



Issue Date: January 7, 2026

Citation: *Weins v. Canada (Environment and Climate Change)*,
2026 EPTC 1

EPTC Case No: 0031-2024

Case Name: *Weins v. Canada (Environment and Climate Change)*

Applicant: J. Erdman Weins

Respondent: Minister of Environment and Climate Change Canada

Subject of proceeding: Review commenced under section 15 of the *Environmental Violations Administrative Monetary Penalties Act*, S.C. 2009, c. 14, s. 126 of an Administrative Monetary Penalty issued under section 7 of that Act for an alleged violation of section 5(1)(a) of the *Migratory Birds Regulations, 2022*, SOR/2022-105, enacted under the *Migratory Birds Convention Act, 1994*, S.C. 1994, c. 22.

Heard: In writing

Appearances:

Parties

J. Erdman Weins

Minister of Environment and
Climate Change Canada

Representative/Counsel

Self-represented

Philomena Chenne (Counsel)

DECISION DELIVERED BY:

LESLIE BELLOC-PINDER

Introduction

[1] This decision deals primarily with whether the Applicant harassed and/or attempted to injure a migratory bird, contrary to paragraph 5(1)(a) of the *Migratory Birds Regulations, 2022* (“*MBR 2022*” or “the Regulations”).¹

[2] In June 2024, two informants reported concerns to Environment and Climate Change Canada (“ECCC”) about a condo owner throwing rocks at Canada Geese within their condo complex in Kaslo, British Columbia. An investigation ensued, and an ECCC wildlife officer found reasonable grounds to conclude a violation occurred. A Notice of Violation (“NOV”) with an Administrative Monetary Penalty (“AMP”) was issued in July 2024, which is the subject of this review.

[3] The Applicant submitted his attempt to deter and “shoo” geese away from outdoor areas in and around his condo complex was necessary for health and safety reasons. Due to these concerns, and that no physical harm to the geese was intended, the Applicant requested the \$400 penalty be withdrawn or reduced.

[4] The evidence establishes that the violation occurred, and that the wildlife officer exercised his discretion to issue the NOV. The evidence does not demonstrate either a permitted exception or common law defence are available to the Applicant. Moreover, as has been well-established by the Environmental Protection Tribunal of Canada (“EPTC” or “the Tribunal”), it has no jurisdiction to interfere with or overrule a wildlife officer’s discretion, absent exceptional circumstances, which have not arisen in this case.

[5] Accordingly, the NOV is upheld and this request for review is dismissed for the reasons which follow.

Review Process by the Tribunal

[6] The NOV was issued to Mr. Wiens (“the Applicant”) on July 23, 2024. Mr. Wiens applied to review the NOV on August 12, 2024. ECCC shared its AMP Brief and Disclosure with the Applicant and the Tribunal. Next, the Tribunal endeavoured to schedule a pre-hearing conference with the Applicant and counsel representing ECCC for the purpose of informally discussing the review process and establishing a timeline for the matter to proceed.

[7] The Applicant advised the Tribunal that he was not interested in participating in a prehearing conference, and simply wished that his submissions, contained in his request for review, to be considered. As a result, the Tribunal determined the review would

¹ [Migratory Birds Regulations, 2022](#), SOR/2022-105.

proceed as a written hearing and set deadlines for submission of further documents.² The Tribunal's direction confirmed that the Applicant's request for review constituted his evidence, and that his requested remedy was to have the AMP (\$400 fine) cancelled or reduced.

[8] The Tribunal confirmed that ECCC's evidence is contained in the AMP Brief, and its attached documents and videos. ECCC was directed to file written legal submissions on or before September 30, 2025. The Applicant was invited to file his own legal submissions on or before October 31, 2025, but was not required to do so.

[9] The Tribunal considered submissions closed in November after confirming with the Applicant that he did not intend to file any legal submissions.

Background Facts

[10] On June 11, 2024, two individuals ("Informant One" and "Informant Two", collectively the "Informants") reported their concerns to Environment and Climate Change Canada ("ECCC") about a condo owner on "Rainbow Drive next to Kaslo Bay" throwing rocks at geese.³ This public complaint was assigned to Officer MacRae on June 12, 2024.⁴

[11] On the same day, Officer MacRae received a voice message from Kaslo RCMP Constable Kevin Hess.⁵ When they spoke, Cst. Hess advised that the Kaslo RCMP also received a complaint from Informant Two alleging that Mr. Wiens had thrown rocks at geese at their condo complex at 550 Rainbow Drive, Kaslo, BC (the "Condo Complex").⁶

[12] Cst. Hess also advised that he had attended Mr. Wiens' unit in the condo complex and spoke to Mr. Wiens and his wife.⁷ He told Mr. Wiens that the visit was educational and warned Mr. Wiens of potential charges or fines if he continued to harass geese.⁸

² EPTC Procedural Direction, August 27, 2025.

³ AMP Brief at para 2(b); Appendix 1 (Public Complaint).

⁴ AMP Brief at para 2; Appendix 1 (Public Complaint).

⁵ AMP Brief at para 2.

⁶ AMP Brief at para 3(e); Appendix 2 (WO MacRae's Notes dated June 12, 2024).

⁷ AMP Brief at paras 3(a), 7(a); Appendix 5 (Cst. Hess' Notes and Narrative Text Hardcopy).

⁸ AMP Brief at paras 3(a), 3(c), 7(d); Appendix 5 (Cst. Hess' Notes and Narrative Text Hardcopy).

[13] The Informants sent two videos dated June 11 and 12, 2024 to Cst. Hess who then forwarded them to Officer MacRae.⁹ The Informants and Cst. Hess identified the male in these videos as Mr. Wiens.¹⁰

[14] The June 11, 2024 video filmed Mr. Wiens on a beach and grass waterfront:

- a. 0:00-0:05 – chasing after a single Canada goose;
- b. 0:05-0:30 – walking after a group of adult and juvenile Canada goose;
- c. 0:30-0:44 – following a limping goose that got separated from the flock and making kicking motions at it;
- d. 0:45-0:52 – picking up a rock from the ground and throwing it at the limping goose;
- e. 0:53-1:00 – picking up another rock from the ground and throwing it at the limping goose which then jumped into the water;
- f. 1:01-1:29 – throwing a rock at the flock of geese now in the water which landed close to but did not strike the geese; and
- g. 1:30-3:00 – engaging with the Informants who were filming the incident including complaining about the presence of geese and feces on the beach and arguing that “maybe [the Informants] enjoy living in filth with feces but some other people don’t.”¹¹

[15] Based on the video, Officer MacRae was unable to determine if Mr. Wiens injured the limping goose or if the limping goose was injured after this interaction.¹²

[16] The June 12, 2024 video filmed Mr. Wiens:

- a. 0:00-0:10 – throwing a rock at a flock of geese in the water from the beach;
- b. 0:24-1:18 – walking to a dock and throwing another rock at a second flock of geese in the water; and

⁹ AMP Brief at paras 6, 8-10; Appendix 6 (Video dated June 11, 2024); Appendix 7 (Video dated June 12, 2024).

¹⁰ AMP Brief at paras 13-17.

¹¹ AMP Brief at para 9; Appendix 6 (Video dated June 11, 2024).

¹² AMP Brief at paras 9(c)-(e).

- c. 0:11-0:23; 1:19-2:17 – engaging with the Informants who were filming Mr. Wiens.¹³

[17] Although the evidence does not establish that rocks hit the geese, Officer MacRae formed the opinion that they landed near them and caused the flock to scatter and swim further away from shore.¹⁴ Officer MacRae consulted Chloe Boynton, a Migratory Bird Biologist with the Canada Wildlife Service at ECCC, about the difference between harassing and scaring migratory birds.¹⁵ In Ms. Boynton’s opinion, Mr. Wiens’ actions were likely harassment and she provided Officer MacRae with resources on managing geese and scientifically approved methods of scaring Canada geese from the ECCC website.¹⁶

[18] Prior to these incidents, neither Mr. Wiens nor the strata for the Condo Complex had obtained a permit under the *MBR 2022* to remove geese from the beachfront.¹⁷

[19] Mr. Wiens has admitted to kicking and throwing rocks at the geese but stated that there was no physical contact and no attempt to injure.¹⁸ An aggravating consideration is that the incidents occurred when geese were moulting. During moult, geese grow new wing feathers and are unable to fly.¹⁹ Breeding geese raising their young are also unable to fly during this time.²⁰

Relevant Legislation

[20] Section 7 of the *Environmental Violations Administrative Monetary Penalties Act*, (EVAMPA)²¹ establishes the basis for the circumstances that create a violation that may be subject to an administrative monetary penalty (AMP):

Commission

7 Every person, ship or vessel that contravenes or fails to comply with a provision, order, direction, obligation or condition designated by regulations made under paragraph 5(1)(a) commits a violation and is

¹³ AMP Brief at para 10; Appendix 7 (Video dated June 12, 2024).

¹⁴ AMP Brief at paras 10(a), 10(c).

¹⁵ AMP Brief at para 11.

¹⁶ AMP Brief at para 11; Appendix 8 (MS Teams Chat between WO MacRae and C. Boynton dated June 24, 2024 [MS Teams Chat]).

¹⁷ AMP Brief at Appendix 15 (Email chain between WO MacRae and Mr. Wiens at WO MacRae’s email of August 13, 2024 (pp 1-2)).

¹⁸ Request for Review email dated August 12, 2024 [Request for Review].

¹⁹ AMP Brief at Appendix 8 (MS Teams Chat).

²⁰ AMP Brief at Appendix 8 (Handbook – Canada and Cackling Geese: Management and Population Control in Southern Canada at 6 [Handbook]).

²¹ [Environmental Violations Administrative Monetary Penalties Act](#), S.C. 2009, c. 14, s. 126.

liable to an administrative monetary penalty of an amount to be determined in accordance with the regulations.

[21] The relevant violation noted in the NOV is set out in s. 5(1)(a) of the *MBR 2022* as follows (emphasis added):

Prohibitions

5(1) A person must not engage in any of the following activities unless they have a permit that authorizes them to do so or they are authorized by these regulations to do so:

(a) capture, kill, take, injure or harass a migratory bird or attempt to do so;

(b) destroy, take or disturb an egg; and

(c) damage, destroy, remove or disturb a nest, nest shelter, eider duck shelter or duck box.

[22] Contravention of this prohibition is a Type B violation pursuant to Schedule 1, Division 2 of the *Environmental Violations Administrative Monetary Penalties Regulations* (“*EVAMP Regulations*”).²²

[23] Subsection 63(1) of the *MBR 2022* allows a person to use equipment to scare migratory birds without a permit:

Scaring birds

63 (1) Despite the prohibition on harassing a migratory bird set out in paragraph 5(1)(a), a person may, without a permit, use equipment other than an aircraft or firearms to scare migratory birds that are causing or are likely to cause danger to human health or public safety or damage to agricultural, environmental or other interests.

[24] The chief provincial wildlife officer and the Minister may jointly approve of provincial scaring and killing permits.²³ The Minister may issue federal scaring or killing permits to persons such as property owners, property managers, tenants, and authorized representatives.²⁴

²² [Environmental Violations Administrative Monetary Penalties Regulations](#), SOR/2017-109

²³ *MBR 2022*, ss 63(2), 64.

²⁴ *MBR 2022*, s 65.

Issues, Analysis, and Findings

Issue 1: Has ECCC established the elements of a s. 5(1)(a) MBR 2022 violation?

[25] ECCC has introduced evidence intended to prove, on the civil standard, that a violation occurred, i.e. that a migratory bird was harassed by the Applicant and/or the Applicant attempted to injure a migratory bird. Considered together, ECCC's AMP Brief (with attached documents and video recordings) and the Applicant's submission demonstrate that the Applicant harassed one or more migratory birds at or near his personal residence. The evidence also establishes that, while the Applicant may not have attempted to injure one or more birds, it is more probable than not that he attempted to do so.

[26] Due to its brevity, the Applicant's entire submission is reproduced here:

Goose Harassment at Marina Ridge,
550 Rainbow Drive, Kaslo, BC

Thank you for giving me the opportunity for a review of the alleged violation processed against me by the Environmental Protection Tribunal of Canada.

From the video you can see that there was no physical contact with any of the geese as there was absolutely no intention of making contact with them. With reference to kicking at a goose; it was an attempt to have the goose fly away. It was then realized that the geese were molting and had to be herded away into the water. The geese would then swim around in the water a few hundred feet from shore before returning back to the developed property. Small stones were then thrown into the water in an attempt to discourage the geese from returning to the polluted beach front. Again I reiterate that at no time was there any attempt to injure or contact a goose but rather to have them propagate on the hundreds of miles of shoreline on Kootenay Lake outside of Marina Ridge.

The growing population of Canada geese on the lake front property developed by Marina Ridge has been a concern for more than a decade.

As the problem population of Canada geese continued to grow over the years; the residents became more and more concerned with the detrimental health and environmental effects relating to goose defecation and residual goose feces on their property.

To date, the strata council at Marina Ridge has volunteered hundreds of hours and spent thousands of dollars on labor for feces clean up and goose deterring devices to no avail.

In what seemed like a last attempt; residents and strata council members decided that a concerted effort involving deterrents and "shooing" was necessary to reduce the hundreds of pounds of goose feces on the beach front property at Marina Ridge.

The main concern is not the birds themselves but rather the risk of disease and illness from the goose feces on the marina, sidewalks, hallway carpets, front lawn and beach. It was not about the thousands of dollars paid to employees who were removing buckets full of goose

feces from the property but mostly for the health and safety of the aging resident population and their guests including young children.

It became apparent that at some point we would regret inaction if a person was to be severely affected by one of the many disease causing bacterial strains living in goose feces and being deposited on our property in vast amounts daily. The depth of goose feces near the waters edge was often 8 or more centimeters deep.

I will attempt to iterate some of the health concerns as best that I can interpret the published data:

1. One of the biggest downsides to Canada goose populations in your neighborhood is the gross unsightly fecal matter that they leave all over our walkways. In problem areas people often have to continually avoid stepping in the excrement. That's definitely disgusting.
2. There's also a hidden danger associated with the goose droppings. Goose feces is most always contaminated with bacteria like E. coli, salmonella, histoplasmosis, Kempel, mobile bacteria, coccidia, and Guardia.
3. Canada geese can render beaches and parks completely unusable. In an article from the Detroit Free Press, it highlights how Canada geese have been a big factor in E. coli beachfront closures at Lake St. Clair. Another recent example is that of the e-coli contamination and closing of Regina Beach in Saskatchewan.
4. Canada geese on the average drop between 1 to 1.5 pounds of feces every day. As a result; when you host a population of even only 50 birds it would be the same as having someone spread 50 to 75 pounds of disease causing bacteria contaminated biohazard on your lawn or beachfront every day. Most people aren't aware, but these birds can present a real life threat to humans and pets alike.
5. Goose feces is most always contaminated with a virulent strain of E Coli that causes gastroenteritis, urinary tract infections, neonatal meningitis and Crohn's disease. One strain is known to produce the Shiga Toxin, which is classified as a bioterrorism agent by the National Institute of Health. In children and the elderly the Shiga toxin can lead to Hemolytic Uremic Syndrome which can result in kidney failure and even death.
6. Failure to treat an aggressive infection of Salmonella found in goose feces can result in eye irritation, pain while urinating, irritable bowel syndrome, arthritic symptoms and even death.
7. Histoplasmosis is an illness caused by dried fungal spore that develops on goose feces. This campylobacter is the most common cause of bloody diarrhea in the United States.
8. Coccidiosis is an intestinal tract infection caused by coccidia found in goose feces. The symptoms of this infection from goose feces can result in severe watery diarrhea, abdominal distress and vomiting.

9. Giardia is a microscopic parasite found in goose feces that causes an illness known as giardiasis. The symptoms of this parasitic infection from goose feces are similar to those mentioned in this presentation.
10. Goose feces in areas frequented by children and the elderly put our families at risk. Children are especially at risk because their immune systems have not yet become fully developed. The mentioned bacterial infections in children can cause organ failure and even death. A small distraction when caring for a child whose curiosity results in the ingestion of goose feces can have serious medical consequences. The resulting consequences of the emulating goose feces problem can turn every walk in the park or play session in the yard into a potential biohazard.
11. In consideration of the health concerns listed; and the fact that no physical harm to the geese was intended, I bequeath that the offence issued against J Erdman Wiens be stayed and that the \$400 penalty be withdrawn.

Analysis and Findings

(i) Mr. Wiens harassed migratory birds

[27] The *MBR 2022* and the *Migratory Birds Convention Act, 1994* (“*MBCA*”)²⁵ do not define the term “harass”, but it can be interpreted in its grammatical and ordinary sense within the context of the scheme and object of the *MBCA*.²⁶ The dictionary definition of “harass” includes “to annoy persistently” and “to create an unpleasant or hostile situation [...] especially by uninvited and unwelcome verbal or physical conduct.”²⁷

[28] The Minister submits that Mr. Wiens’ actions captured in the videos include following, chasing after, kicking, and throwing rocks at migratory birds – and all these acts constitute harassment. Significantly, these facts are uncontroverted since Mr. Wiens admitted to carrying out these actions at the Condo Complex.²⁸

[29] The Minister submits that “harass” should be interpreted to include Mr. Wiens’ action in the videos. The Tribunal agrees, as does the Applicant, in that his stated intention was to make the geese’s existence on in front of his Condo Complex sufficiently unpleasant that they relocated to other “miles of shoreline” on the Kootenay lake.

[30] Thus, the Tribunal finds, as a fact proven to the civil standard, that Mr. Weins harassed one or more migratory birds.

²⁵ *Migratory Birds Convention Act, 1994*, S.C. 1994, c. 22

²⁶ *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 SCR 27 at para 21.

²⁷ Merriam-Webster Dictionary, “Harass” (last visited 08 September 2025), online: <<https://www.merriamwebster.com/dictionary/harass>>.

²⁸ Request for Review.

(ii) Mr. Wiens attempted to injure migratory birds

[31] The Minister submitted that kicking and throwing rocks at geese are attempts to injure migratory birds, and if contact was made by rocks to the bodies of the birds, injuries would probably have resulted. The Tribunal agrees.

[32] Given the protective nature of the *MBCA*, it is not necessary that the evidence establishes Mr. Wiens made physical contact with the birds or actually injured them. Further, it is not necessary that the Applicant acknowledge he was trying to hit the birds with rocks. Even if he did not form that specific intention, his actions could reasonably have caused injury, and this is sufficient to demonstrate a violation.

[33] The video evidence demonstrates a high likelihood of injuring birds. For example, a rock thrown from the dock landed close to a stationary flock of geese in the water, particularly startling two birds, and causing the entire flock to swim away.²⁹ Further, the Applicant admitted in writing that he knew the birds were in moult and could not fly³⁰, thus making them more vulnerable to injury from the rocks.

Issue 2: Do the Applicant's health and safety concerns or the scaring exemption under s. 63(1) assist him?

[34] It is apparent that the Applicant expended considerable effort preparing his Request for Review which contains a list of eleven health and safety concerns he, and possibly others who live in the Condo Complex, have. Some of these concerns are self-evident, based on the unpleasant experience of stepping in or around goose feces. It is also understandable that the "strata council" would prefer not to spend the considerable time and money it has endeavoring to clean up after the geese. Other concerns, however, are less tenable since they are stated as scientific certainties such as potentially life-threatening illnesses and infections arising in humans who contact the feces.

[35] Officer MacRae consulted with ECCC's Ms. Boyton about this, who advised him that while goose feces likely contain bacteria, the direct link between the transmission of disease from feces to human is unclear in the scientific literature. Ms. Boyton also confirmed medical or scientific advice that effective handwashing can mitigate risks.³¹

[36] The evidence establishes that Officer MacRae considered the Applicant's arguments and sought advice regarding them. He ultimately relied on Ms. Boynton's opinion, and the Tribunal finds it was not unreasonable to do so. Thus, the Tribunal has

²⁹ AMP Brief at Appendix 7 (Video Dated June 12, 2024) at 0:50-1:00.

³⁰ Request for Review.

³¹ Biologist Opinion at 4.

no jurisdiction to interfere with the Officer's exercise of his discretion to issue the NOV as and when he did.

[37] Turning to the potential that the Applicant could be exempt from liability due to *MBR 2022* subsection 63(1), the evidence does not support its application. This is because the Applicant threw rocks at the birds and did not use "equipment" to scare them.

[38] Ms. Boyton provided Officer MacRae with a ECCC Wildlife Service handbook on "Canada and Cackling Geese: Management and Population Control in Southern Canada"³² which contains scientifically recommended methods of preventing and deterring geese.³³ In addition to modifying the environment, the handbook lists non-lethal scaring and hazing techniques that do not require permits including the use of propane cannons, air horns or sirens, strobe lights/lasers, distress tapes, flags, streamers, balloons and kites, motion-activated sprinklers, and trained dogs.³⁴ Except for dogs, all of these methods involve equipment designed to scare or deter birds from an area.³⁵

[39] The Tribunal finds that "scaring equipment" should be interpreted as a human-made device designed with the intent of preventing and deterring migratory birds. Scaring is distinct from and distinguishable from harassment, which is hostile and threatening behaviour, and prohibited under the Act.

[40] The Applicant's Request for Review mentions previous failures of "goose deterring devices" and it is reasonable to infer his view of device ineffectiveness is one of the reasons he decided to try something different. This decision he made gives rise to legal liability, regardless of whether he was worried about public health, well intentioned, duly diligent, or careful not to hit any gees with the rocks he was throwing.

[41] The Tribunal finds, as a fact, that rocks do not constitute equipment, based on the commonly understood meaning of both words. As a result, the scaring exemption is not available to the Applicant, and the violation is well founded. The Applicant's intentions or personal health and safety concerns do not provide a lawful excuse for his actions, due to the act's absolute liability regime.

³² AMP Brief at Appendix 8 (Handbook); also available at <<https://www.canada.ca/en/environment-climate-change/services/migratory-bird-conservation/publications/handbook-managing-cackling-geese-southern.html>>.

³³ Handbook at 1.

³⁴ Handbook at 10-13.

³⁵ AMP Brief at Appendix 8 (MS Team Chat).

Issue 3: Was the NOV penalty properly calculated?

[42] The AMP assessed in the NOV was the lowest amount available to Officer MacRae for this offence and was correctly assessed. Subsection 5(1) of the *MBR 2022* is a Type B violation under Schedule 1, Part 4, Division 2 of the *EVAMP Regulations*. The baseline Type B violation penalty for individuals is \$400 under Schedule 4, Column 3 of the *EVAMP Regulations*. Officer MacRae did not assess any additional amount for history of non-compliance, environmental harm, or economic gain.

[43] Thus, the Tribunal finds the NOV was properly calculated.

Conclusion

[44] The evidence establishes that the Applicant harassed and attempted to injure a migratory bird or birds contrary to paragraph 5(1)(a) of the *MBR 2022*. The exception under subsection 63(1) is not applicable because the Applicant did not use equipment to scare or deter the bird or birds.

[45] The facts establish that on a balance of probabilities, Mr. Wiens violated the *MBR 2022*, paragraph 5(1)(a) and Officer MacRae exercised his discretion on a proper legal foundation. Accordingly, this Request for Review should be dismissed.

Decision

[46] The NOV is upheld, and the review is dismissed.

“Leslie Belloc-Pinder”
LESLIE BELLOC-PINDER
REVIEW OFFICER