Final Response

August 27, 2019

Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act, 2015 - FLR-73/2019

On July 29, 2019, the Department of Fisheries and Land Resources (FLR) received your request for access to the following records:

“I am requesting copies of response letters / emails / communications - to an email sent out from Eric Watton to various Government Department Representatives acting as or on behalf of the "EA Screening Committee" regarding a Project titled "Marathon Gold Project" "Proponent: Marathon Gold Corporation" with a heading "Re: Registration 2015". This email was sent out to members of the EA Screening Committee on April 16-2019 with a form to be filled out and returned to EAPrjectComments@gov.nl.ca by May 07-2019.”

Please be advised that a decision has been made by the Deputy Minister for FLR to provide access to the requested information. Redactions have been made under Section 29 – Policy Advice or Recommendations of the Access to Information Protection of Privacy Act, 2015. You will find a copy of responsive material attached.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the Act (a copy of this section of the Act has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P.O. Box 13004, Stn. A
St. John’s, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section of the Act has been enclosed for your reference).
Please be advised that this letter will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Office of Public Engagement's website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact me by telephone at 709-637-2354 or by email at Lisaneville@gov.nl.ca.

Sincerely,

Lisa Neville
ATIPP Coordinator

Right of access

8. (1) A person who makes a request under section 11 has a right of access to a record in the custody or under the control of a public body, including a record containing personal information about the applicant.

(2) The right of access to a record does not extend to information excepted from disclosure under this Act, but if it is reasonable to sever that information from the record, an applicant has a right of access to the remainder of the record.

(3) The right of access to a record may be subject to the payment, under section 25, of the costs of reproduction, shipping and locating a record.

Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.
(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

**Direct appeal to Trial Division by an applicant**

**52.** (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner’s refusal under subsection 45 (2).
Sent.

Kim Whittle
Clerk Typist III
Aquatic Animal Health Division
Fisheries and Land Resources
709-729-0387

From: Whittle, Kimberly
Sent: Wednesday, May 29, 2019 9:39 AM
To: Watton, Eric <ericwatton@gov.nl.ca>
Subject: EA2015 Opinion Request Form

Please see attached EA2015 ORF and FLR comments.

Thanks

Kim Whittle
Clerk Typist III
Aquatic Animal Health Division
Fisheries and Land Resources
709-729-0387

From: 020891@gov.nl.ca <020891@gov.nl.ca>
Sent: Wednesday, May 29, 2019 9:26 AM
To: Whittle, Kimberly <KimberlyWhittle@gov.nl.ca>
Subject: Message from 020891
OPINION REQUEST FORM

DATE (yyyy/mm/dd): 2019 / 05 / 22

NAME & AGENCY:
Krista Connolly
Fisheries and Land Resources

RE: Valentine Gold Project
BY: Marathon Gold Corporation
AT: 55 km southwest of Millertown, Central Newfoundland

Please check one of the following: (Record comments on attached sheet)

☐ a) An Environmental Impact Statement is recommended.
☐ b) An Environmental Impact statement may be required and an Environmental Preview Report is recommended.
☐ c) The Undertaking may be released from environmental assessment.
☒ d) Recommend undertaking be rejected due to unacceptable effects.

ENVIRONMENTAL ASSESSMENT COMMITTEE NOMINATION:

Please complete the appropriate section:

☐ 1) I nominate Kirsten Miller to represent this department on an Assessment Committee if one is needed.
I also nominate Blair Adams as an alternate in the event that the above nominee is unavailable.

☐ 2) I do not think it is necessary for this Department to be represented in this case and therefore will make no nominations.

Screening Representative: Krista Connolly
Deputy Minister:

NOTE: OPINION IS DUE ON May 7, 2019
EA 2015 - Valentine Gold Project

**Fisheries and Aquaculture Branch:**
No concerns.

**Agriculture:**
No concerns.

**Crown Lands:**
No concerns.

**Land Management:**

Land Management has NO Concerns with this EA Submission, however, as noted in the document there are Crown titles for cottages and outfitters in the area. There are likely more applications for cottages, trails and other recreational uses. The proponent should contact the Crown Lands Regional offices in Gander and Corner Brook (1-833-891-3249) for up to date details on current and future land use pressures.

1. **What are your agency’s regulatory requirements relevant to this proposal?**

**Forestry and Wildlife Branch:**
Newfoundland and Labrador Endangered Species Act (NLESA). Section 16 (1) of NLESA states, "A person shall not disturb, harass, injure, or kill an individual of a species designated as threatened, endangered, or extirpated".

Applicants are advised to operate under established legislation and regulations, such as to prevent harassment of wildlife (Section 106 of the Wild Life Regulations under the Wild Life Act) and guidance with respect to wildlife and their habitats (e.g. nesting birds, caribou, waterfowl, wetlands, inland fish, rare plants, riparian species) to avoid or minimize adverse impacts.

2. **Provide details of any additional information that you require on the proposal and/or the environmental planning of the proposal.**

**Natural Areas:**
Land Management Division advises that more information is required regarding the alternative access road that the proponent notes they are currently investigating. The registration document states "we are investigating using a different Crown road that is currently being extended towards the project area for forestry access. This alternative road will be a shorter, less winding road passing less cabins and overall a better road for the project. Marathon will continue consultation with the provincial government to determine if this alternative site access road can be used for the project." Natural Areas Program is unable to make a recommendation on this registration in absence of this information. We request that the proponent provide detailed information about the location of this alternate road location.

**Forestry and Wildlife Branch:**
The Forestry and Wildlife Branch
Caribou

Island of Newfoundland (NF) caribou have been assessed as "Special Concern" (2014) by COSEWIC but are not listed under the Newfoundland and Labrador Endangered Species Act (NLESA). Reassessment of Newfoundland caribou will occur in 2024.

Provincially, the species continues to be of significant conservation concern for the province, with the Island population declining from a peak of 93K (mid 1990's) to just over 30K today. Some optimism for population stability has been identified, including a recent survey of the South Coast Herds (Mine site location) suggesting no net population loss between the three year survey interval (Table 1).

Table 1: South Coast Caribou Population Estimates

<table>
<thead>
<tr>
<th>Survey Year</th>
<th>La Poile</th>
<th>Buchans</th>
<th>Grey R.</th>
<th>Gaff T.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>5,612</td>
<td>4,476</td>
<td>1,223</td>
<td>2,183</td>
</tr>
<tr>
<td>2011</td>
<td>4,197</td>
<td>4,651</td>
<td>2,133</td>
<td>1,890</td>
</tr>
<tr>
<td>2016</td>
<td>3,304</td>
<td>4,149</td>
<td>1,945</td>
<td>1,688</td>
</tr>
<tr>
<td>2019</td>
<td>3,154</td>
<td>4,112</td>
<td>2,022</td>
<td>1,824</td>
</tr>
</tbody>
</table>

The Valentine Lake mining site interacts with these herds, specifically the Buchans, Grey River, Gaff Topsails, and La Poile herds. Collectively, these herds contribute 36.3% of the total estimated caribou population existing on the Island of Newfoundland.

The mine site area, power line construction, and access road upgrades/traffic must be considered in a cumulative manner to assess the environmental impacts of this project. Their collective footprint and associated disturbances (habitat loss, noise, activity, dust, habitat disturbances, and vehicular traffic) are also cumulative to other large scale industrial developments (primarily hydroelectricity at Star Lake, Red Indian Lake, Victoria Lake, Granite Lake and Mel peg Lake) impacting the landscape for caribou in the region. For the purpose of these comments each herd is assessed individually as annual occupancy of the Valentine Gold Mine site varies for each of the 4 potentially impacted herds:

Buchans Herd

The Buchans Caribou herd is currently estimated at approximate 4,112 individuals and contributes 13.4% of the total estimated caribou population on the Island of Newfoundland. This herd has declined from a peak of 9,834 (1994).
The Buchans herd winters in habitats south of Granite Lake and returns to the Buchans plateau for the calving, post-calving and summer/fall periods (Figure 1).
Figure 1: Buchans Caribou Locations

The migration route between winter and summer periods for this herd is directly in the path of the Valentine Gold Mine site (Figure 2). Historical and current collar data supports the continued use of this corridor and to a high degree is the only migration corridor identified for the herd. The proposed mine site (10 km) is perpendicular to the corridor and the corridor itself is located directly in the path of the largest gold deposit identified.
Caribou are known to avoid industrial mining activities. A study on the Lapoile Caribou Herd, during the development and operations of the Hope Brook Mine documented a post development avoidance distribution of up to 10 km with significant avoidance within the 3 km range. Assuming similar reactions, a lack of alternate migration corridors, and the significance of migration disturbances, relative to general distribution, the potential impacts to the Buchans Caribou herd is potentially severe. Within the general vicinity of the site, migration is limited to the west by Victoria Lake, (previously flooded) and to the east by waterbodies, forest access road development, a proposed transmission line to service the site and an upgraded increased traffic haul road.

**Grey River Herd**
The Grey River Caribou Herd is currently estimated at approximate 2,022 individuals and presently contributes to 6.6% of the total estimated caribou population on the Island of Newfoundland. This herd has declined from a peak of 11,225 (1997).
The Grey River herd generally winters in habitats south of Granite Lake and occupies a wide distribution of south coast areas, including the Valentine Lake area during spring/summer and fall. The herd occupies habitats within the proposed mine site and within a 10 km range of the site (Figure 3). The region is most utilized for the spring pre- and post-calving period and during the fall. The proportion of the herd near the site will vary annually.
Figure 3: Grey River Caribou Locations

Gaff Topsails Herd

The Topsails Caribou herd is currently estimated at approximate 1,824 individuals and contributes 6.0% of the total estimated caribou population on the Island of Newfoundland. This herd has declined from a peak of 5980 (1989). The herd utilizes a wide range of winter habitats; including the Topsails, as far east as the TCH near Badger, the Buchan’s area and south of Melpeg Lake. The herd, regardless of individual selection for wintering areas returns to the Topsails plateau for the calving, post-calving and summer/fall periods. Migration to wintering habitats occurs from late fall to early winter.
The migration route between winter and spring/summer/fall seasons, for that component of the herd overwintering in the southern portion of the range, is similar to the route chosen by the Buchans Herd in vicinity of the Valentine Gold Mine site. However, unlike the Buchan’s herd it appears only a portion of the Topsails herd utilizes this migration route. The proportion of the herd (variability exists within individuals and within years) that travels via this route is not clearly understood. However, for the proportion of the Topsails herd that do travel via this route, the proposed mine site (10 km) is perpendicular to the corridor and the corridor itself is located in the path of the largest gold deposit identified (Figure 4). These features pose significant obstacles to migration.
Lapoile Caribou Herd

The Lapoile Caribou Herd Caribou Herd is currently estimated at approximate 3,154 individuals and presently contributes to 10.3% of the total estimated caribou population on the Island of Newfoundland. The herd peaked at 10,565 (1997) and continues to exhibit population demographics contributing to continued decline.
This herd generally winters in habitats east of Lapoile Bay, south of Granite Lake and West of St. Albans. The herd occupies habitats within the proposed mine site and within a 10 km range of the site (Figure 5). The region is most utilized for the spring pre- and post-calving period. The proportion of the herd near the site will vary annually. The herd does not appear to overlap the transmission line or the road upgrade.
Species at Risk

Marten:
Newfoundland Marten are listed as Threatened under the NLESA. The mine site area is contained within critical/core habitat for marten and observations have been confirmed within and outside core areas.

The species is also listed under the Federal Species at Risk Act (SARA) and Critical Habitat for the species has been designated, under this Act, in the project area.

Marten habitat will be lost as a result of development of this project.

Avian Species:
Avifauna studies, carried out by Stantec Consulting Limited in 2014 on behalf of Marathon Gold, have reported that 3 provincially listed birds under the NLESA: Rusty Blackbird, Olive-sided Flycatcher, and Common Nighthawk were found in the vicinity of the project area. In addition, 3 other provincially listed species: Gray-cheeked Thrush, Red Crossbill, and Short-eared Owl may occur in the project area as suitable habitat was found there (Stantec 2014). All of these species, except Gray-cheeked Thrush, have also been listed under SARA.
Bats:
Two native bat species are suspected to use the mature mixedwood forests in the project area. Little brown bat and Northern bat have been assessed by COSEWIC as Endangered, are listed under the federal Species at Risk Act, and are currently being considered for listing under the provincial Endangered Species Act.

Conservation concerns for these species have increased with the recent (2017) arrival of White-nose Syndrome on the Island of Newfoundland; this non-native fungal disease has decimated bat populations throughout the Maritime provinces and the eastern U.S. where infected overwintering populations have declined by 90 to 99 percent.

An overwintering site (i.e. hibernaculum) for both bat species is known to occur within approximately 12 kilometers of the identified Project Development Area and the Department’s understanding of any other potential overwintering habitat in this area is limited.

Both species of bats are expected to use nearby habitats during spring/summer months given the apparent suitability of habitat in the project area and based on multiple reports of bats roosting in cabins surrounding nearby Red Indian Lake.

Sensitive Waterfowl Area

The project area is located within the Victoria Steadies Sensitive Waterfowl Area. This area is known as one of the islands most important breeding and nesting habitats for a wide variety of waterfowl species, including Canada Geese, American Black Duck, Green-winged Teal, Red-breasted Merganser, Common Merganser, Ring-necked Duck, Northern Pintail, and American Wigeon. The area also consists of prime staging habitat which provides a rich food supply for waterfowl, as well as other avian species, including Common Loon, Greater Yellowlegs, Common Snipe, Least Sandpiper, and Osprey.

The Migratory Birds Convention Act, 1994, Migratory Bird Regulations, Wild Life Act and Wildlife Regulations protect birds and prohibit the disturbance or destruction of bird nests and eggs in Newfoundland & Labrador.

Aquatic Habitat

A portion of the projects footprint falls within the Exploits River drainage. In insular Newfoundland the Exploits is the largest watershed and contains a substantial wild Atlantic salmon population. Newfoundland and Labrador’s salmon population has declined by 45 per cent since 2015, according to an Atlantic Salmon Federation report.

The effects of the project on the water bodies (wetlands, streams, ponds, etc.), fish and fish habitat in the project footprint and the surrounding areas is unknown and the included Fish and Fish Habitat Baseline Study conducted by Stantec 2012, provides little quantitative information to accurately assess these interactions.

Heavy Metal Contamination:
The project carries a risk of heavy metals, such as cyanide which will be used in the gold extraction process and stored in a tailings pond, leaking into the waterways in the area. This would result in mortality of numerous aquatic species including invertebrates which are an important component of a functioning ecosystem.
Botanical Considerations:
To date, there have not been sufficient flora, moss or lichen surveys completed in the proposed region to assess potential impacts of development.

Furbearers
While there are no significant concerns for most of the furbearers on the island, trapper opinion surveys state that muskrat populations have steeply declined since the late 1990's. In Eastern North America, trappers have reported a 75% decline in populations since 1986 (see Summary 5 below). To date, the cause of the decline has not been determined.

Given the lack of muskrat survey data for this area, we are unable to ascertain whether the development will have a negative impact on them or not.

3. Does your agency require that the proponent conduct original environmental or impact research before proceeding with this proposal? If so, provide details.

4. Additional comments based on your experience and expertise, but not directly related to your agency's mandate.

The Atlantic salmon has a social, cultural and economic value and special attention should be paid to ensure the habitat of the river is maintained. Additionally, the other major drainage to be affected is the Jeddore Lake watershed which flows into Bay D'Espoir. The Jeddore Lake watershed is also very large and its outflow ends near the site of the largest Atlantic salmon Aquaculture development.