residences of its individuals, where prohibitions are in place. Such permits may only be issued if: all reasonable alternatives to the activity that would reduce the impact on the species have been considered and the best solution has been adopted; all feasible measures will be taken to minimize the impact of the activity on the species or its critical habitat or the residences of its individuals; and, if the activity will not jeopardize the survival or recovery of the species. For a SARA permit issued by ECCC, ECCC would advise the permit applicant on any consultation requirements. ECCC does not expect to exercise a power or perform a duty or function related to the Project, as proposed, to enable it to proceed.

Migratory Birds Convention Act, 1994

The *Migratory Birds Convention Act, 1994* protects migratory birds and their eggs and nests wherever they occur, regardless of land tenure. The *Migratory Birds Convention Act, 1994* prohibits the disturbance or destruction of migratory bird nests and eggs. It also prohibits the deposit of harmful substances into waters or areas frequented by migratory birds or in a place from which the substance may enter such waters or such an area.

A permit may be required for activities affecting migratory birds, with some exceptions detailed in the *Migratory Birds Regulations, 2022*.

Provincial Legislative Mechanisms

Endangered Species Act, 2007

Ontario's *Endangered Species Act, 2007*, which is administered by MECP, provides protections for provincially listed species at risk and their habitats, which include authorizations (such as permits, agreements and exemptions) for activities that could adversely impact endangered or threatened species at risk or their habitats.



An authorization may be required for activities of the Project that could adversely impact terrestrial species at risk listed under the *Endangered Species Act, 2007*. MECP advises applicants for an authorization on whether consultation is required.

Ontario Water Resources Act

The *Ontario Water Resources Act* provides for the conservation, protection and management of Ontario's water and its efficient and sustainable use to promote Ontario's long-term environmental, social, and economic well-being.

A Permit to Take Water, pursuant to the *Ontario Water Resources Act*, is required to take more than 50,000 litres of water per day from the environment, including from lakes, streams, rivers, ponds, and groundwater sources. The Permit to Take Water includes requirements to assess impacts to surface water and groundwater quantity and quality due to project activities. The permit may place limits on the quantity and duration of water-taking and would require reporting. Additional conditions could include monitoring requirements, seasonal restrictions, modifications to discharge locations, and remediation.

An Environmental Compliance Approval (ECA) is a permission that allows businesses to operate their facility or site with environmental controls that protect human health and the natural environment. A sewage ECA, issued by MECP under the *Ontario Water Resources Act*, may be required for wastewater and stormwater management systems.

Under the *Ontario Water Resources Act*, the application processes for the permit and approval described above require Indigenous and public consultation. MECP indicated that both a Permit to Take Water and a sewage ECA are required for the Project.

Environmental Protection Act

Proponents may self-register for an Environmental Activity and Sector Registry (EASR) for air emissions overseen by MECP, pursuant to Ontario's *Environmental Protection Act*. An EASR requires predictive modelling to demonstrate compliance with air quality, noise and vibration criteria. The approval process includes, as appropriate, requirements for fugitive dust control, noise management, monitoring, testing and reporting. The Air Emissions EASR regulation incorporates an online document entitled "Environmental Activity and Sector Registry – Limits and Other Requirements" (<https://www.ontario.ca/page/environmental-activity-and-sector-registry-limits-and-other-requirements-activities-air-emissions>), which details the requirements a person engaging in a prescribed activity must follow.

Ontario Heritage Act

The *Ontario Heritage Act* is administered by the Ontario Ministry of Citizenship and Multiculturalism. The ministry's mandate involves conserving, protecting and preserving Ontario's cultural heritage. Their programs include guidance for archaeological studies and discoveries, and they require Indigenous consultation regarding discoveries that matter to Indigenous Peoples.

Mining Act

The *Mining Act*, which is administered by MINES, establishes a regulatory regime that oversees all stages of the mineral resource sector in Ontario, including prospecting, exploration, advanced exploration, mine


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development and production, closure and rehabilitation. The regime is structured to minimize impacts to public health and safety, and the environment, and to consider the recognition and affirmation of existing Aboriginal and treaty rights protected under section 35 of the *Constitution Act, 1982*.

The advanced exploration permit issued by MINES is required for the Project to proceed, and consultation with Indigenous communities and the public is required. The permit would set protections to control and monitor releases from the project site and would require an approved closure plan. A closure plan is a plan for rehabilitating the affected site throughout advanced exploration and once the site is closing. It includes financial assurance. Financial assurance ensures that the rehabilitation work outlined in a closure plan is successfully performed. Indigenous and public consultation on the closure plan is required.

Potential adverse effects within federal jurisdiction

Considering input received from the Proponent, federal authorities, provincial ministries, Grassy Narrows First Nation and other Indigenous communities, IAAC identified potential adverse effects within federal jurisdiction that may result from carrying out the Project. As outlined below, IAAC is of the view that project design, application of mitigation measures and existing legislative mechanisms and protective legislative provisions and programs provide a framework to address those potential adverse effects.

Fish and Fish Habitat

Grassy Narrows First Nation expressed concerns for effects to fish habitat, related to metal leaching and acid rock drainage from waste rock posing risks to groundwater and surface water quality for many years. Concern also was raised about airborne contaminants from piled overburden entering waterways by deposition. The community commented on elevated ammonia, nitrate, and nitrite concentrations in discharges from project works and undertakings, notably that high nitrite concentrations could impact fish and fish habitat. Grassy Narrows First Nation also is of the view that dewatering by the Project could affect water volumes and baseflow in nearby surface creeks and lakes.

DFO stated that they had received a request to review the Project from the Proponent for potential impacts to fish and fish habitat. Based on the information provided, DFO determined that effects to fish and fish habitat could be avoided and mitigated such that an authorization under the *Fisheries Act* would not be required for the Project. DFO provided a Letter of Advice to the Proponent, recommending avoidance and mitigation measures necessary to prevent potential impacts to fish and fish habitat. ECCC indicated that provisions within the *Fisheries Act* prohibit the deposit of deleterious substances in waters frequented by fish unless authorized by regulations. Further, ECCC stated that they do not anticipate an authorization for the Project.

MECP indicated that a sewage ECA would be required for the Project pursuant to the *Ontario Water Resources Act*, to set requirements on effluent discharged from the Project, including seepage and runoff, to protect the water quality of the receiving environment. MECP also advised that a Permit to Take Water for the Project would be required for water-taking. The permit would set requirements that the Project must meet to minimize impacts on groundwater and surface water quantity, quality and flows.


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MINES indicated that water quality monitoring throughout the life of the Project, overseen by MECP under the *Ontario Water Resources Act*, would be required for the advanced exploration permit issued under the *Mining Act*. In addition, dewatering activities would be monitored to minimize impact to groundwater and surrounding waterbodies. At closure, site water and the stability of rock piles, overburden piles and stockpiles would be subject to the conditions set in the closure plan, pursuant to the *Mining Act*.

Both MECP and MINES indicated that their application processes for the approval and permits include consultation that aim to resolve issues raised by Indigenous communities and the public.

The Proponent stated that the water management plan and follow-up monitoring activities would align with conditions set in the sewage ECA to address potential impacts. Contact water would be intercepted, collected and redirected to a treatment system to comply with provincial water quality requirements prior to controlled discharge from the project site. Low-permeability liners would be placed under water treatment facilities and high-density polyethylene liners placed under stockpiles. At closure, pending study results, the waste rock stockpiles may be partially transferred underground or otherwise covered to manage the generation of acid rock. The Proponent is of the view that the water management plan and follow-up monitoring would manage potential effects to surface water, groundwater, fish and fish habitat.

Considering the input received, IAAC is of the view that project design, the application of standard mitigation measures and existing legislative mechanisms such as the *Fisheries Act*, the *Ontario Water Resources Act*, and Ontario's *Mining Act*, provide a framework to address effects to fish and fish habitat. .

Aquatic Species at Risk

The Project would not result in a change to aquatic species, as defined in subsection 2(1) of the *Species at Risk Act*, as no aquatic species at risk are expected to be present in the receiving environment.

Migratory Birds

Grassy Narrows First Nation and the Northwestern Ontario Métis Community expressed concern that migratory birds would be impacted by the Project.

ECCC indicated that the *Migratory Birds Regulations, 2022*, under the *Migratory Birds Convention Act, 1994*, provides protection for migratory birds, their eggs, and nests by prohibiting activities that may harm them. To protect migratory birds, ECCC does not expect that it would need to exercise a power or perform a duty or function to enable the Project to proceed.

The Proponent indicated that the following migratory birds are present at the project site: Nashville warbler, white-throated sparrow, ruby-crowned kinglet, ovenbird and red-eyed vireo. The Proponent expressed that they would employ standard mitigation measures such as avoiding construction activities during sensitive time periods (including nesting periods), utilizing pre-existing trails and roads for travel to limit disturbances to habitats, including wildlife awareness training into employee orientation, and incorporating habitat features into the overall closure plan where practical.

IAAC considered the input provided and is of the view that the Project could cause adverse effects to migratory birds, their nests and eggs, and their habitat; however, project design, application of standard

mitigation measures, as well as existing legislative mechanisms, such as the *Migratory Birds Convention Act, 1994* provide a framework to address these effects.

Indigenous Peoples

Physical and Cultural heritage

Grassy Narrows First Nation and the Northwestern Ontario Métis Community stated their reliance on lands and waters located in the Red Lake area and near the Project for practicing their Indigenous way of life. Both noted the potential for adverse effects to physical and cultural heritage.

The Proponent indicated that based on information gathered and shared by Lac Seul First Nation and Wabauskang First Nation, adverse impacts on physical or cultural heritage are not expected.

IAAC considered the views expressed. Given the Project is proposed to be situated on a 40-hectare area within the property boundary and there are various legislative mechanisms (such as those identified previously to address effects to wildlife and their habitats and the *Ontario Heritage Act*) with consultation processes to resolve issues raised by potentially impacted Indigenous communities, IAAC is of the view that there is a framework to address adverse impacts to physical and cultural heritage.

Current Use of Lands and Resources for Traditional Purposes

Grassy Narrows First Nation and the Northwestern Ontario Métis Community expressed concern over the Project's potential to adversely impact important species to their communities, particularly woodland caribou (the Sydney Caribou Herd), wolverine and sturgeon. Of note, the specified wildlife are species at risk listed under Ontario's *Endangered Species Act, 2007*.

Grassy Narrows First Nation indicated that the Project is located upstream of the English River, which flows directly to their village site and important fishing grounds of Grassy Narrows First Nation. Both Grassy Narrows First Nation and the Northwestern Ontario Métis Community raised concerns that effects to fish and fish habitat, stemming from impacts to surface water and groundwater quality and quantity (such as metal leaching and acid rock drainage, and dewatering and construction of infrastructure), would impact fishing for traditional foods.

The Northwestern Ontario Métis Community expressed concern about impacts to migratory birds that could result in impacts to harvest resources.

The Proponent noted that the project site overlays trapline areas held by Indigenous persons and indicated, based on information gathered and shared by Indigenous communities, that adverse impacts on the current use of lands and resources for traditional purposes expected from the Project are not expected. According to the Proponent, the property has been previously disturbed from exploration activities. Terrestrial wildlife would be displaced with additional land clearing planned to accommodate the Project. Also, wildlife would be disturbed by light and noise. The Proponent understands that any adverse impacts to endangered, threatened or extirpated species at risk would need authorization issued by MECP under Ontario's *Endangered Species Act, 2007*, requiring Indigenous and public consultation prior to possible issuance of the authorization. The Proponent also indicated that most of the Project and related activities would occur within a 40-hectare footprint, which would limit disturbances to terrestrial wildlife found near the project site.


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Taking into account the input received, and the management of effects described in previous sections, IAAC is of the view that there is a framework to address adverse effects to wildlife resources, including fish and fish habitat, terrestrial wildlife (such as migratory birds) and their habitats, and that based on information provided, the Project is not expected to prevent safe access to known fishing, harvesting, hunting, and trapping grounds. Further, IAAC understands that Indigenous consultation is needed to acquire the advanced exploration permit under Ontario's *Mining Act* that is required for the Project. Therefore, IAAC is of the view that project design, the application of mitigation measures, and existing legislative mechanisms provide a framework to address adverse effects to the current use of lands and resources for traditional purposes.

Structure, site or thing of historical, archaeological, paleontological or architectural significance

The Proponent stated, that based on information gathered and shared by Indigenous communities, there are no known non-negligible adverse impacts on any structure, site, or thing of historical, archaeological, paleontological, or architectural significance expected from the Project.

In case of an unexpected discovery, IAAC is of the view that the *Ontario Heritage Act* would provide a framework to protect discoveries and include engagement with Indigenous communities to manage discoveries of importance to Indigenous Peoples.

Health, social and economic conditions

Grassy Narrows First Nation stated that the Project could contribute significantly to mercury methylation in the English river system, which could significantly increase the levels of methylmercury in the tissue of fish that the community relies on for their sustenance, livelihood, and cultural practices. Historic industrial activity led to mercury contamination of the English-Wabigoon river system and exposure of Grassy Narrows First Nation to methylmercury contamination. Grassy Narrows First Nation also expressed concern about fugitive dust.

The Northwestern Ontario Métis Community stated that the Project could impact health from consumption of contaminated country foods, and that the Project could impact existing social services and economic conditions in the Red Lake area and could worsen cultural differences and racism/discrimination from hiring outside workers.

Health Canada indicated that there is the potential for linkages between the environment and the health of Indigenous Peoples, notably effluent discharges from the Project.

Indigenous Services Canada noted that efforts are underway to address impacts from historic mercury contamination, such as the Mercury Care Home Framework Agreement (originally signed in 2020 and amended in 2021), which has provided funding for the design, construction, operation, maintenance and service delivery of a mercury care home for Grassy Narrows First Nation, based on the Grassy Narrows First Nation community health assessment undertaken between 2015-2018.


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To protect human health, the Ontario Ministry of Natural Resources, in collaboration with MECP monitors, analyzes and publishes information on catching and consuming fish (Guide to Eating Ontario Fish²) using input from the Ontario Fish Contaminant Monitoring Program, which routinely selects fish species in particular lakes and rivers for contaminant testing to publish the findings publicly.

Further, MECP indicated that the sewage ECA, issued under the *Ontario Water Resources Act* and required for the Project, is intended to protect the receiving aquatic environment and that work is underway to identify requirements to manage changes in sulphate concentrations that could increase methylation of mercury. MECP indicated that the review of the sewage ECA application will consider the conditions of the wider environment, including the pre-existing contamination of the English river system.

The Proponent indicated that contact water, including run-off and seepage, would be intercepted, collected and redirected to a treatment system to comply with provincial water quality requirements prior to controlled discharge from the project site. Contact waters potentially containing sulphate would be collected in lined treatment ponds that would be oxygenated, followed by controlled discharge into Chukuni River with a mixing zone less than 150 square metres in the receiving environment.

The Proponent understands that the sewage ECA would set effluent and discharge requirements that consider the receiving environment, and is of the view that the water management plan and follow-up monitoring would address potential effects to surface water, groundwater, fish and fish habitat, including the risk for methylmercury production.

The Proponent does not anticipate offsite impacts from air emissions and proposes to implement a dust management plan to mitigate fugitive dust.

According to the Proponent, the Project is not expected to cause adverse effects to the health, social and economic conditions of Indigenous Peoples. The Proponent indicated that they would utilize industry best practices and comply with regulatory requirements, such as a sewage ECA issued under the *Ontario Water Resources Act* and relevant EASR compliance limits under Ontario's *Environmental Protection Act*, to minimize exposures to contaminants and elevated noise levels from the Project that could increase human health risk. Additionally, the Proponent is of the view that the Project would have minimal impact on health and social services offered in the region. The Proponent further stated that it has entered into an economic benefits sharing agreement with Lac Seul First Nation and Wabauskang First Nation.

IAAC notes that the Project would last four years and have a workforce of no more than 70 people. IAAC also understands that through commitments made with Wabauskang First Nation and Lac Seul First Nation under a formal agreement, the Proponent is working to support those First Nation communities with their community interests.

After considering input received, IAAC is of the view that project design, application of standard mitigation measures, and existing legislative mechanisms (such as the *Ontario Water Resources Act* and Ontario's *Environmental Protection Act*) provide a framework to address the potential adverse effects of the Project to health conditions of Indigenous Peoples. Further based on information provided and considering that the

² <https://www.ontario.ca/page/guide-eating-ontario-fish>

Project would be of short duration and would have a small workforce, effects that would cause adverse changes to the social and economic conditions of Indigenous Peoples are not expected from the Project.

Federal Lands

There are no federal lands near the proposed developments for the Project or in the local area surrounding the Project. The closest federal land is the Ear Falls Airport located approximately 24 km to the southeast. The nearest First Nation Reserve lands are located approximately 55 km away.

Transboundary Effects

The Proponent indicated that the Project is limited in scale and is distant from any interprovincial or international boundaries. Additionally, the Proponent stated that any discharges to water or air emissions from the Project would have to meet provincial regulatory requirements outlined in the *Ontario Water Resources Act* and the *Environmental Protection Act*, respectively.

IAAC is of the view that the Project is unlikely to cause non-negligible adverse changes from pollution to the marine environment and transboundary waters, as defined in section 2 of the IAA. As well, project design and location, implementation of proposed standard mitigation measures and regulatory mechanisms such as the *Ontario Water Resources Act* and the *Fisheries Act* provide a framework to address such adverse effects within federal jurisdiction and protect water quality, quantity and flow.

Potential direct or incidental adverse effects

Direct or incidental effects refer to effects that are directly linked or necessarily incidental to a federal authority's exercise of a power or performance of a duty or function that would permit the carrying out, in whole or in part, of a project, or to a federal authority's provision of financial assistance to a person for the purpose of enabling that project to be carried out, in whole or in part. No federal authority expects to exercise a power or perform a duty or function in relation to the carrying out of Project, in whole or in part, or to provide financial assistance for the purpose of enabling the Project to be carried out. As such, no potential direct or incidental adverse effects are expected.

Public concerns

IAAC did not receive any public concerns related to adverse effects within federal jurisdiction or direct or incidental adverse effects. IAAC did receive a public comment expressing concern about baseline data to be used for monitoring surface water quality as there is historic contamination at the project site from past exploration activities. The Proponent indicated that baseline water quality monitoring, which includes monitoring of sulphate, mercury and methylmercury concentrations, have been done since 2020, and that their baseline water quality database is continually refined and updated to include the latest data and findings to define baseline conditions prior to commencing the Project.


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The Proponent also indicated that the project site would have a water management system to intercept and collect contact water, including run-off and seepage, for treatment prior to controlled discharge from the site to the receiving environment, to comply with provincial regulatory requirements.

IAAC is of the view that the public concern would be managed through the framework described in previous sections to protect water quality.

Potential adverse impacts on the section 35 rights of Indigenous Peoples

The Project is located within Treaty 3 territory, within the traditional territory of Grassy Narrows First Nation, Lac Seul First Nation and Wabauskang First Nation. No part of the Project is located on or immediately adjacent to any First Nation reserves. The closest reserve to the proposed Project is Wabauskang First Nation (approximately 55 kilometres southeast).

The Project is also located within the area identified by the Métis Nation of Ontario as Treaty #3, Lake of the Woods/Lac Seul/Rainy Lake/Rainy River Traditional Territories (Region 1). The Métis Nation of Ontario has asserted rights of the Northwestern Ontario Métis Community in the area.

IAAC considered views from the Indigenous communities who provided comments, the Northwestern Ontario Métis Community and Grassy Narrows First Nation, as well as information from the Proponent, federal authorities and provincial ministries.

Grassy Narrows First Nation asserted that the Project would cause potential adverse impacts on rights that are recognized and affirmed by section 35 of the *Constitution Act, 1982*, from further impacts to the community through the potential for increased bioaccumulation of methylmercury in the fish that the community relies on for sustenance, livelihood, cultural practices, and Treaty rights.

In their submission, the Northwestern Ontario Métis Community asserted that the Project could impact harvesting areas and the ability to harvest in and around the project site. The community also expressed that direct avoidance and perceived avoidance due to changes to harvest resources and species of importance could impact the ability of harvesters to exercise their section 35 rights.

IAAC is of the view that the Project may cause adverse impacts on rights that are recognized and affirmed by section 35 of the *Constitution Act, 1982*. However, existing legislative mechanisms (such as the *Fisheries Act*, *Migratory Birds Convention Act, 1994*, Ontario's *Endangered Species Act, 2007*, the *Ontario Water Resources Act*, Ontario's *Environmental Protection Act*, the *Ontario Heritage Act*, and Ontario's *Mining Act*) provide a framework to address the effects that could result in the potential adverse impacts on rights.

Notably, the *Ontario Water Resources Act*, the *Ontario Heritage Act*, and Ontario's *Mining Act* include consultation with potentially impacted Indigenous communities to address concerns about potential impacts to the rights of Indigenous Peoples. In addition, the Proponent committed to continue to engage with Grassy Narrows First Nation, Lac Seul First Nation, Northwestern Ontario Métis Community and Wabauskang First Nation to respond to questions and concerns raised by the communities, share information, and provide transparency.

Other considerations

Cumulative Effects

Grassy Narrows First Nation expressed concerns related to cumulative adverse effects to fish and fish habitat, species at risk, and migratory birds from the Project in combination with other activities (e.g. other mining projects) and the historic methylmercury contamination of the English-Wabigoon river system. Grassy Narrows First Nation and the Northwestern Ontario Métis Community indicated that the Project would cause cumulative impacts on their Treaty rights.

IAAC considered information received and is of the view that the frameworks identified in relation to the potential adverse effects, including the mechanisms with associated consultation processes, provide a framework to address contributions of the Project to cumulative effects and potential impacts to Aboriginal and Treaty rights.

Regional and strategic assessments

There are no regional or strategic assessments pursuant to sections 92, 93 or 95 of the IAA that are relevant to the Project.

Conclusion

IAAC considered the information received as part of the designation request process for the Project to inform its analysis.

IAAC is of the view that there are means other than an impact assessment including project design, the application of standard mitigation measures, and existing legislative mechanisms (such as the *Fisheries Act*, the *Migratory Birds Convention Act, 1994*, Ontario's *Endangered Species Act, 2007*, Ontario's *Environmental Protection Act*, the *Ontario Water Resources Act*, Ontario's *Mining Act*, and the *Ontario Heritage Act*) that provide a framework to address the potential adverse effects within federal jurisdiction, as described in subsection 9(1) of the IAA.

Further, no direct or incidental adverse effects are anticipated, as no federal authority expects to exercise a power, perform a duty or function that would permit the carrying out of the Project, in whole or in part, or provide financial assistance for the purpose of enabling the Project to be carried out.

In relation to subsection 9(2) of the IAA, IAAC also is of the view that the existing legislative mechanisms, some of which include public engagement and consultation with Indigenous communities, provide a framework to address concerns raised about adverse effects within federal jurisdiction and potential adverse impacts on the rights of Indigenous Peoples that are recognized and affirmed by section 35 of the *Constitution Act, 1982*.