

Document A – Minister’s Determination Conditions of Approval

**Pursuant to Regulation 87-83 under the Clean Environment Act
May 12, 2023 - File Number: 4561-3-1588 - SR: 034027**

- 1 In accordance with section 6(6) of the *Environmental Impact Assessment Regulation – Clean Environment Act*, it has been determined that the undertaking may proceed following approval under all other applicable acts and regulations.
- 2 Commencement of this undertaking must occur within three years of the date of this Determination. Commencement is defined as the start of project-related physical construction activities as identified during the Environmental Impact Assessment (EIA) review. Should commencement not be possible within this time period, the undertaking must be registered under the *Environmental Impact Assessment Regulation – Clean Environment Act* again, unless otherwise stated by the Minister of Environment and Climate Change.
- 3 The proponent shall adhere to all obligations, commitments, monitoring, and mitigation measures presented in the updated EIA registration document dated December 2022, as well as all those identified in correspondence during the registration review. Additionally, the proponent shall submit a summary table detailing the status of each Condition listed in this Determination to the Director, EIA Branch, Department of Environment and Local Government (DELG) every six months from the date of this Determination until such a time as all the Conditions have been met or until it is deemed by the Director to be no longer required.
- 4 In the event the project is commenced (i.e., partially completed) and becomes inactive for a period of five years or more after commencement, the undertaking must be registered under the *Environmental Impact Assessment Regulation – Clean Environment Act* again, unless otherwise stated by the Minister of Environment and Climate Change.
- 5 A 50 metre naturally vegetated buffer must be maintained along the peatland and project boundary, including all areas of the Crown Peat Lease and the areas privately owned by Sun Gro Horticulture Canada Ltd., with the exception of the narrow portion of the parcel containing the new southern access road (PID 40543258), and drainage outlets. Within the vegetated buffer, no vegetation clearing, ditching, or other activities may be carried out.

- 6 New mineral roads built after this Determination must be constructed over geotextile and shall be restored using the best methods available at the time of decommissioning. Should the restoration be determined unsuccessful, wetland compensation will be required.
- 7 A short-term Restoration Plan to address the removal of the northern access road must be submitted within 3 months of this Determination for review and approval by the Director, EIA Branch. The plan shall include the removal of the fill material to the original grade of the wetland, and the restoration of any associated impacts (such as rutting) to the wetlands. The restoration work shall be completed on the ground within 6 months of this Determination.
- 8 Short-term wetland monitoring to verify the success of the restoration of the northern access road and associated impacts (nearby rutting) must be conducted in calendar years 1 and 3 following completion of the restoration required as per Condition 7. A wetland monitoring report must be submitted to the Director, EIA Branch, DELG by March 1st of the year following each monitoring season (e.g. if year 1 monitoring is completed in 2024, the year 1 report is due by March 1st, 2025). Depending on the results of the years 1 and 3 monitoring, additional monitoring in year 5 may be required, at the discretion of the Director, EIA Branch, DELG. Additional mitigation or compensation may be required depending on monitoring results.
- 9 A Long-term Restoration Plan must be submitted within 6 months of this determination for review and approval by the Director, EIA Branch, DELG. The plan must describe the restoration to be completed when each field is retired, as well as the restoration of all other infrastructure post-decommissioning, and identify suitable sphagnum donor sites for restoration. The plan must also be submitted to the Department of Natural Resources and Energy Development (NRED) for approval under the Peat Lease. The Restoration Plan must clearly identify all donor sites and ensure that donor sites are suitable for the intended use based on the guidance of the most recent version of the *Peatland Restoration Guide: Plant Material Collecting and Donor Site Management* by Quinty, F., M.C. LeBlanc and L. Rochefort, 2019. Given that peatland reclamation will occur over many years, and new options and methodology may be developed, the proponent shall adjust the Restoration Plan based on the current industry practices.
- 10 All permanent impacts to wetlands require compensation at a 2:1 ratio. A compensation plan shall be provided within 3 months of this determination to address any impacts that will not be restored or would not be considered fully restored to a functioning wetland (i.e., forest habitat not meeting the wetland definition, unsuccessful restoration, etc.). The plan shall address the compensation required for the south access road and the service area, and all compensation must be provided/completed within 6 months of this Determination. The compensation plan shall also address the compensation required for any residual permanent impacts post-decommissioning that are not restored to wetland as per the restoration plan.

- 11 A long-term wetland monitoring plan, including a reporting schedule, must be submitted within 6 months of the date of this determination for review and approval by the Director, EIA Branch, DELG. The plan shall describe the proposed methodology for monitoring of potential residual impacts of the entire peatland operation on the wetland and its functions. At least one round of monitoring must be completed 5 years or more after the last restoration activity to ensure that all restoration has been successful.

In general, wetland monitoring programs are required to: establish baseline conditions through an initial functional assessment (i.e. WESP-AC); monitor wetland functions that may have been affected over time since the commencement of the project (i.e., experiencing residual effects); and, adaptively manage potential residual environmental effects by proposing mitigation measures to address any issues, if applicable.

- 12 A *Watercourse and Wetland Alteration (WAWA) Permit* shall be obtained prior to conducting any alterations in or within 30 metres of a watercourse or wetland. Any activity, such as the peat harvesting, that also requires an Approval under the *Water Quality Regulation – Clean Environment Act*, is exempt from the WAWA permit requirement provided the conditions of the WAWA permit are included in the Approval and they are strictly followed.

- 13 The proponent shall apply for an *Approval to Construct* through the Authorization Branch, DELG, and apply to amend their current *Approval to Operate* (Approval #I-11119) to include the new development.

- 14 Rare plant surveys must be completed, including a southern twayblade survey to be conducted in the second half of June 2023, followed by an August survey for all other taxa, and the report must be submitted to the Director, EIA Branch, DELG for review and approval before commencement of peatland expansion on PID 40547358 or PID 40241374 can continue. The survey must include any proposed utility corridors, access roads, or sphagnum donor sites to be used for future restoration. Subject to the results of the survey, additional mitigation may be required, potentially including avoidance of some areas.

- 15 Prior to commencement of the peatland expansion on PID 40547358 or PID 40241374, breeding bird surveys, including surveys for nightjars, must be completed. The Proponent shall submit detailed survey methodologies to the Director, EIA Branch, DELG for review and approval prior to conducting the surveys. Results of these surveys, as well as any additional mitigation measures necessary be submitted to the Director, EIA Branch, DELG for review and approval prior to commencement of the expansion.

- 16 If an active bird nest is encountered, all disturbance work should temporarily stop, and a buffer should be placed around the nest. The nest should not be disturbed until the chicks have fledged. It should be noted that bird nests should never be marked using flagging tape or other similar material as this increases the risk of nest predation. Please consult with the Canadian Wildlife Service (CWS), or the NRED Species at Risk Section (453-5873) to determine the size of the buffer.

- 17 If it is suspected that remains of archaeological significance are discovered during construction, operation, maintenance or during any other project related activity, as per the New Brunswick *Heritage Conservation Act*, all activity shall be stopped near the find and the Archaeology and Heritage Branch, New Brunswick Department of Tourism, Heritage and Culture (THC), must be contacted immediately at (506) 453-2738 for further direction.
- 18 The proponent shall ensure that all developers, contractors, and operators associated with the project comply with the above requirements.
- 19 The proponent shall ensure that any proposed project modifications or future expansions are submitted to the Director, EIA Branch, DELG, for review and approval prior to implementing the changes.
- 20 In the event of the sale, lease, or any other conveyance or change of control of the property, or any portion thereof, the proponent must provide written acknowledgement from the lessee, controller, or purchaser confirming that they will comply with the Conditions of this Determination to the Director, EIA Branch, DELG.

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