

Federal Authority Advice Record (FAAR)

FAAR Response must be submitted by January 22, 2026

Mihta Askiy Data Center Project – Cree Ative Datacenter Corp GP

Registry File: 90036

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1. Will your department or agency exercise a **power, perform a duty or function**, or provide **financial assistance**, related to the project to enable it to be carried out in whole or in part?

As relevant,

- a) Specify the power, duty or function, or financial assistance, and the likelihood that it will be required to construct the project, based on the Initial Project Description, as either Required, Potential, Likely, Unlikely or Not Required

There is **potential** that Transport Canada may be required to exercise a power or perform a duty or function with respect to the *Canadian Navigable Waters Act* (CNWA). However, Transport Canada requires further detailed project information to confirm if the Department would be required to issue a CNWA approval to enable the project to proceed.

Details on possible CNWA requirements for the project follow below:

- Waterways that are not navigable are not regulated by the CNWA. As such, any works in, on, over, under, through or across non-navigable waterways do not require a CNWA approval.
- Works listed on the Major Works Order that are proposed in, on, over, under, through or across navigable waterways definitively require an approval under the CNWA as they have been determined to interfere with navigation.
- Works on a navigable waterway that meet all the applicable requirements of the Minor Works Order do not require approval under the CNWA. Works listed in the Minor Works Order are considered likely to only slightly interfere with navigation. An example of a work listed in the Minor Works Order that may be required for the project is a water intake.
- If a work in, on, over, under, through or across a navigable non-scheduled waterway and is not a major work or does not meet the requirements of the Minor Works Order, the proponent has two options:
 - Option 1 - Voluntarily apply to Transport Canada for an approval under the CNWA; or
 - Option 2 - Proceed under the CNWA's public resolution process which involves depositing information in the online registry through a Notification of Work and publishing a notice of a 30-day public comment period. The proponent and the commenter have 45 days to resolve any navigation-related concerns. If the concerns are resolved, the proponent may proceed with the work.

- Where the resolution process is unsuccessful, or with a voluntary application for approval from the owner, Transport Canada will review the work for approval.

b) Describe any associated Indigenous or public consultation, including timelines

Following from above, works that meet the requirements of the Minor Works Order do not require approval from Transport Canada and in turn do not require public and/or Indigenous consultation by Transport Canada. Notices of minor works are required to be published on the Common Project Search site (<https://common-project-search.canada.ca/>.) However, the publication/notice is informative only and the public cannot comment on such projects.

If the work is not a minor or major work and the proponent chooses Option #1 to voluntarily apply for approval under the CNWA, then public and Indigenous consultation would be required. This would commence after Transport Canada received the application for approval.

If the work is not a minor or major work and the proponent chooses Option #2 of going through the public resolution process, then Transport Canada is not required to undertake public and/or Indigenous consultation. If the public resolution process is unsuccessful, consultation may be required as part of the CNWA approval process.

Public notice and Indigenous consultation are required for an application for approval of a major work.

Note that if the project is designated under the IAA by the Minister of the Environment and Transport Canada is a federal authority, then the Department would participate in the “whole of government” Indigenous consultation led by the IAAC. Transport Canada would use the results of the “whole of government” consultation to fulfil its own consultation responsibilities associated with the later review of an application for a CNWA approval.

c) Describe any associated information requirements (e.g., alternative means assessment, habitat offsetting), and specify those that may be coordinated with the impact assessment process, if an impact assessment is required

As discussed above, there is not yet enough information to determine the project’s adverse impacts to navigation, if any.

The information Transport Canada requires prior to determining or providing advice on the project’s impacts to navigation includes:

- The proponent’s self-assessment of whether waterbodies where project works are proposed (e.g. water intake or outfall) are navigable.
- Construction methodology for both the proposed work and any associated temporary works.
- Clear information on the ownership of the riparian property. TC recommends a map overlaying the land title information with the satellite view of the water body. If there are multiple riparian owners, information on usage of the water body is required.
- If a watercourse crossing is required, construction details of the crossing.
- The locations of all project works, such as water intakes, culverts, and bridges. For any watercourse crossings, details about the size and crossing type will be required to conduct navigational assessments.
- Details of the existing infrastructure (location, project date, project methodology, NPP file number for existing infrastructure) proposed for use according to the Initial Project Description.

- Proposed operational/management plan related to the works. As an example, for water intakes, the timing and volumes of water withdrawal and resulting impacts to water levels and navigation.
- Potential cumulative impacts to navigation in conjunction with surrounding works (e.g. water intakes, bridges, diversions, transmission lines, pipelines) in the regional study area as defined by the Impact Assessment Agency.

Transport Canada encourages owners of proposed works, subject to the CNWA, to solicit navigation related comments and concerns from the public and Indigenous users during the impact assessment or public outreach phase. Providing these comments and concerns to the Department can help inform the Navigation Protection Program's evaluation of potential impacts to navigation and subsequent determination of appropriate mitigation measures later on, in the approvals phase.

- d) Identify any associated project-specific guidance or issues of which the proponent should be aware, or information the proponent should provide

Additional information related to potential requirements under the *Canadian Navigable Waters Protection Act* can be found at the following links:

- Transport Canada's Navigation Protection Program Project Review Tool: <https://npp-submissionsdemandes-ppn.tc.canada.ca/projectreview-outildexamenduprojet>
- Apply to Transport Canada's Navigation Protection Program: <https://tc.canada.ca/en/programs/navigation-protection-program/apply-npp>
- Transport Canada's Navigation Protection Program External Submission Site: <https://npp-submissions-demandes-ppn.tc.canada.ca/auth/login-connexion>
- Government of Canada Common Project Search site: <https://common-project-search.canada.ca/>

- e) Indicate whether your department or agency has identified any power that it will not be exercising or may not be able to exercise to allow the project to be carried out, in whole or in part.

Not applicable

2. **Using Table 1**, identify project- and context- specific **key issues**, based on the expertise within your mandate¹ and the information in your possession, including the Initial Project Description, any exchanges with the proponent or others related to the project and known means to address the effects of the project. For each key issue:

- Specify the key issue (e.g., specific species and location)
- Specify the project component or activity linked to the key issue
- Explain why it's a key issue based on:
 - biophysical effect pathway(s) from the specific project component or activity
 - concern unique to the project or a priority within your mandate
 - the issue being material² to decision making under the *Impact Assessment Act*
- Identify how the issue could be resolved, including through means other than an impact assessment
- Identify additional information the proponent could provide including to give confidence on how the issue can be addressed through other means.

¹ Refer to the [Memoranda of Understanding with IAAC](#).

² An issue is material to decision making if its analysis is anticipated to affect the conclusions on (1) whether adverse effects within federal jurisdiction or direct and incidental adverse effects (collectively adverse federal effects) are likely not significant, or of low, medium or high significance; (2) appropriate mitigation measures for significant adverse federal effects; or (3) justification in the public interest.

Holly Poklitar, Regional
Environmental Advisor

Name and title of Departmental /
Agency Responder

January 22, 2026

Date

Table 1: Key Issues to inform the impact assessment process

This table should outline key issues to inform the impact assessment process, including whether an impact assessment is required and, if so, the scope of the assessment and tailoring of the Tailored Impact Statement Guidelines.

Key issues are the major concerns directly related to a project component or activity, the analysis of which is anticipated to be material to decision-making under the *Impact Assessment Act*.

Federal authorities' advice should be guided by the identification and resolution of key issues. If an impact assessment is required, it will be focused on key issues.

Comment ID	a) Key issue	b) Project component or activity	c)(i) Biophysical effect pathway(s)	c)(ii) Concern unique to the project or a priority within your mandate	c)(iii) Material to federal decision-making	d) Means for issue resolution	e) Additional information from the proponent
<p>Identify comments by organization and comment number.</p> <p>e.g.: IAAC-01</p>	<p>Specify the key issue (e.g., specific species and location).</p>	<p>Identify the project component or activity linked to the key issue.</p> <p>Be specific about the nature, scale, novelty and complexity or the component or activity.</p>	<p>Identify the specific biophysical effect pathway between the project component or activity and the affected environmental or human receptor (including Indigenous Peoples).</p>	<p>Describe why it's a key issue within the mandate of your department or agency, including in terms of priorities of the federal government and in terms of anticipated likelihood, severity or uncertainty of effects.</p> <p>Identify if the key issue is common for projects of this nature or in this sector, or whether it's unique to this project due to its complexity, size or novelty; a sensitive or rare receiving environment; and/or proximity of sensitive environmental or human receptors (including Indigenous Peoples).</p>	<p>Describe why the key issue is material to decision-making as either:</p> <ul style="list-style-type: none"> an adverse effect within federal jurisdiction, or a direct or incidental adverse effect, that may be significant based on available evidence including: <ul style="list-style-type: none"> federal experts' knowledge and experience with past project assessments; presence of sensitive species, habitats or human receptors (including Indigenous Peoples); novel or complex project activities, components or technologies; high uncertainties in effects or in the effectiveness of mitigation measures; unknown or unproven mitigation; or a factor for the justification in the public interest anticipated to be material to decision-making such as a likely positive effect contributing to sustainability, to Canada's environmental obligations or climate change commitments or in supporting governmental priorities, such as reconciliation with Indigenous Peoples. 	<p>Describe how the key issue could be resolved or addressed by:</p> <ul style="list-style-type: none"> Any means, including powers, duties, functions, frameworks, policies or guidance that your department or agency has; Any means, including powers, duties, functions, frameworks, policies or guidance from another jurisdiction, including the province; Common, proven, well-understood or standard mitigation measures to mitigate the effect or effect pathway(s); or Commitments made by the proponent (e.g., in the Initial Project Description). 	<p>Describe information the proponent can provide, or commitments the proponent can make, in their Response to the Summary of Issues that would provide confidence that the issue can be resolved by existing means.</p> <p>Consider whether information, studies, analyses or collaborative work with other authorities would be required to address the issue beyond existing means.</p>
<p>Potential impacts to navigation</p>	<p>Possible project activities that may be subject to the <i>Canadian Navigable Waters Act</i> (CNWA) are:</p> <ul style="list-style-type: none"> -Works, such as water intakes and outfalls and watercourse crossings, in navigable waters. -The dewatering of a navigable water or depositing of materials in a navigable water, 	<p>Per the Proponent's Initial Project Description:</p> <p>If groundwater or surface water withdrawals are determined to be required during the detailed design phase, separate provincial regulatory approvals/licences will be applied for</p>	<p>Impacts to navigation are common for projects of this nature and effects are not typically significant after key mitigation measures are implemented. These mitigation measures include the Department's regulatory process and the</p>	<p>Not applicable</p>	<p>Impacts to navigation are common for projects of this nature and effects are not typically significant after key mitigation measures are implemented. These mitigation measures include the Department's regulatory process and the Proponent's adherence to the <i>Canadian Navigable Waters Act</i> (CNWA) and conditions outlined in the CNWA approval(s), should one be required.</p>	<p>The information Transport Canada requires prior to determining or providing advice on the project's impacts to navigation includes:</p> <ul style="list-style-type: none"> The proponent's self-assessment of whether waterbodies where project works (e.g. water intake or outfall) are navigable. <ul style="list-style-type: none"> Construction methodology for both the proposed work and any associated temporary works. Clear information on the ownership of the riparian property. TC recommends a map 	

	<p>such as for storage of mine tailings and/or waste rock.</p> <p>-Works in a navigable water</p> <p>Works in navigable waters are subject to the CNWA and in some cases may require an approval under the CNWA. Works in navigable waters may as qualify as Minor Works under the CNWA Minor Works Order, which do not require a CNWA approval. Works in non-navigable waters are not subject to the CNWA.</p>	<p>under the <i>Water Act</i>, R.S.A. 2000, c. W-3.</p> <p>Should water be withdrawn from a navigable waterway, this work may be subject to the CNWA.</p>	<p>Proponent's adherence to the <i>Canadian Navigable Waters Act</i> (CNWA) and conditions outlined in the CNWA approval(s), should one be required.</p>			<p>overlaying the land title information with the satellite view of the water body. If there are multiple riparian owners, information on usage of the water body is required.</p> <ul style="list-style-type: none"> • If a watercourse crossing is required, construction details of the crossing. • The locations of all project works, such as water intakes, culverts, and bridges. For any watercourse crossings, details about the size and crossing type will be required to conduct navigational assessments. • Details of the existing infrastructure (location, project date, project methodology, NPP file number for existing infrastructure) proposed for use according to the Initial Project Description. • Proposed operational/management plan related to the works. As an example, for water intakes, the timing and volumes of water withdrawal and resulting impacts to water levels and navigation. • Potential cumulative impacts to navigation in conjunction with surrounding works (e.g. water intakes, bridges, diversions, transmission lines, pipelines) in the regional study area as defined by the Impact Assessment Agency. 	

Please insert additional rows as necessary.