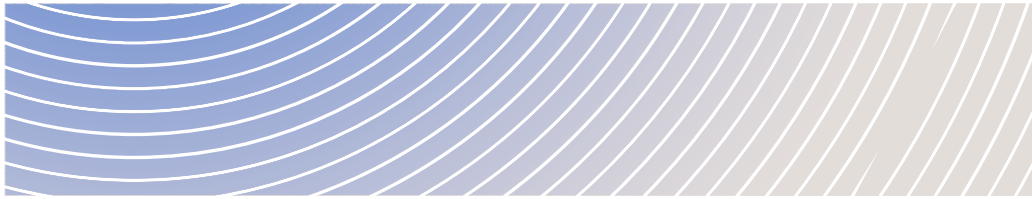


Permitting Plan



TROILUS MINING PROJECT

Final Version

May 2023



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Grand Council of the Crees (Eeyou Istchee)
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Cree Nation Government
Gouvernement de la Nation Crie



Agence d'évaluation
d'impact du Canada Impact Assessment
Agency of Canada





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1. Introduction

In May 2022, the Impact Assessment Agency of Canada (the Agency) and the Cree Nation Government signed an agreement¹ to ensure Cree involvement in the federal impact assessment process for the Troilus Mining Project (the Project). This agreement delegates all aspects of the impact assessment to a Joint Assessment Committee (the Committee), composed of members of the Agency and the Cree Nation Government. Final decision making, however, remains the responsibility of the Minister of the Environment and Climate Change.

On January 25, 2023, the Agency, in collaboration with the Cree Nation Government, determined that an impact assessment is required for the Project, pursuant to Section 16(1) of the *Impact Assessment Act*.

This Permitting Plan was developed by the Committee to outline the permits, licences and authorizations (regulatory instruments) that may be required for the Project should the Minister of the Environment and Climate Change issue a decision statement to the proponent with enforceable conditions to allow the Project to proceed.

The Committee may revise the permitting plan during the impact assessment process in response to new information or advice from the proponent, regulators, jurisdictions or other participants in the process, and in order to accommodate any changes with respect to the Project that may occur during the assessment.

2. Project Description

Troilus Gold Corp. is proposing the construction, operation and decommissioning of a new open-pit gold and copper mine located approximately 76 kilometres northwest of the Cree community of Mistissini and approximately 170 kilometres north of Chibougamau, Quebec. As proposed, the Troilus Mining Project would include the mining of two former open pits and one new pit, the reuse of the tailings facility, the development of waste rock and overburden piles, and the construction and operation of a new ore processing plant complex. The project would have a maximum ore production capacity of 40,000 tonnes per day and a 10-year operating life.

¹ Available at this link: <https://iaac-aeic.gc.ca/050/evaluations/document/146218>



3. Required Regulatory Instruments Identification and Justification

Based on the [Detailed Project Description](#) submitted to the Committee by the proponent on December 31, 2022, five regulatory instruments may be required for the Project if it receives a decision statement from the Minister of the Environment and Climate Change authorizing it to proceed.

The following regulatory instruments may be required for the Project:

Authorization under paragraphs 34.4(2)(b) or 35(2)(b) of the *Fisheries Act*

An authorization under paragraphs 34.4(2)(b) and 35(2)(b) of the *Fisheries Act* may be required for proposed works, undertakings or activities that could result in the death of fish or harmful alteration, disruption or destruction of fish habitat (e.g., diversion of the Bibou stream).

Authorization to use waters frequented by fish as a Tailings Impoundment Area under subsection 5(1) of the *Metal and Diamond Mining Effluent Regulations*

An authorization may be required for any project where the proposed disposal of mine waste would affect waters frequented by fish. However, the Detailed Project Description does not include sufficient information to determine whether an authorization would be required.

Subsection 36(3) of the *Fisheries Act* prohibits the deposit of deleterious substances into waters frequented by fish unless authorized by regulation. *The Metal and Diamond Mining Effluent Regulations* (MDMER) authorize the deposit of deleterious substances under specific conditions, including the discharge into a Tailings Impoundment Area (TIA) that is a water or place set out in Schedule 2 of the MDMER.

Section 27.1 of the MDMER requires the development and implementation of a Fish Habitat Compensation Plan to offset the loss of fish habitat that would occur as a result of the use of a water body frequented by fish for the deposit of a deleterious substance such as mine waste.

Approvals under the *Canadian Navigable Waters Act*

Based on the Project information provided to date, an approval under the *Canadian Navigable Waters Act* (CNWA) may be required.

The CNWA prohibits the construction or placement of any works in a navigable waterway that may interfere with the public right to navigation without complying with the requirements of the CNWA.

An approval is required for any major work on navigable waters, whether listed or not in the Schedule to the CNWA (paragraph 5(1)(a)). An approval is required for a work, other than a minor work (subsection (4(1))), on navigable waters listed in the Schedule (paragraph 5(1)(b)). A work, other than a



major work or minor work, on a navigable water body that is not listed in the Schedule to the CNWA, requires either an approval (paragraph 10(1)(a)) or a public notice and a deposit of information (paragraph 10(1)(b)).

An exemption from the Governor in Council (section 24) is required for the deposit of stone in navigable waters or in a watercourse flowing through navigable waters (section 22) and for the dewatering or lowering of water levels in navigable waters (section 23).

Permit under subsection 73(1) of the *Species at Risk Act*

A permit under subsection 73(1) of the *Species at Risk Act* (SARA) may be required if the project may affect wildlife species listed on Schedule 1 of SARA, as extirpated, endangered (p. ex., Northern Myotis, Little Brown Myotis) or threatened (p. ex., Short-eared Owl, Bank Swallow, Barn Swallow, Olive-sided Flycatcher, Canada Warbler, Red-necked Phalarope, Rusty Blackbird, Yello Rail, Woodland Caribou, Eastern Wolf), any part of their critical habitat or the residences of their individuals, in a manner prohibited under subsection 32(1), section 33, subsection 58(1), and section 61 of SARA.

Activities that may affect wildlife species at risk include, but are not limited to wildlife inventories that may affect individuals or residences, site preparation (clearing, grading, deforestation, stripping of vegetative cover, site access, blasting), construction and operation of temporary and permanent works and infrastructure, creation of new roads, railroads, or power lines, filling of wetlands or waterways, any monitoring that requires the capture or release of individuals, and sensory disturbance effects.

Licences for explosives factories and magazines under subsection 7(1) of the *Explosives Act*

The proposed explosives manufacturing and storage facilities on the project site are subject to the requirements of the *Explosives Act* and its regulations.



4. Information on Required Regulatory Instruments

The following section includes information on applicable regulatory instruments.

4.1. Authorization under paragraphs 34.4(2)(b) or 35(2)(b) of the *Fisheries Act*

4.1.1 Description

This authorization is the responsibility of Fisheries and Oceans Canada (DFO).

Subsection 34.4(1) of the *Fisheries Act* prohibits the carrying on of any work, undertaking or activity, other than fishing, that results in the death of fish. Under paragraph 34.4(2)(b) of the *Fisheries Act*, the Minister of Fisheries and Oceans may issue an authorization with conditions relating to the carrying on of the work, undertaking or activity that result in death of fish.

Subsection 35(1) of the *Fisheries Act* prohibits carrying on any work, undertaking or activity that results in the harmful alteration, disruption or destruction of fish habitat. Under paragraph 35(2)(b) of the *Fisheries Act*, the Minister of Fisheries and Oceans may issue an authorization with conditions relating to the carrying on of the work, undertaking or activity that results in the harmful alteration, disruption or destruction of fish habitat.

4.1.2 Regulatory Process

The Fish and Fish Habitat Protection Program from DFO ensures compliance with the provisions of the *Fisheries Act* and the *Species at Risk Act* (SARA). The program considers any proposed work, undertaking or activity that may result in adverse effects on the fish and its habitat.

It is recommended to submit a request of project review to DFO using the [Request for Review form](#). This form must be submitted to the following email address: habitat-qc@dfo-mpo.gc.ca.

An authorization will be required if DFO considers that the Project may result in the death of fish or in harmful alteration, disruption or destruction of fish habitat. For more details on the process for requesting an authorization, the proponent is invited to consult the following section of the DFO website, in the tab Projects Near Water: [Request a review of your project near water: Step 5. Apply for project authorization](#).

It should be noted that new provisions of the *Fisheries Act* regarding the protection of fish and fish habitat came into force on August 28, 2019. The proponent is encouraged to consult the [Projects near water](#) website in order to take notice of the changes made and ensure compliance of the Project with the new provisions of the modified Act.



A permit under subsection 73(1) of SARA may be required from DFO if the proposed project can affect aquatic species at risk listed on Schedule 1 of SARA or on any element of their critical habitat or the residence of their individuals in a manner that is prohibited under subsection 32(1), section 33 and subsection 58(1) of SARA.

For any additional questions on the processes for requesting a review and an authorization to DFO, please contact the DFO regional office by telephone at 1-877-722-4828 or by email at habitat-qc@dfo-mpo.gc.ca.

4.1.3. References

Fisheries Act, R.S.C. 1985, c F-14

<https://laws-lois.justice.gc.ca/eng/acts/F-14/>

Authorizations Concerning Fish and Fish Habitat Protection Regulations (SOR/2019-286)

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2019-286/index.html>

Applicant's Guide to Support the *Authorizations Concerning Fish and Fish Habitat Protection Regulations*

<http://www.dfo-mpo.gc.ca/pnw-ppe/reviews-revues/applicants-guide-candidats-eng.html>

Permits Authorizing an Activity Affecting Lister Wildlife Species Regulations

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2013-140/FullText.html>

Request a review of your project near water

<http://www.dfo-mpo.gc.ca/pnw-ppe/reviews-revues/request-review-demande-d-examen-001-eng.html>

4.1.4 Contact information

For more detailed guidance on this authorization, please contact the DFO regional office in Quebec :

Fish and Fish Habitat Protection Program

Fisheries and Oceans Canada

850, route de la Mer

P. O. Box 1000

Mont-Joli, QC G5H 3Z4

Telephone: 1-877-722-4828

Email: habitat-qc@dfo-mpo.gc.ca



4.2. Authorization to use waters frequented by fish as a Tailings Impoundment Area under subsection 5(1) of the Metal and Diamond Mining Effluent Regulations

4.2.1 Description

Subsection 36(3) of the *Fisheries Act* prohibits the deposit of deleterious substances into waters frequented by fish unless authorized by regulation. The MDMER authorize the deposit of deleterious substances under specific conditions, and include provisions to allow the use of waters frequented by fish for the disposal of mine waste. In order to authorize the storage of mine waste in waters frequented by fish, an amendment to Schedule 2 of the MDMER is required to designate those waters as Tailings Impoundment Areas (TIAs).

Environment and Climate Change Canada (ECCC) is responsible for administering and enforcing the MDMER. DFO provides expert advice to ECCC on fish and fish habitat as well as on the compensation plan for habitat loss related to TIAs.

4.2.2 Regulatory process

Filing the information

It is the responsibility of the proponent to identify all water bodies affected by the disposal of mine waste, confirm the presence or absence of fish in these water bodies, provide the method used to document the presence or absence of fish, and provide information regarding the connectivity of these water bodies to other water bodies with fish. If the proponent intends to deposit waste rock or effluent containing any concentration of deleterious substances into water frequented by fish, consult the [Guide To The Regulatory Process For Listing Water Bodies Frequented By Fish In Schedule 2 Of The Metal And Diamond Mining Effluent Regulations](#), or contact the Mining and Processing Division within ECCC by email at mdmer-remmmd@ec.gc.ca.

If the listing of a fish-bearing water body is required, the Proponent must develop an Alternatives Assessment Report in accordance with ECCC's [Guidelines for the Assessment of Alternatives for Mine Waste Disposal](#), to demonstrate that the disposal of waste into waters frequented by fish is the best option from an environmental, technical, economic and socio-economic perspective. In addition, the proponent is required, under subsection 27.1 of the MDMER, to develop a Fish Habitat Compensation Plan to compensate for the loss of fish habitat resulting from the disposal of mine waste.

Providing this information during the impact assessment can reduce the time required for the regulatory amendment process under the MDMER; however, timing is determined by the Proponent.



Review of information and consultation

Following the submission of the Alternatives Assessment Report and the Fish Habitat Compensation Plan, ECCC, in collaboration with DFO, will review these documents against ECCC's Guidelines for the Assessment of Alternatives for Mine Waste Disposal, DFO's Policy for applying measures to offset adverse effects on fish and fish habitat under the *Fisheries Act*, and the requirements under subsection 27.1 of the MDMER. During this phase, additional information may be requested from the proponent.

Once the information requirements are complete for both documents, the proponent will participate in consultations (led by ECCC and supported by DFO) with impacted Indigenous communities and the public relative to the proposed listing of water bodies to Schedule 2 of the MDMER.

Treasury Board decision

The decision to list a water body to Schedule 2 of the MDMER is made by the Treasury Board, on the recommendation of the Minister.

ECCC prepares the file for the regulatory amendment that includes the regulatory text describing the water bodies (e.g., name and location) and the Regulatory Impact Analysis Statement (RIAS) which is an evidence-based, non-technical synthesis of expected impacts, positive and negative, of the proposed amendment to Schedule 2 of the MDMER. The RIAS is published in the *Canada Gazette* with the text of the proposed regulation.

If the proposed amendment is approved by the Treasury Board, it is published in Part I of the *Canada Gazette* for a 30-day public comment period. In some cases, the proposed amendment may meet conditions for exemption from publication in Part I of the *Canada Gazette*, and will be submitted to Treasury Board for publication in Part II of the *Canada Gazette*. This approach provides for a more efficient regulatory approval process for proposed amendments to Schedule 2 of the MDMER, and aims to shorten the approval time for publication in Part II of the *Canada Gazette*. A Schedule 2 amendment may be exempt from pre-publication in the *Canada Gazette*, Part I, if it meets the conditions outlined in the document [Streamlining the Approvals Process for Metal Mines with Tailings Impoundment Areas](#).

If the conditions for exemption from publication in Part I of the *Canada Gazette* are met, and the Treasury Board approves the exemption, the amendment to Schedule 2 of the MDMER will be published in Part II of the *Canada Gazette*.

If the conditions for exemption from publication in Part I of the *Canada Gazette* are not met, ECCC will publish the proposed amendments in the *Canada Gazette*, Part I, for a 30-day comment period. Following the end of the comment period, ECCC considers the comments in preparing the final regulatory package to make a final recommendation to the Treasury Board. If the regulatory amendment is approved by the Treasury Board, it becomes law on the day it is registered. The regulatory amendment and the Regulatory Impact Analysis Statement are then published in the *Canada Gazette*, Part II.

The regulatory amendment process generally requires a period of 12 to 18 months following the completion of the Schedule 2 consultations, depending on whether the Streamlining policy is applied.



4.2.3 References

Metal and Diamond Mining Effluent Regulations (SOR/2002-222)

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2002-222/FullText.html>

Streamlining the Approvals Process for Metal Mines with Tailings Impoundment Areas

<https://www.canada.ca/en/environment-climate-change/services/managing-pollution/sources-industry/mining-effluent/metal-diamond-mining-effluent/tailings-impoundment-areas/approvals-process-metal-mines-impoundment-areas.html>

Guide To The Regulatory Process For Listing Water Bodies Frequented By Fish In Schedule 2 Of The Metal And Diamond Mining Effluent Regulations

<https://www.canada.ca/en/environment-climate-change/services/managing-pollution/sources-industry/mining-effluent/metal-diamond-mining-effluent/tailings-impoundment-areas/guide-process-listing-water-bodies-fish-schedule-2.html>

Guidelines for the Assessment of Alternatives for Mine Waste Disposal

<https://www.canada.ca/en/environment-climate-change/services/managing-pollution/publications/guidelines-alternatives-mine-waste-disposal.html>

Policy for Applying Measures to Offset Adverse Effects on Fish and Fish Habitat

<https://dfo-mpo.gc.ca/pnw-ppe/reviews-revues/policies-politiques-eng.html>

4.2.4 Contact information

For more detailed guidance on this authorization, please contact the ECCC Mining and Processing Division:

Mining and Processing Division
Environmental Protection Branch
Environment and Climate Change Canada
351, St. Joseph Boulevard, 18th Floor
Gatineau, QC K1A 0H3
Email: mdmer-remmmd@ec.gc.ca



4.3. Approval of works under the *Canadian Navigable Waters Act*

4.3.1 Description

Transport Canada (TC) is the lead department for the administration of the CNWA, where the Minister of Transport is responsible for the approval of works that may interfere with navigation. The mandate of the CNWA is focused on assessing impacts of a work or project on navigation.

The CNWA requires work owners to comply with requirements of the Act for the protection of navigation on navigable waters. As per section 2 of the CNWA, a work includes (a) any structure, device or other thing, whether temporary or permanent, that is made by humans, including a structure, device or other thing used for the repair or maintenance of another work, and (b) any dumping of fill in any navigable water, or any excavation or dredging of materials from the bed of any navigable water. Examples of works are dams, bridges, weirs, causeways, aerial cables and ferry cables. Some of these works can also meet criteria listed of the designated physical activities project list of the Agency.

Prohibited activities

As per section 23(1) of the CNWA, it is prohibited to take any action that lowers the water level of a navigable water or any part of a navigable water to a level that extinguishes navigation for vessels of any class that navigate, or are likely to navigate, the navigable water in question. If the proponent plans to dewater a navigable waterbody, they must apply for a Governor In Council Exemption.

TC must determine navigability for the waterways within the footprint of a project that have proposed prohibited activities (dewatering or throwing/depositing). In order for TC to complete a navigation assessment in a timely and efficient manner, the department must develop a comprehensive understanding of its potential conduct in the project as early as possible. In determining whether a waterway is navigable, these questions are asked:

- What are the physical characteristics (e.g., size and depth)?
- Is it used for transport or travel for commercial or recreational purposes?
- Is it used for transport or travel by Indigenous peoples?
- Is it likely to be used in the future?
- Was it used in the past?
- Is there public access by land or water?
- Are there two or more waterfront owners?
- Is the Crown the only waterfront owner?

The proponent is responsible for providing the information to TC to facilitate the navigability assessment for any water bodies that have proposed prohibited activities. The proponent should note that Governor



in Council Exemption can potentially take one to two years and it is therefore critical that this information be provided to TC as soon as possible.

Major works and in any navigable water

As per subsection 5(1) of the CNWA, owners of major works that may interfere with navigation are required to apply to TC. The following classes of works established in the Major Works Order are designated as likely to substantially interfere with navigation on any navigable water:

- water control structures;
- bridges;
- ferry cables;
- causeways; and
- aquaculture facilities.

Works in navigable waters listed on the Schedule

A schedule of waterways is established under the CNWA to identify navigable waters where a proponent must apply to TC. As per paragraph 5(1)(b) of the CNWA, the owner of a work – other than a minor work – in, on, over, under, through or across any navigable water that is listed on the Schedule, which may interfere with navigation, must apply to TC.

Works in navigable waters not listed on the Schedule

The owner of a work – other than a major work or a minor work – in, on, over, under, through or across any navigable water that is not listed on the Schedule, which may interfere with navigation, has the option to either:

- apply to the Minister of Transport; or
- seek authorization through the public resolution process.

The owner of a work – other than a major work or a minor work – in, on, over, under, through or across any navigable water that is not listed on the Schedule, which is not likely to interfere with navigation, may proceed if:

- the work, or its construction, placement, alteration, rebuilding, removal or decommissioning, would not interfere with navigation; and
- the owner deposits information and publishes a public notice before beginning the construction, placement, alteration, rebuilding, removal or decommissioning of the work.



4.3.2 Regulatory Process

Application submission for works

There are different requirements for owners of works regarding approval, deposit of information and public notice depending on the type of work, and if the work is located on a navigable water listed on the Schedule. With any approval to TC, the owner is required to deposit information on the proposed work, and invite interested persons to provide written comments on the owner's proposal to the Minister within 30 days after publication of the notice, or within any other period specified by the Minister. For works that do not interfere with navigation, with the exception of designated minor works, the owner/proponent is required to deposit information and a public notice on TC's registry.

Application analysis and consultation

Before issuing an approval, the Navigation Protection Program is required by law to consider the following assessment factors:

- the characteristics of the navigable water in question;
- the safety of navigation in that navigable water;
- the current or anticipated navigation in that navigable water;
- the impact of the work on navigation, including as a result of its construction, placement, alteration, rebuilding, removal, decommissioning, repair, maintenance, operation or use;
- the impact of the work, in combination with other works, on navigation, if the Minister is provided with, or has in his or her possession, information relating to that cumulative impact;
- any Indigenous Knowledge that has been provided to the Minister;
- any comments that the Minister receives from interested persons within the period provided for under subsection 7(4);
- the record of compliance of the owner under CNWA; and
- any other information or factor that he or she considers relevant.

Regulatory decision

The Minister of Transport may issue a decision under the CNWA during the 90-day period following the Minister of Environment and Climate Change's decision relative to the impact assessment if the CNWA application is complete by the time the impact assessment completeness decision is taken.

The Minister of Transport issues terms and conditions with the approval of a work to mitigate navigation safety risks and protect the public right to navigation.

4.3.3 References

Canadian Navigable Waters Act

<https://www.tc.gc.ca/eng/canadian-navigable-waters-act.html>



Guide to the Navigation Protection Program's Notification, Application and Review Requirements
<https://tc.canada.ca/en/programs/guide-navigation-protection-program-s-notification-application-review-requirements>

Apply to the Navigation Protection Program
<https://tc.canada.ca/en/marine/apply-npp>

4.3.4 Contact information

For more detailed guidance on the CNWA approval process, please contact the Transport Canada regional office:

Navigation Protection Program
 Transport Canada
 801-1550, avenue d'Estimauville
 Québec, QC G1J 0C8
 Telephone: 1-877-646-6420
 Email: ppnque-nppque@tc.gc.ca

4.4. Permit under subsection 73(1) of the *Species at Risk Act*

4.4.1 Description

Permits are required by those persons conducting activities affecting wildlife species listed on Schedule 1 of SARA as extirpated, endangered, or threatened and which contravene SARA's general prohibitions where they are in force.

General prohibitions

Pursuant to sections 32 and 33 of SARA (general prohibitions), it is prohibited to:

- kill, harm, harass, capture or take an individual of a species listed under SARA as extirpated, endangered or threatened;
- possess, collect, buy, sell or trade an individual of a species listed under SARA as extirpated, endangered or threatened, or any part or derivative of such an individual; and
- damage or destroy the residence of one or more individuals of a listed endangered or threatened species or of a listed extirpated species if a recovery strategy has recommended its reintroduction into the wild in Canada.



The general prohibitions apply to federal species (migratory birds, as defined by the *Migratory Birds Convention Act, 1994*, and aquatic species covered by the *Fisheries Act*) everywhere in Canada and to other listed species where found on federal land.

Under sections 34 and 80 of SARA, general prohibitions may apply on lands other than federal lands for species that are not aquatic species or migratory birds protected under the *Migratory Birds Convention Act, 1994*.

Critical habitat prohibitions

Under subsections 58(1) and 61(1) of SARA, no person shall destroy any part of the critical habitat of any listed endangered species or of any listed threatened species — or of any listed extirpated species if a recovery strategy has recommended the reintroduction of the species into the wild in Canada.

These restrictions apply if they are triggered by a number of factors, including:

- the species is an aquatic species;
- the species is a migratory bird protected by the *Migratory Birds Convention Act, 1994*; and
- the critical habitat (for species that are not aquatic species or migratory bird species) is on federal land, in the exclusive economic zone of Canada or on the continental shelf of Canada.

Under section 61 of SARA, restrictions relative to critical habitat may apply on non-federal lands under an Order in Council

Applicable situations

Under section 73, the competent minister may enter into an agreement or issue a permit authorizing a person to engage in an activity affecting any listed endangered, threatened or extirpated species, any part of its critical habitat, or the residences of its individuals, if the proposed activity falls under one or more of the following purposes:

- The activity is scientific research relating to the conservation of the species and conducted by qualified persons;
- The activity benefits the species or is required to enhance its chance of survival in the wild;
- Affecting the species is incidental to the carrying out of the activity.

Responsibilities

Responsibility for implementing SARA lies with the Ministers responsible for DFO, Parks Canada Agency (PCA) and ECCC.

- DFO is responsible for considering permit applications with respect to aquatic species (as defined by SARA), other than individuals of species in the waters situated on federal lands administered by the PCA. An “aquatic species” under SARA includes:
 - fish, shellfish, crustaceans and marine animals including any parts thereof;
 - all of their life stages, such as eggs, sperm, spawn, larvae, spat and juvenile stages of fish; and



- marine plants, including all benthic and detached algae, marine flowering plants, brown algae, red algae, green algae and phytoplankton.
- PCA is responsible for considering permit applications with respect to individuals in or on federal lands administered by PCA, including aquatic species (as defined by SARA) as well as terrestrial species.
- ECCC is responsible for considering permit applications with respect to all individuals that are not under the responsibility of PCA or DFO. This includes all terrestrial species on federal land and any land affected by a protection order issued under SARA, and for migratory birds wherever they are found.

If a competent department issues an authorization, licence or permit under another federal Act, authorizing a person or organization to engage in an activity affecting a listed wildlife species, any part of its critical habitat or the residences of its individuals, this authorization, licence or permit can act as a SARA permit, provided that the pre-conditions described under subsection 73(3) of SARA are met

4.4.2 Regulatory Process

Proponents must submit an application to the DFO, ECCC or PCA Regional Office in a manner and form satisfactory to these organizations.

Application submission for an aquatic species at risk

To seek a permit under SARA from DFO, the proponent must submit an application to the relevant regional office of the Fish and Fish Habitat Protection Program (refer to section 4.1.4 for contact information). The timing of when the application is submitted is determined by the proponent. If the proponent is also seeking a *Fisheries Act* authorization, the process to apply for a SARA permit can be combined with the process to seek a *Fisheries Act* authorization.

Application submission for a terrestrial species at risk

To obtain a permit from ECCC, proponents must submit an application using the Species at Risk Permit System found on the [Species at Risk Public Registry](#) and provide the required information detailed in the application.

Application analysis and consultation

An analysis of the application is conducted by ECCC, PCA, or DFO upon receipt of the application, although there may be occasions when the competent minister will require additional information. A focus of the analysis is on how the application meets the pre-conditions listed under subsection 73(3). Authorizations may be issued only if the competent minister is of the opinion that all three of the following pre-conditions are met:

- 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;
- The activity will not jeopardize the survival or recovery of the species.

During this analysis stage, and before the regulatory decision, ECCC, PCA or DFO may undertake additional Indigenous consultations, as required under subsections 73(4) and 73(5) or SARA.

Regulatory Decision

The *Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations* specify that the competent minister must issue a permit or notify the applicant that the permit has been refused within 90 days following the receipt of the application. This time limit is suspended if the application is incomplete and the applicant is notified. The time limit suspension ends when all the information is received from the applicant.

- The Regulations also specify that the 90-day time limit does not apply in the following circumstances:
- Additional consultations are necessary, including consultations with wildlife management boards and bands under the Indian Act which are required by subs. 73(4) and 73(5) of SARA;
- Another Act of Parliament or land claims agreement requires that a decision be made before the competent minister issues or refuses to issue a permit;
- The terms and conditions of a permit previously issued to the applicant have not been met;
- The applicant requests or agrees that the time limit not apply;
- The activity described in the permit application is modified before the permit is issued or refused.

For activities requiring a decision under the Impact Assessment Act (IAA), permit applications are not subject to the 90-day timeline because another Act of Parliament requires that a decision be made before the competent minister issues or refuses to issue a SARA permit. These applications can be reviewed concurrently with the impact assessment to facilitate alignment of the authorization securing processes.

If fauna and flora surveys are necessary to obtain more baseline information about SARA listed species at risk that may be impacted by a project, SARA permits may be required if these surveys affect individuals of species, their residence or critical habitat (for example, if they require capture, handling, fencing, baiting, disturbing of normal behaviour, etc.). Permit applications for these fauna and flora surveys would be subject to the 90-day timeline.

It is the proponent's responsibility to identify and carry out all species at risk surveys necessary to support the permit application and review, and to monitor for additional species being listed during the planning of their Project. Proponents are invited to consult early with the Canadian Wildlife Service on survey plans.

4.4.3 References

Species at Risk Act (S.C. 2002, c. 29)

<https://laws-lois.justice.gc.ca/eng/acts/S-15.3/>



Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2013-140/index.html>

Permitting for aquatic species at risk under SARA

<https://www.dfo-mpo.gc.ca/species-especes/sara-lep/permits-permis/index-eng.html>

Permitting for terrestrial species at risk under SARA

<https://wildlife-species.canada.ca/SPLEP-SARAPS/index.cfm?fuseaction=home.main&>

Species at Risk Public Registry

<https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry.html>

Guidelines for permitting under Section 73 of SARA

<https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry/policies-guidelines/permitting-under-section-73.html>

4.4.4 Contact Information

For more detailed guidance on permits for aquatic species at risk, please contact the DFO regional office in Quebec:

Fish and Fish Habitat Protection Program

Fisheries and Oceans Canada

P. O. Box 1000

Mont-Joli, QC G5H 3Z4

Telephone: 1-877-722-4828

Email: habitat-qc@dfo-mpo.gc.ca

For more detailed guidance on permits for terrestrial species at risk, please contact the Canadian Wildlife Service regional office:

Canadian Wildlife Service

Environment and Climate Change Canada

801-1550, avenue d'Estimauville

Québec, QC G1J 0C3

Telephone: 418-648-4663

Email: permislep.qc@ec.gc.ca



4.5. Licences for explosive factories and magazines under subsection 7(1) of the *Explosives Act*

4.5.1 Description

These licences are the responsibility of Natural Resources Canada (NRCan).

Under section 6 of the *Explosives Act*, it is prohibited to make or manufacture any explosive, either wholly or in part, except in a licensed factory or to store any explosive in a magazine that is not a licensed magazine. Under subsection 7(1)(a), however, the Minister of Natural Resources may issue licences for factories and magazines.

The Minister may make any licence, permit or certificate referred to in subsection 7(1) subject to any term or condition, in addition to those prescribed by the regulations, that the Minister considers necessary for the safety of any person or property, including, without limiting the generality of the foregoing, compliance with security or safety standards in respect of any factory or magazine or any class thereof that are supplementary to but not inconsistent with those provided for under paragraph 5 (g.1).

To produce explosives and have bulk explosives delivered, a company must operate under either a licence or a certificate. Depending on a project's explosives supply requirements and, in some cases, the proximity of existing licenced factories, an explosive supplier may apply for Division 1 factory licences (factory with or without a wash bay) or Division 2 manufacturing certificates. Part 5 of the *Explosives Regulations, 2013* indicates how to obtain a factory licence or manufacturing certificate and sets out the requirements for manufacturing explosives and how 'manufacturing' is defined.

Division 1: Factory licences and satellite site certificates

Division 1 factory licences are issued for the operation of three types of facilities: factory with wash bay, factory without wash bay and factory with temporary structures. A factory with a wash bay may be used for ANFO bagging, emulsion manufacturing and cartridging of emulsion and has, as a base of operations, all the capabilities necessary to clean, decontaminate and repair mobile process units.

Operations allowed at a factory with a wash bay include storing of mobile process units, storing of explosives (bulk and non-bulk), storing of raw materials and the transfer of explosives and raw materials (e.g. ammonium nitrate prill). A 'client site' means a blast site at which a mobile process unit is used to manufacture explosives (e.g. mixing or blending into a borehole) away from a factory or satellite site.

Most open-pit mine developments include the construction and operation of on-site factories with wash bays given distance from existing factories and longer-term higher explosives supply requirements.

Such facilities, typically emulsion plants, may include a bay for the loading of mobile processing units, fuel phase and ammonium nitrate solution tanks and silos or seacans storing prill.



A factory with temporary structures may move with the construction of roads or pipelines, or be in a fixed location for a short duration for other construction projects (e.g., hydroelectric power development). Such sites must be supported by existing, licensed factories equipped to properly service the mobile process units located at this type of factory. Factory licences are renewed for one term only or a maximum of two years. In the case of some mine developments, a factory with temporary structures may proceed the construction of a permanent factory.

Satellite sites certificates are issued for occasional and temporary sites allowing the storage and transfer of explosives and raw material. The sites can store up to two mobile process units, the placement of not more than two tankers or vessels (total maximum capacity of 40,000 kg) for the storage of water-based explosives and one storage facility (silos, tankers, designated area) for ammonium nitrate.

Division 2: Manufacturing certificates

Certificates for the blending of ANFO by mechanical means are granted to the owners of mines or quarries producing ANFO at a blast site. The blending is usually done on a mobile process unit with the ANFO discharged directly into a borehole at a specified location, mine or quarry owned by the company to which the licence or certificate is issued.

Magazine licences

NRCan issues different types of licences for explosives magazines including User, User Zone and Vendor licences.

Magazines may also be licenced as part of a factory. Part 6 of the *Explosives Regulation, 2013* indicates how to obtain a magazine licence and sets out the requirements for storing explosives in a licensed magazine.

In most jurisdictions, magazines located at mine sites and quarries are authorized by provincial or territorial agencies.

4.5.2 Regulatory Process

Application submission

Applications for factory licences and certificates are submitted to the Explosives Regulatory Division's Electronic Licence Management System through NRCan eServices Portal (hyperlink in section 4.5.3).

In the case of factory licences, applications must include, several types of plans or drawings are required including area plan, site plan, building layout, process schematics, and piping, instrumentation and equipment layout drawings. Area plan and detailed site plan show the location of the factory site and any neighbouring vulnerable features or hazardous facilities.

Explosives quantity-distance limits are specified in guidelines for bulk explosives and site plans must include information such as distances between explosive operations, including washing/maintenance facilities, AN storage, fuel storage, and magazines; and distances to roads and public thoroughfares,



operating pits, mine facilities, and offices/accommodation complexes. In addition, a licence application must be supported by spill contingency, emergency response, security and site evacuation plan together with other documents (e.g. operating procedures).

Application analysis and Indigenous consultation

Applications are reviewed by the Explosives Regulatory Division to ensure that they are complete with all the necessary plans to conform with regulations and guidelines. Division inspectors will request additional information and revisions when there are deficiencies or errors in the applications and supporting information. Licences for factories associated with major projects are usually issued to companies contracted to provide explosives supply and related services.

NRCan (Explosives Safety and Security Branch) will engage Indigenous groups once an application is received to determine if there are concerns, questions or requests for more information.

If consultation on a licence is requested, NRCan will involve the licence applicant in the process. Although basic information about explosives manufacturing and storage facilities is provided and reviewed during impact assessment processes, licence applicants can provide more detailed information for consultation with Indigenous groups including construction plans and operating procedures for the safe and secure operation of explosives facilities.

Regulatory decision

NRCan issues factory licences (with or without a wash bay) within 60 days following receipt of a complete application or, for certificates and other licences, within 30 days.

4.5.3 References

Explosives Act (R.S.C. [1985], c. E-17)

<https://laws-lois.justice.gc.ca/eng/acts/E-17/index.html>

Explosives Regulations, 2013 (SOR/2013-211)

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2013-211/page-1.html>

NRCan eServices Portal

<https://eservices.nrcan-rncan.gc.ca/web/epp-ppe/login-connexion?goto=https%3A%2F%2Feservices.nrcan-rncan.gc.ca%2Fpriv%2Fhome-accueil%3Freset%3Dtrue>

Application forms for licences and certificates

<https://www.nrcan.gc.ca/science-data/research-centres-labs/canmetcerl-explosives-lab/safety-security-technology/explosives-forms/9939>

Guidelines for Bulk Explosives Facilities

<https://www.nrcan.gc.ca/explosives/resources/guidelines/9925>



4.5.4 Contact information

For more detailed guidance, please contact the NRCan's Explosives Regulatory Division in Ottawa:

Explosives Regulatory Division
Explosives Safety and Security Branch
Natural Resources Canada
588, Booth Street
Ottawa, ON K1A 0E4
Email: NRCan.erd_central_region_centrale_dre.RNCan@canada.ca

5. Interpretation

This permitting plan is not a legal document and does not change any existing federal, provincial, or Indigenous legislative or regulatory jurisdiction, right, power, privilege, prerogative or immunity by virtue, nor does it create any new legal powers, duties or legally binding obligations.

6. Contact Information

The Agency office designated for administering the impact assessment of the project is:

Troilus Mining Project
Impact Assessment Agency of Canada
Quebec Regional Office
901-1550, avenue d'Estimauville
Québec, QC G1J 0C1
Telephone: 418-649-6444
Email: troilus@iaac-aeic.gc.ca

If you wish to contact the Cree Nation Government regarding the impact assessment of the Troilus Mining Project, please contact:

Graeme Morin, Environmental and Social Assessment Coordinator
Cree Nation Government
700 de la Gauchetière Ouest - Suite 1600
Montréal, QC H3B 4L5
Telephone: 514-861-5837
Email: graeme.morin@cngov.ca
Web page: www.cngov.ca