



Arctic Region
Fish and Fish Habitat Protection Program
Yellowknife, Northwest Territories
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Région de l'Arctique
Programme de protection du poisson et de son habitat
Yellowknife, Territoires du Nord-Ouest
301-5204 50th Ave. (Franklin)
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May 8, 2024

Our file Notre référence
23-HCAA-02742

Catherine Fairbairn
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Mackenzie Valley Review Board
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Subject: Response to a notification pursuant to ss.79 (1) of the *Species at Risk Act*.

Dear Catherine Fairbairn:

The Fish and Fish Habitat Protection Program (the Program) of Fisheries and Oceans Canada (DFO) received your letter dated March 28, 2024 pursuant to ss. 79(1) of the *Species at Risk Act* (SARA) in the context of the Mackenzie Valley Highway Project (the Project).

Species at Risk

The letter indicates the following fish species are at risk or of conservation concern in the regional study area of the Project:

- Bull Trout (*Salvelinus confluentus*, Western Arctic population)
- Dolly Varden (*Salvelinus malma malma*, Western Arctic population)

Both species are currently listed as special concern under Schedule 1 of SARA. The Program notes that Bull Trout (Western Arctic population) are currently under reassessment by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), and it is possible the species will be listed as Threatened as early as 2025.

The Program confirms no other fish species currently merit special consideration during this environmental assessment.

Prohibitions and permits

Sections 32, 33, and subsection 58(1) of SARA prohibit effects to aquatic species at risk listed as threatened, endangered or extirpated on Schedule 1 of SARA, any part of their critical habitat or the residences of their individuals. Under section 73 of SARA, the

competent minister may enter into an agreement or issue a permit authorizing a person to conduct activities that may cause prohibited effects. Under subsection 73(2) of SARA, permits may only be issued 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; or
- affecting the species is incidental to the carrying out of the activity.

As well, the competent minister must be of the opinion that all three of the following 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.

If a project is carried out, measures consistent with applicable recovery strategies or action plans must be taken to avoid or lessen and monitor prohibited effects. Available recovery strategies and action plans can be found on the SARA Public Registry (<https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry/recovery-strategies.html>). Where they are not available, proponents are advised to consult COSEWIC assessments, provincial and territorial recovery documents, peer reviewed literature, management plans for species of special concern and species experts, as appropriate.

For more information on SARA permitting for projects in areas where aquatic species at risk are present, please consult the following website: <https://www.dfo-mpo.gc.ca/species-especies/sara-lep/permits-permis/index-eng.html#apply>.

DFO's role during an Environmental Assessment

DFO serves as a competent minister within a federal environmental assessment conducted under the various enabling legislations throughout Canada, including the *Mackenzie Valley Resource Management Act*. The Program serves as the lead and coordinates all of DFO's participation in environmental assessments. DFO's role is to provide technical advice and support (in this case to the Mackenzie Valley Review Board) in addressing s. 79 of SARA and the federal environmental assessment requirements.

If you have any questions with the content of this letter, please contact Tatiana Leclerc-Beaulieu by e-mail at Tatiana.Leclerc-Beaulieu@dfo-mpo.gc.ca. Please refer to the file number referenced above when corresponding with the Program.

Yours sincerely,



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