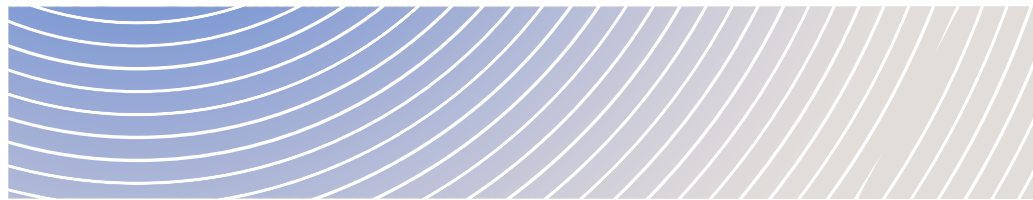


Analysis Report



WHETHER TO DESIGNATE THE **LA RONGE AREA PEAT HARVESTING PROJECT** IN SASKATCHEWAN PURSUANT TO THE *IMPACT ASSESSMENT ACT*

February 2023



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Purpose

The Impact Assessment Agency of Canada (the Agency) prepared this report for consideration by the Minister of Environment and Climate Change (the Minister) in their response to a request to designate the La Ronge Area Peat Harvesting Project (the physical activities referred to as the Project) pursuant to section 9 of the *Impact Assessment Act* (the IAA).

Context of Request

On January 21, 2022, the Minister received a request to designate the Project from For Peat's Sake – Protecting Northern Saskatchewan Muskegs (the requester). The requester raised concerns regarding changes to the environment (draining of peatlands); the corresponding effects to fish and fish habitat and species at risk (e.g., caribou); impacts to the rights of Indigenous peoples; and concerns regarding the protection of wetlands in the absence of a provincial wetland policy. The Agency focused its assessment on the potential effects within federal jurisdiction as outlined in subsections 9(1) and 9(2) of the IAA for the purposes of the designation request and followed the Agency's Operational Guide: Designating a Project under the *Impact Assessment Act*¹.

The Agency sought input from Lambert Peat Moss Inc. (the Proponent), federal authorities, the Government of Saskatchewan, and six additional potentially affected Indigenous groups: Montreal Lake First Nation, Lac La Ronge Indian Band, Peter Ballantyne Cree Nation, English River First Nation, Canoe Lake Cree First Nation, and Métis Nation of Saskatchewan Northern Region 1. Input was received from two Indigenous groups: Lac La Ronge Indian Band and Métis Nation of Saskatchewan Northern Region 1.

On February 18, 2022, the Agency suspended the time limit for 17 days and again on March 23, 2022 for 299 days in response to two requests by the Proponent to allow it sufficient time to address information requested by the Agency. The Proponent responded to the Agency on January 16, 2023, with information about the Project, a response to the requester's concerns, and its view that the Project should not be designated. The Proponent had submitted an application on December 6, 2018 to the Saskatchewan Ministry of Environment, Environmental Assessment and Stewardship Branch, commencing the provincial environmental assessment process pursuant to Saskatchewan's *The Environmental Assessment Act*. The environmental assessment process includes the requirement of an Environmental Impact Statement (EIS), which the Proponent is currently preparing.

Advice on potential effects of the Project, and applicable legislative frameworks was received from Fisheries and Oceans Canada (DFO), Environment and Climate Change Canada (ECCC), Natural Resources Canada (NRCan), Health Canada (HC), Transport Canada (TC), Women and Gender Equality Canada (WAGE), Indigenous Services Canada (ISC), the Saskatchewan Ministry of Environment and the Saskatchewan Water Security Agency.

¹ Designating a Project under the Impact Assessment Act - Canada.ca



Project Context

Project Overview

The Proponent is proposing the construction, operation, decommissioning and abandonment of a peat harvesting project, located approximately 15 kilometres (km) south of La Ronge, Saskatchewan (Figure 1). As proposed, the Project would extract peat for the production of horticultural products at four harvesting sites (Clusters) that together would represent 2,619 hectares (ha) of potentially harvestable area. Other components of the Project would include access roads, staging areas, and drainage networks. The four Clusters include:

- Cluster 3, located approximately 15 km south of La Ronge and includes five potential harvestable areas covering approximately 597 ha;
- Cluster 4, located approximately 34 km southwest of La Ronge and includes six potential harvestable areas covering approximately 354 ha;
- Cluster 10, located approximately 43 km southeast of La Ronge and includes four potential harvestable areas covering approximately 578 ha; and
- Cluster 11, located approximately 62 km southeast of La Ronge and includes two potential harvestable areas covering approximately 1,090 ha.

The Clusters also include peatlands not suitable for harvesting but may be used by the Proponent to supply material for restoration of harvested areas.

The Project would include construction of a drainage network, site clearing, mulching, grading, and construction of internal bog roads. The Proponent plans to progressively harvest and reclaim the Clusters. Once all harvestable areas have been harvested, the Project will be decommissioned, including removal of infrastructure and reclamation of any remaining land disturbances. Reclamation of harvestable areas will be ongoing and peat harvest area restoration will consider existing methods that have been used for peatland restoration elsewhere in Canada and described in publications². The Proponent will prepare a Decommissioning and Restoration Plan with the objective of re-establishing vegetation cover and restoring hydrology so that the sites will be on a trajectory to lead to the return of peatland ecological function.

² Hugron, S., J. Bussi eres, J. and L. Rochefort. 2013. Tree plantations within the context of ecological restoration of peatlands: a practical guide. Peatland Ecology Research Group, Universit e Laval, Qu ebec. 88 p.

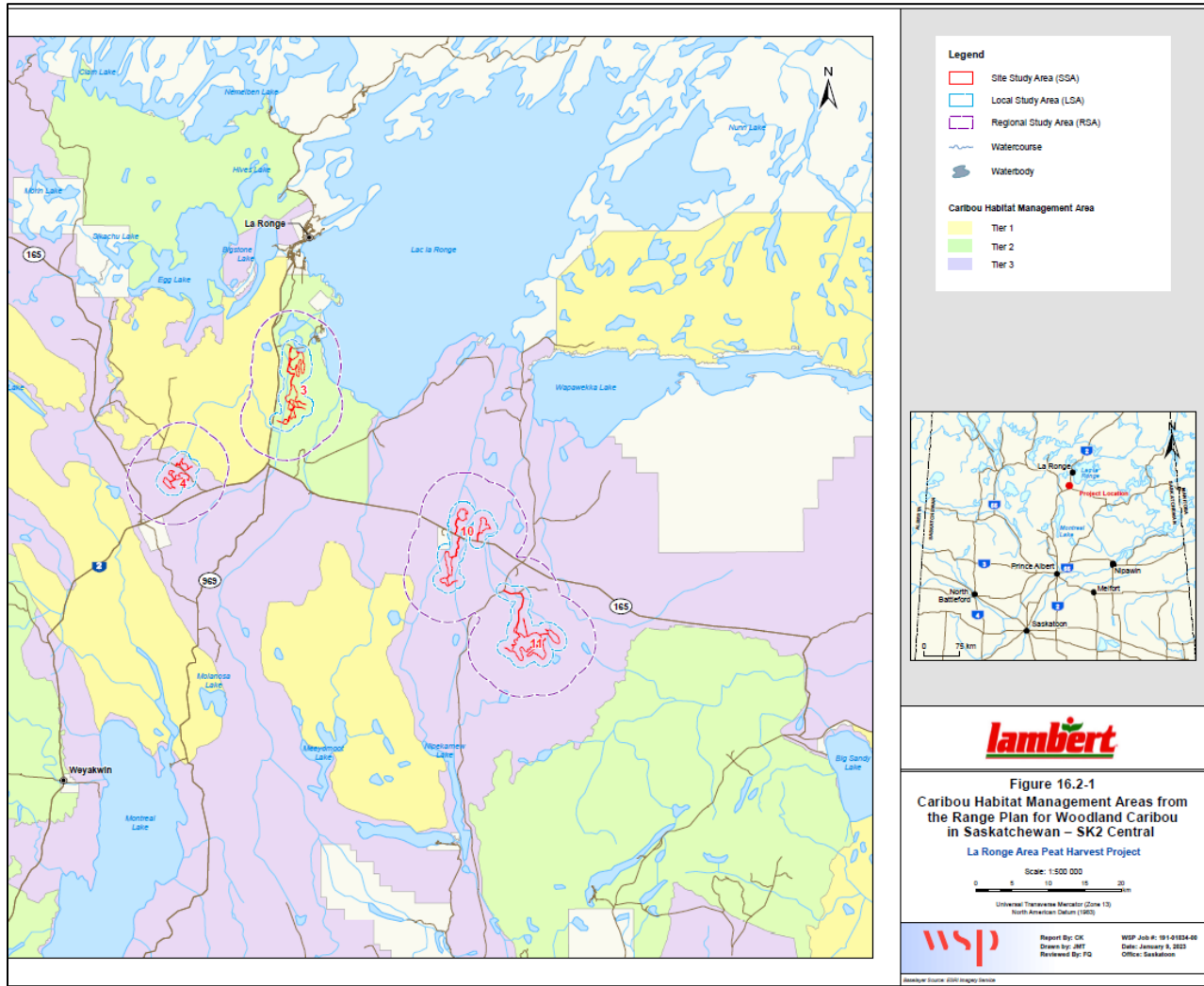
Landry, J., and L. Rochefort. 2012. The drainage of peatlands: impacts and rewetting techniques. Peatland Ecology Research Group, Universit e Laval, Qu ebec. 53 p.

Peatland Ecology Research Group. 2017. Fen restoration in Manitoba – Final report. Peatland Ecology Research Group, Universit e Laval, Qu ebec. 49 p. and 3 annexes.

Quinty, F. and L. Rochefort. 2003. Peatland restoration guide, 2nd ed. Canadian Sphagnum Peat Moss Association and New Brunswick Department of Natural Resources and Energy. Qu ebec, Qu ebec. 106 pp.



Figure 1: Physical Activities Location Map



Source: WSP, 2023

Alternative Text: The four Clusters are located south of La Ronge, Saskatchewan. Cluster 4 is north of Highway 2, Cluster 3 is located north of Highway 165, Cluster 10 overlays Highway 165, and Cluster 11 is south of Highway 165.

Project Components and Activities

The Project will be completed in phases, with the construction, operation and decommissioning of each Cluster completed progressively. Final closure, including decommissioning of remaining infrastructure (e.g., access roads, sedimentation ponds, garage, trailer) will occur once harvesting operations are complete. Project components will include the following:



- Access roads.
- Staging areas for each Cluster consisting of a:
 - parking area for harvesting equipment;
 - garage for equipment maintenance;
 - fuel powered generator;
 - trailer (office);
 - main stockpiling area for peat; and
 - impermeable surface for fuel storage area and re-fueling of harvesting equipment.
- Drainage networks, including:
 - sedimentation ponds to control high turbidity waters;
 - main collector ditch to channel water from secondary collector ditches to the sedimentation ponds; and
 - secondary collector ditches approximately 30 metres apart, excavated to a depth of 1.5 metres to channel water away from harvestable areas.
- Internal roads to provide access to harvestable areas.
- Temporary peat stockpiles along bog roads.

During operations at each Cluster, the Proponent will:

- lower water levels in the peat harvesting areas using the drainage networks to dry surficial peat;
- field harrow harvesting areas to decompact and enhance peat drying;
- harvest peat using a vacuum harvester;
- stockpile peat along bog roads;
- transport peat to the staging area; and
- haul peat to a processing and packaging facility off-site.

Once the operations phase for each Cluster is complete, decommissioning will include:

- removal of all infrastructure;
- creation of wetlands within the sedimentation ponds; and
- revegetation of the disturbed areas.



Analysis of Designation Request

Authority to Designate the Project

The *Physical Activities Regulations* (the Regulations) of the IAA identify the physical activities that constitute designated projects. The Project, as described in the information submitted by the Proponent, is not included in the Regulations.

Under subsection 9(1) of the IAA the Minister may, by order designate a physical activity that is not prescribed in the Regulations. The Minister may do this, if, in the Minister's opinion, the physical activity may cause adverse effects within federal jurisdiction or adverse direct or incidental effects, or public concerns related to those effects warrant the designation.

The Minister cannot designate a physical activity if the carrying out of the physical activity has substantially begun, or a federal authority has exercised a power or performed a duty or function in relation to the physical activity (subsection 9(7) of the IAA).

The Agency is of the view that the Minister may consider designating the Project pursuant to subsection 9(1) of the IAA as 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.

Existing Legislative Mechanisms

Key federal and provincial legislative mechanisms that are or may be relevant to the Project are summarized below. This is followed by the Agency's analysis of potential adverse effects within federal jurisdiction or adverse direct or incidental effects, and public concerns related to those effects, as outlined in subsection 9(1) of the IAA, and potential adverse impacts on the rights of Indigenous peoples as outlined in subsection 9(2) of the IAA.

Federal Legislative Mechanisms

Fisheries Act

The Fish and Fish Habitat Protection Program of 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 information to the Proponent in order for it to avoid and mitigate the negative impacts of the Project.

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 *Fisheries Act* also



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

Consideration of the issuance of a *Fisheries Act* Authorization includes consultation with Indigenous groups. The *Fisheries Act* gives explicit consideration under section 2.4, where the Minister of Fisheries and Oceans must consider any adverse effects that the decision (under paragraphs 34.4(2)(b) and 35(2)(b)) may have on the rights of Indigenous peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*. The precise nature of DFO's consultation activities is dictated by developing a shared understanding with each respective community, and determining a mutual path forward. Feedback from Indigenous groups would be incorporated into DFO's assessment of impacts, and contribute to methods used to mitigate, offset, and monitor impacts within the bounds of DFO's mandate.

If granted, a *Fisheries Act* Authorization would include legally-binding conditions for avoidance, mitigation, and offsetting requirements commensurate with project impacts. Monitoring to validate impacts, and verify efficacy of mitigation measures and offsetting are also part of Authorization conditions.

ECCC administers and enforces subsection 36(3) of the *Fisheries Act*, which prohibits the deposit of deleterious substances into waters frequented by fish, or to any place, under any conditions, where they may enter waters frequented by fish.

Species at Risk Act

For non-aquatic 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 that affect a listed terrestrial wildlife species, any part of its critical habitat, or the residences of its individuals, where those 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.

ECCC does not expect that it will be required to exercise a power or perform a duty or function related to the Project to enable it to proceed. It is possible that prohibitions may come into force through Orders in Council for individuals, residences, and critical habitat on Project-implicated, non-federal lands and a SARA permit may be required for the Project.

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. A permit may be required for activities affecting migratory birds, with some exceptions detailed in the *Migratory Birds Regulations*. The *Migratory Birds Convention Act, 1994* prohibits the disturbance or destruction of migratory bird nests and eggs, including for those species also listed under SARA. 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.



Canadian Environmental Protection Act, 1999

The Project may be required to provide greenhouse gas (GHG) emissions reporting as required by the Greenhouse Gas Reporting Program under the *Canadian Environmental Protection Act, 1999* if ten kilotonnes or more of GHGs are emitted in carbon dioxide equivalent units per year.

Canadian Navigable Waters Act

The *Canadian Navigable Waters Act* applies to projects that will interfere with navigable waters. The Project may require approval under the *Canadian Navigable Waters Act* if components such as an access road cross a navigable waterway.

Provincial Legislative Mechanisms

The Environmental Assessment Act

The Environmental Assessment Act provides a practical means to ensure that development proceeds with adequate environmental safeguards and in a manner broadly understood by and acceptable to the public through the integrated assessment of environmental impact. Under *The Environmental Assessment Act*, the proponent of a development is required to conduct an environmental assessment and to submit an EIS for review and approval by the Minister of Environment. If the Minister grants approval, the proponent may proceed with obtaining all other required regulatory permits or licences. Proponents are required to comply with the terms and conditions of an approval as outlined in *The Environmental Assessment Act*.

Technical review of the Project will be completed by subject matter experts and where significant environmental impacts are identified that cannot be adequately managed through existing regulations or standards, the Saskatchewan Minister of Environment may include terms and conditions to address those impacts including conditions to protect caribou (boreal population; referred to as woodland caribou) in accordance with the *Range Plan for Woodland Caribou in Saskatchewan*³ (Saskatchewan's Range Plan). Alternatively, the Saskatchewan Minister of Environment may not approve the project. Consultation will be carried out as per the Government of Saskatchewan's *First Nation and Métis Consultation Policy Framework*.

The Fisheries Act (Saskatchewan)

The Fisheries Act (Saskatchewan) enables sustainable management of fisheries resources by affirming provincial ownership of fish, creating a provincial licensing system, and regulating allocation of fish resources, fish marketing, aquaculture, sport fishing and commercial fishing. Fish Collection and Salvage Permits under *The Fisheries Act* (Saskatchewan) and *The Fisheries Regulations* may be required, and would include conditions to mitigate concerns related to collection methods, release, aquatic invasive species and disease,

³ Government of Saskatchewan. 2019. Range Plan for Woodland Caribou in Saskatchewan. Boreal Plain Ecozone – SK2 Central Caribou Administration Unit. July 2019. <https://pubsaskdev.blob.core.windows.net/pubsask-prod/112399/Woodland%252BCaribou%252BRange%252BPlan.pdf>



species at risk, and data collection and reporting. Consultation will be carried out as per the Government of Saskatchewan's *First Nation and Métis Consultation Policy Framework*.

The Environmental Management and Protection Act, 2010

The Environmental Management and Protection Act, 2010 protects the air, land and water resources of the province through regulating and controlling potentially harmful activities and substances. An Aquatic Habitat Protection Permit would be required under Saskatchewan's *The Environmental Management and Protection Act, 2010*, and would include conditions to address erosion, deposition of deleterious substances, sedimentation, sanitation, and secondary containment. Other conditions may also include imposing monitoring requirements, require decommissioning and reclamation planning and financial assurance.

A permit would be required for the Project under *The Hazardous Substances and Waste Dangerous Goods Regulations*, with conditions related to the type and quantity of hazardous substances and how they are stored.

An approval to construct and operate the Project would be required under the *Mineral Industry Environmental Protection Regulations, 1996*. The approval may include conditions imposing monitoring requirements and require decommissioning and reclamation planning as well as financial assurance.

Consultation will be carried out as per the Government of Saskatchewan's *First Nation and Métis Consultation Policy Framework*.

The Heritage Property Act

The Heritage Property Act provides for the preservation, interpretation, and development of certain aspects of heritage property in Saskatchewan, to provide for the continuance of the Saskatchewan Heritage Foundation and to provide for the naming of geographic features. A heritage clearance permit will be required with conditions to ensure heritage resources are protected. Consultation will be carried out as per the Government of Saskatchewan's *First Nation and Métis Consultation Policy Framework*.

The Proponent has obtained a Heritage Resource Impact Assessment Permit 19-079.

Potential Adverse Effects within Federal Jurisdiction

The Agency's analysis identified the potential for adverse effects within federal jurisdiction that may result from carrying out the Project. The Agency is of the view that existing legislative mechanisms and processes provide a framework to address the potential adverse effects within federal jurisdiction.

Fish and Fish Habitat

The Agency considered information provided by the requester, Indigenous groups, DFO, ECCC, the Government of Saskatchewan and the Proponent. The Agency is of the view that there is potential for a



change to fish and fish habitat, as defined in subsection 2(1) of the *Fisheries Act*, and existing legislation provides a framework to address potential adverse effects.

Concerns expressed by the requester and Indigenous groups included:

- potential cumulative impacts to fish and fish habitat due to multiple projects within the watershed;
- changes to natural stream flows that can lead to erosion and sediment laden waters;
- changes in storage capacity of upstream watersheds;
- changes in water quality due to the removal of wetlands; and
- reduction in the volume of water particularly within fish spawning areas.

DFO anticipates a *Fisheries Act* Authorization may be required given the assemblage of diverse fish species present within the 22 waterbodies identified within and adjacent to the Project. If required, the Proponent would engage with DFO and apply for a *Fisheries Act* Authorization that would include mitigation and offsetting measures to address potential impacts to fish and fish habitat.

ECCC noted that the construction, operation, and decommissioning of the Project could have adverse effects on the quality of groundwater and surface water, as well as on the hydrological regimes of watercourses and water bodies. Surface water quantities could be changed by the alteration of flows and erosion and sedimentation due to the Project and could negatively impact water quality. The removal of peatlands and surrounding wetlands will also affect water quality by removing the natural process of filtration that peatlands provide. ECCC also indicated that water drained from peat is proposed to be collected in sedimentation ponds via drainage ditches and released to natural watercourses. These activities could result in erosion and sedimentation, increases in suspended solids, changes in pH, and mobilization of other contaminants to surrounding waters, resulting in adverse effects on water quality. Contaminants may be introduced into waterbodies through wastewater discharge, groundwater resurgence, or spills resulting in adverse effects on water quality.

The Government of Saskatchewan noted that potential effects of the Project to water quality and quantity, and identification of appropriate project design and mitigation measures, will be assessed through the environmental assessment process under Saskatchewan's *The Environmental Assessment Act*.

The Proponent will prepare an Environmental Protection Plan for the Project that will describe the environmental mitigation measures and commitments that they must implement during construction, operations, and restoration activities to reduce or avoid potential adverse effects to the environment. The Proponent indicated that an authorization under the *Fisheries Act* may be required.

The Proponent will implement best management practices which include:

- monitoring water outlets, including efficiency of sedimentation ponds and potential erosion;
- water quality monitoring, including regular water sampling;
- watercourse protection at crossings through culvert installations and use of erosion control (e.g., silt fencing, biodegradable erosion control blankets);
- avoidance of work during heavy rainfall;
- buffer zone establishment around watercourses or waterbodies; and
- employee training and procedures for fueling and handling of hazardous materials.



Potential effects of the Project to fish and fish habitat, water quality and quantity will be assessed through the provincial environmental assessment process under Saskatchewan's *The Environmental Assessment Act*, *The Fisheries Act (Saskatchewan)*, and *The Environmental Management and Protection Act, 2010* and could be assessed through the federal SARA and *Fisheries Act* if required.

Aquatic Species

The Project will not result in a change to aquatic species, as defined in subsection 2(1) of SARA as it will not affect the marine environment or marine plants.

Migratory Birds and Terrestrial Species at Risk

The Agency considered information provided by the requester, Indigenous groups, ECCC, the Government of Saskatchewan, and the Proponent. The Agency is of the view that existing legislation provides a framework to address changes to migratory birds, as defined in subsection 2(1) of the *Migratory Birds Convention Act, 1994*, and effects on federally listed terrestrial species at risk under SARA.

The requester and Métis Nation of Saskatchewan Region 1 stated that species at risk and their critical habitat are identified within the Project footprint. The requester also indicated that:

- there have been sightings of woodland caribou and their critical habitat overlaps the Project; and
- the Project intersects critical habitat for two bird and one amphibian threatened species at risk: common nighthawk, rusty blackbird, and northern leopard frog.

ECCC identified six species listed on Schedule 1 of SARA as endangered or threatened with the potential to interact with the Project: endangered little brown myotis and northern myotis, and threatened Canada warbler, common nighthawk, olive-sided flycatcher, and woodland caribou. ECCC advised that impacts due to the Project are anticipated to be low for migratory birds and species at risk, except woodland caribou where the risk is moderate. Potential effects of the Project on woodland caribou, is discussed below. Nine species of special concern on Schedule 3 of SARA were also identified. Seven of the bird species at risk are also identified as migratory birds on the *Migratory Birds Convention Act, 1994*.

The Project may remove habitat important for nesting, foraging, staging, and overwintering for migratory birds. Individual mortality and the destruction of nests and eggs or any other structure necessary for the reproduction and survival of species at risk could occur during all Project phases. Sensory disturbances from the Project (e.g., lights, vibrations from excavation, machinery, workers) may affect migratory birds and species at risk and lead to avoidance of habitat adjacent to the Project.

The Project is located within the provincial and federal SK2 Central boreal caribou range⁴. The range is classified into three tiers:

⁴ Environment Canada. 2012. Recovery Strategy for the Woodland Caribou (*Rangifer tarandus* caribou), Boreal population, in Canada. Species at Risk Act Recovery Strategy Series. Environment Canada, Ottawa. xi + 138pp.

- Tier 1: areas of high importance where habitat retention is the primary objective;
- Tier 2: areas of importance with higher levels of habitat disturbance and are within an objective of habitat restoration; and
- Tier 3: general matrix caribou habitat where maintaining connectivity is an important objective.

Cluster 3 is within important Tier 2 caribou habitat that has management objectives for habitat restoration (Figure 1). Cluster 4 is in Tier 3 habitat that is important for maintaining connectivity; however, it is also located adjacent to high quality Tier 1 caribou habitat that is important for habitat retention (the range plan states preferred deferral or avoidance of areas for industrial developments or other land uses) (Figure 1). Cluster sites 10 and 11 appear in habitat management areas where the objective is to maintain connectivity – although these areas also contain high potential habitat. ECCC has identified the range as “likely as not” self-sustaining and estimated a 30% rate of population decline per year. Saskatchewan’s Range Plan management objectives include reducing human-caused disturbance below current levels, maintenance of at least 80% of high potential caribou habitat; maintenance of adequate connectivity; emulation of natural forest patterns during forest harvest; and reduction of non-permanent linear features. ECCC stated that without appropriate mitigation (e.g., alternative siting, offsetting) the Project has the potential to moderately impact woodland caribou and their critical habitat.

The Government of Saskatchewan has legislative management authority for woodland caribou as described in the *Woodland Caribou (Boreal population) in Saskatchewan: draft conservation agreement*⁵ with ECCC. The Province acknowledged that the Project is located within woodland caribou critical habitat. If the Province approves the Project, a condition would be included in the ministerial decision to require a caribou mitigation and offsetting plan that must align with Saskatchewan’s Range Plan.

The Proponent indicated that a 500 metre buffer would be applied to all anthropogenic disturbances and affected habitat types, including waterbodies. The habitat within the 500 metre buffer is assumed to be functionally unavailable to caribou (i.e., converted to unsuitable indirect disturbance) due to its proximity to anthropogenic disturbance and associated increase in perceived predation risk or sensory disturbance. Most of the disturbance in the SK2 Central boreal caribou range is due to anthropogenic features such as forest harvest blocks and roads. Therefore, any amount of incremental habitat loss from any development, including residual losses of habitat associated with the proposed Project, would be considered significant for woodland caribou. An offset requirement would be expected for woodland caribou for the Project to meet the requirements outlined in the provincial Range Plan for Woodland Caribou in Saskatchewan for the SK2 Central range.⁴

The Proponent has committed to locating the Project footprint outside of Tier 1 habitat. The Proponent would develop a caribou mitigation and offsetting plan that aligns with Saskatchewan’s Range Plan to offset adverse residual effects from the Project and is required to adhere to applicable federal legislation, such as the *Migratory Birds Convention Act, 1994* and SARA. The Agreement for the Conservation of the Woodland

⁵ <https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry/administrative-agreements/agreement-conservation-woodland-caribou-boreal-saskatchewan.html#toc0>



Caribou, Boreal Population in Saskatchewan per SARA Section 11⁵, Federal Recovery Strategy for Woodland Caribou, Boreal Population, and the Saskatchewan SK2 Central Range Plan will also apply.

Potential effects to wildlife, including migratory birds and species at risk, and relevant mitigation measures, will be considered in the provincial environmental assessment process under Saskatchewan's *The Environmental Assessment Act*.

Indigenous Peoples

The Agency considered information provided by the requester, Indigenous groups, ISC, HC, WAGE, ECCC, the Government of Saskatchewan, and the Proponent. The Agency sought views from six potentially impacted Indigenous groups and received input from Lac La Ronge Indian Band and Métis Nation of Saskatchewan Northern Region 1.

The Agency is of the view that existing legislation will provide a framework to address potential impacts of the Project on Indigenous peoples, including health, social and economic conditions, as well as potential impacts on Aboriginal and treaty rights and interests. Existing legislative mechanisms would also provide a framework to consider any impact resulting from any change to the environment on physical and cultural heritage, the current use of lands and resources for traditional purposes, or on any structure, site, or thing that is of historical, archaeological, paleontological or architectural significance to the Indigenous peoples.

Lac La Ronge Indian Band issued a media release in April 2021 opposing the Project⁶ and provided additional comments to the Agency in response to the Agency's request for views on the designation request.

Concerns expressed by the Lac La Ronge Indian Band and Métis Nation of Saskatchewan Northern Region 1 regarding the Project included:

- infringement on Treaty and inherent rights;
- impact on traditional land use within the Project footprint for the gathering of foods and plants for medicinal purposes;
- impact on cultural sites and ceremonial and spiritual use;
- impact on the area surrounding the Project that is widely used for trappers, gatherers, fishers, dog mushers and recreational use;
- impact to fish and wildlife habitat including woodland caribou due to the drainage and removal of peat lands;
- impact on the health, social and economic conditions of communities; and
- impact on the Indigenous knowledge, language and culture.

The requester and Indigenous groups also indicated that they had not been engaged or consulted by the Proponent and their relationship to the area is crucial to cultural, social and economic wellbeing of families and communities. Lac La Ronge Indian Band noted a potential for economic loss and a negative impact to

⁶ <https://lrib.com/lrib-chief-council-opposed-to-the-proposed-lambert-la-ronge-area-peat-harvest-project-april-20-2021/>



health, social and economic conditions due to the loss of sales from wild mushrooms and wild berries that would be gathered within the proposed harvesting areas.

ISC noted that development activities can have potential impacts to Indigenous communities, including impacts to sacred sites and other cultural and heritage-sensitive areas. ISC also noted that the Project may result in potential impacts to the ability of Indigenous peoples to practice their culture. ISC expressed concerns regarding potential loss of food security (i.e., traditional foods), loss of lands with native habitats and associated wildlife, impacts to soils, waters, and fish habitat, and the social well-being and economic prosperity of Indigenous groups.

HC advised that the information provided by the Proponent is not sufficient to understand potential changes to air quality, water quality, noise, and country foods associated with the Project, and corresponding potential impacts to Indigenous health.

WAGE indicated that the Project's potential effects relating to women and the advancement of gender equality could include impacts to cultural heritage and change to health, social and economic conditions of Indigenous peoples.

ECCC advised that the Project may lead to an increase in road traffic (e.g., hauling of material by truck), and has the potential to adversely affect air quality. Activities that cause a physical disturbance to land, such as earth moving, land clearing and transportation, can also introduce particulate matter (e.g., dust) to the surrounding region.

The Saskatchewan Government noted that consultation is part of the provincial environmental assessment process as per the Government of Saskatchewan's *First Nation and Métis Consultation Policy Framework*. Potential effects to wildlife, including migratory birds and species at risk that would adversely affect the current use of lands and resources for traditional purposes, and relevant mitigation measures, are being considered in the provincial environmental assessment process under Saskatchewan's *The Environmental Assessment Act*. The potential for changes that could affect Indigenous health, such as changes to air quality, noise levels, and surface water and groundwater quality, will also be considered under Saskatchewan's *The Environmental Assessment Act*. The Project also requires clearance under Saskatchewan's *The Heritage Property Act*.

The Proponent indicated that they are initiating consultation and engagement activities. The Proponent has engaged with three First Nations (Lac La Ronge Indian Band, Montreal Lake Cree Nation and Peter Ballantyne Cree Nation) and three Métis locals (La Ronge Métis Local #19, Timber Bay Métis Local #20 and Weyakwin Métis Local #16) and will continue to meet with Indigenous groups to address concerns throughout the provincial regulatory process. The Proponent noted that they are committed to completing respectful and meaningful engagement with Indigenous groups and gaining ongoing acceptance and approval of the Project by Indigenous groups and other stakeholders to maximize support of the Project. Engagement activities for the Project will be designed to provide the public, government and regulatory agencies, and Indigenous groups with details about the Project, including environmental and economic information, to collect feedback, and to address any concerns.

The Proponent undertook a Historical Resource Impact Assessment in 2019 in compliance with *The Heritage Property Act* and received a Heritage Resource Impact Assessment permit; consultation was not a



requirement of the approval. The assessment established the presence of heritage sites, content, structure and significance of sites, suitable avoidance measures and recommendations. The sites are documented through the Saskatchewan Archeological Resource Records and submitted to the Heritage Conservation Branch (HCB). No new archaeological materials were discovered, and no mitigative work is recommended for the Project. If a heritage feature or artefact is discovered during Project activities, work will be immediately halted and an Archaeologist will be consulted about next steps. Work may not resume in the area until a plan has been approved by an Archaeologist and/or HCB.

Potential effects to Indigenous peoples will be considered during the assessment conducted under the *Fisheries Act*, if required, and the provincial licensing process under *The Environmental Assessment Act* which includes consultation on potential impacts to Indigenous peoples. Additionally, the Project has been assessed and approval granted under *The Heritage Property Act*.

Federal Lands

The Project is not located on or near federal land. Lac La Ronge Indian Band Reserve, approximately 20 kilometres north of the Project, are the closest federal lands. The Agency is of the view that any change to the environment occurring on federal lands would be unlikely, but that existing legislative mechanisms provide a framework to consider downstream or indirect effects.

Transboundary Effects

The Agency is of the view that existing legislation will provide a framework to address the potential for the Project to cause a change to the environment that would occur in a province other than the one in which the Project is being carried out or outside Canada.

Concerns expressed by the requester and Métis Nation of Saskatchewan Region 1 included the importance of boreal forest and peatlands as natural carbon stores, and that peat mining is a source of GHG emissions that could negatively effect the Government of Canada's goal of net-zero emissions by 2050. The requester also raised concerns that the draining of peatlands may increase the risk of forest fires which could also contribute to GHG emissions.

ECCC noted that Project activities may result in GHG emissions, or impact carbon sinks and may hinder the Government of Canada's ability to meet its commitments in respect of climate change. Combustion of fossil fuels can result in the emission of air contaminants such as sulfur oxides, nitrogen oxides, volatile organic compounds, and fine particulate matter.

The Proponent stated that current air emissions in the Project area would be generated from transportation related activities, including gravel surfaced roads, emissions from vehicles used for transporting lumber and from forest fires that occur in the region. The Proponent committed to a reduction of carbon emissions through progressive development and reclamation, no idling of vehicles, regular maintenance of equipment, and slow speed limits will be enforced during the Project. The Proponent noted that measures to limit airborne dust emissions, including maintenance of treed buffer zones, dust control on access and bog roads, and temporarily halt harvesting in strong wind conditions will be implemented during construction.

Approval under Saskatchewan's *The Environmental Assessment Act* would include provisions to minimize adverse effects on the environment and impacts of GHGs from industrial emissions and disruptions of carbon sinks⁷. The Project will also be subject to federal GHG emissions reporting requirements, pursuant to the *Canadian Environmental Protection Act, 1999*, if ten kilotonnes or more of GHGs are emitted in carbon dioxide equivalent units per year.

Potential Adverse Direct or Incidental 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 physical activity, or to a federal authority's provision of financial assistance for the purpose of enabling that physical activity to be carried out, in whole or in part. The carrying out of the Project has the potential to cause adverse direct or incidental effects; however, the Agency is of the view that existing legislation provides a framework to address them.

The Project may require a *Fisheries Act* authorization from DFO if the Project could cause harmful alteration, disruption, or destruction of fish habitat or death of fish. The Project may also require approval under the *Canadian Navigable Waters Act* from Transport Canada if Project components, such as an access road, will cross any navigable waterways.

Public Concerns

The Agency is of the view that existing legislation provides a framework to address the concerns within federal jurisdiction and adverse direct or indirect effects and include opportunities for public participation and consideration of public comments.

The Government of Saskatchewan noted that the Project has generated media attention and public concern. An online petition⁸ addressed to the Proponent and the Saskatchewan Ministry of Environment opposing the Project received more than 21,000 signatures. A Facebook group called "For Peat's Sake – Protecting Northern Saskatchewan Muskegs" has 1,700 members. A video produced by the Canadian Broadcasting Corporation⁹ detailing the importance of the area to Indigenous groups and Métis people is available online. The Saskatchewan Ministry of Environment has received correspondence from the Fur Conservation Association, Pipestone Block N-5, Napatak Community Association and many members of the public opposing the Project. The Ministry has noted that public concerns will be considered as part of the provincial licensing under Saskatchewan's *The Environmental Assessment Act*.

⁷ Guidelines for the Terms of Reference and Environmental Impact Statement. November 2021. https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjlfj0huH8AhXPKYKEHaJ9AfsQFnoECBAQAQ&url=https%3A%2F%2Fpubsaskdev.blob.core.windows.net%2Fpubsask-prod%2F127268%2FTOR-and-EIS-Guidelines.pdf&usq=AOvVaw222ZITnD_bbg9HWhVQovH

⁸ Petition · Stop Lambert Peat Moss from destroying our land. · Change.org

⁹ Northern Sask. community fights to protect muskeg from peat harvesting - YouTube

The Proponent is actively working with the responsible levels of government to ensure that all aspects of the environmental assessment are appropriately addressed, including public consultation. The Proponent notes the public concerns that have been raised about the environmental impacts of the Project, primarily by a community group called For Peat's Sake and a few other non government organizations. The Proponent has stated it is committed to completing respectful and meaningful engagement to gain ongoing acceptance and approval of the Project by local community members and other stakeholders to maximize support of the Project.

Potential Adverse Impacts on the Section 35 Rights of Indigenous Peoples

The Project is located within Treaty 6 territory and is also in close proximity (within 15 kilometres) of Treaty 10 territory and within the Métis Nation of Saskatchewan Northern Region 1. The Agency sought views from six potentially impacted Indigenous groups and received comments from two groups. The Agency considered submissions from the requester, Lac La Ronge Indian Band, Métis Nation of Saskatchewan Region 1 and relevant advice from federal and provincial authorities. In relation to subsection 9(2) of the IAA, the Agency is of the view that while there is the potential for the Project to cause adverse impacts on rights that are recognized and affirmed by section 35 of the *Constitution Act, 1982* (section 35 rights); existing legislative mechanisms applicable to the Project may trigger the duty to consult thereby providing a framework to address potential impacts and would include consultation with potentially affected Indigenous groups.

The Government of Saskatchewan *First Nation and Métis Consultation Policy Framework* establishes the province's policy on consultation with First Nations and Métis communities, and if required, a *Fisheries Act* Authorization will also involve consultation and/or accommodation on potential impacts to Indigenous peoples.

Other Considerations

Cumulative Effects

The Agency considered information provided by the requester, Indigenous groups, ISC, and the Proponent in relation to effects set out in subsections 9(1) and 9(2) of the IAA, and is of the view that existing legislation provides a framework to address cumulative effects.

The requester and Indigenous groups 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., peat mining, forest harvesting, silica sand mining, gold mining) that may not be mitigated through project design or the application of standard mitigation measures.

ISC indicated that cumulative effects due to significant oil, gas, forestry, and mining development activities over the past several decades is a common concern surrounding impacts to Indigenous communities. ISC indicated that the potential impacts of the Project to Indigenous communities should be considered over an



extended period of time (80 – 100 years) and with particular attention to anticipated impacts of advancing climate change on food security and traditional activities of Indigenous people.

Cumulative effects will be assessed as part of the provincial environmental assessment process under Saskatchewan's *The Environmental Assessment Act*.

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

The Agency took into account the information it received as part of the designation request process for the Project to inform its analysis. The Agency is of the view that existing legislative mechanisms provide a framework to address the potential for adverse effects, and public concerns related to those effects, as described in subsection 9(1) of the IAA.

The Agency also considered the potential adverse impacts the Project may have on the section 35 rights of Indigenous peoples, as described in subsection 9(2) of the IAA. The Agency is of the view that existing legislative mechanisms applicable to the Project may trigger the duty to consult, thereby providing a framework to address potential impacts, and would include consultation with potentially affected Indigenous groups.

Existing legislative mechanisms include the provincial environmental assessment process under *The Environmental Assessment Act*, which can include enforceable terms and conditions to mitigate potential environmental effects for all stages of the development if the Project is approved, and federal legislative mechanisms such as authorization under the *Fisheries Act*, which would include Indigenous consultation activities.