

## Document A – Minister’s Determination Conditions of Approval

### Pursuant to Regulation 87-83 under the Clean Environment Act

January 18, 2024 - File Number: 4561-3-1602/ SR 061009

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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. 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.
4. The proponent shall adhere to all obligations, commitments, monitoring, and mitigation measures presented in the EIA registration document dated December 6, 2022, as well as all those identified in subsequent 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.
5. 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.

6. An Environmental Management Plan (EMP) must be prepared and submitted for review and must be approved by the Director, EIA Branch, DELG prior to the commencement of any project related activities. The EMP must include but is not limited to, project specific mitigation as well as emergency response plans, spill response plans, site specific re-fueling plans, a wildlife response plan, and a stormwater management plan. The EMP must address safety and environmental protection measures committed to during the EIA review.
7. A survey for Pileated Woodpecker nest cavities must be conducted and the results provided for review and must receive the approval of the Director, EIA Branch, DELG prior to commencement of tree clearing activities. Should a nest cavity be found during the survey, the proponent must propose mitigation measures in their survey report. All project activities, including tree clearing outside the breeding bird season, must be conducted in compliance with the *Migratory Birds Convention Act* and associated Regulations. More information on nest protection under the Migratory Birds Regulation can be found here: <https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/fact-sheet-nest-protection-under-mbr-2022.html>
8. The proponent must ensure that all project activities are conducted in compliance with the federal and provincial *Species at Risk Acts* and associated regulations.
9. A Watercourse and Wetland Alteration (WAWA) Permit must be obtained prior to conducting any alterations in or within 30 metres of a watercourse or wetland which meets DELG's definitions (which are available online here: <https://www2.gnb.ca/content/dam/gnb/Departments/env/pdf/Wetlands-TerreHumides/WatercourseAndWetlandIdentification.pdf>).
10. Wetland compensation at a 2:1 ratio must be provided for all permanent impacts to delineated wetlands. A Wetland Compensation Plan must be submitted within six months of the date of this Determination for review and must be approved by the Director, EIA Branch, DELG, otherwise arrangements must be made through a wetland compensation consultant to provide compensation on behalf of the proponent. Compensation efforts shall prioritize the creation, enhancement, or restoration of wetland within the City of Moncton vicinity.
11. Wetland Monitoring Reports (WMRs) prepared in accordance with the approved Wetland Monitoring Plan must be submitted to the Director, EIA Branch, DELG at each monitoring year (i.e., years 1, 3 and 5 following the completion of construction) to summarize methods and results. Additional monitoring beyond year 5 may be required. The WMRs must also provide recommendations for next steps in the monitoring report. The wetland monitoring program is intended to be an adaptive management approach; therefore, monitoring plans, restoration, mitigation, compensation, etc. may be required to be adjusted, pending the results of the monitoring reports, subject to the approval of the Director, EIA Branch, DELG. Digital copies of the report must be submitted with accompanying GPS data and associated metadata/attribute data of the wetland boundaries.

12. A Surface Water Monitoring Program must be submitted for review and receive approval from the Director, EIA Branch, DELG prior to commencement of the project and must include monitoring before, during, and after development.
13. The proponent must ensure there is no net increase in flow to the receiving watercourses that flow through infrastructure downstream of the development that is owned, controlled, and/or administered by the Department of Transportation and Infrastructure.
14. 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, of the EIA Branch, DELG.
15. 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.
16. The proponent shall ensure that all developers, contractors, and operators associated with the project comply with the above requirements.