

Document A – Minister’s Determination Conditions of Approval

Pursuant to Regulation 87-83 under the Clean Environment Act

December 5, 2023 - File Number: 4561-3-1604/ SR 070004

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 (87-83) – Clean Environment Act* again, unless otherwise stated by the Minister of Environment and Climate Change.
3. In the event the project is commenced and becomes inactive for a period of five years or more after commencement, the undertaking must be registered under the *Environmental Impact Assessment Regulation (87-83) – 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 21, 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 of the 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, including paleontological (i.e., fossils), 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, shall be contacted immediately at (506) 453-2738 for further direction.

6. The proponent must conduct follow-up breeding bird surveys for years 1 and 3, at minimum and potentially year 5 post-construction as outlined in Appendix C of the September 2023 “*Environmental Protection Plan (EPP) for Construction*” document”. The follow-up breeding bird survey results must be submitted for review and must be approved by the Director of DELG’s EIA Branch. Please note that the results of the survey may necessitate additional monitoring and mitigation as required by the Director of DELG’s EIA Branch.
7. The proponent must undertake a nest survey prior to construction (i.e., removal of vegetation) to ensure there are no nests of Schedule 1 species that are afforded protection under the *Migratory Birds Regulation 2022* (e.g., Pileated Woodpecker nest cavities, Great Blue Heron rookeries, etc. / [Fact sheet: Nest Protection under the Migratory Birds Regulations, 2022 - Canada.ca](#)). The results of this survey must be submitted for review and must be approved by the Director of DELG’s EIA Branch prior to the commencement of any tree clearing activities. The proponent must ensure that all project employees on site are made aware that if a nest or chick of a migratory bird is detected during project construction, work in the area shall be halted and the Canadian Wildlife Service shall be consulted for advice at 1-800-565-1633.
8. The proponent shall ensure that all project activities are conducted in compliance with the federal *Species at Risk Act* and the provincial *Species at Risk Act* and associated Regulations.
9. Wetland compensation at a 2:1 ratio must be provided for the areas of wetlands that will be permanently impacted within all delineated wetlands. The Watercourse and Wetland Alteration permit or *Approval to Construct/Operate* application will be placed on hold until either a confirmation of payment, a compensation plan, or a letter of intent from a Wetland Compensation Consultant is approved by the Director of DELG’s EIA Branch.
10. A wetland monitoring program must be implemented as per the submitted wetland monitoring plan. Wetland Ecosystem Services Protocol for Atlantic Canada (WESP-AC) is the recommended wetland functional assessment methodology. In general, wetland monitoring programs are required to:
 - a. establish baseline conditions through an initial delineation and functional assessment (i.e., WESP-AC);
 - b. monitor wetland boundaries and functions (through WESP-AC and potentially other methods) that may have been affected over time since the commencement of the project (i.e., experiencing residual effects); and adaptively manage potential residual effects by proposing mitigation measures to address any changes if applicable.
11. Wetland Monitoring Reports (WMRs) will be required to be submitted to the Director of the EIA Branch, DELG at each monitoring year (i.e., years 1, 3 and 5 from the date of the onset of initial construction) to summarize methods and results. The WMRs shall include a recommendation for next steps in the monitoring program. 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. Digital copies of the report must be submitted in PDF or Word format with accompanying GPS data and associated metadata/attribute data of the wetland boundaries for review and approval.

12. Prior to the commencement of any construction activities, an *Approval to Construct* must be obtained from the Authorizations Branch, DELG. Prior to the commencement of any operational activities, an *Approval to Operate* must be obtained from the Authorizations Branch, DELG. For more information, please contact the Authorizations Branch at (506) 453-7945.
13. The project involves work in and within 30 meters of watercourses and wetlands. All conditions applicable to this project under the *Watercourse and Wetland Alteration Regulation* will be stipulated in the *Approval to Construct* and *Approval to Operate* and must be strictly followed.
14. A groundwater monitoring plan has been developed that details the required water quality and water level monitoring. The latest version of the groundwater monitoring plan must be followed, and an annual groundwater monitoring report must be submitted to the Director, EIA Branch, DELG, according to the plan.
15. In the event of a complaint by a neighbouring water user that project activities have negatively impacted the quality or quantity of their private water supply, the proponent must investigate the complaint and notify the Director, EIA Branch, DELG. If it is determined that the proponent is responsible for any negative impacts, the proponent will be required to provide a temporary water supply for short-term impacts, or to repair, remediate, or replace any permanently impacted well(s), which might include, but is not limited to, deepening a well or drilling a new well.
16. If at any time the proponent requires a water supply well(s) that exceeds a capacity of 50 m³/day, then the Director, EIA Branch, DELG must be contacted as hydrogeological testing and other information may be required.
17. Pre-blast surveys must be conducted within the pre-blast survey radius. As part of the pre-blast surveys, microbiology and inorganic (including general chemistry, trace metals and total suspended solids) water quality samples will be collected from nearby wells if permission from the respective homeowner is provided. Blasts must be monitored using seismographs, to ensure that concussion noise levels do not exceed a peak pressure level limit of 128 decibels (dBL) and that peak particle velocities (PPV) do not exceed 12.5 mm/s. Pre-blast survey results must be sent to the Director, EIA Branch, DELG.
18. At least 30 days prior to undertaking any blasting activities, the proponent must notify residents within the pre-blast survey radius to alert them of the anticipated blasting dates. The proposed blasting schedule must be posted on the proponent's website and updated as soon as possible if there are any changes to the anticipated blasting dates.
19. Prior to the extraction of the mineral, the proponent must obtain a *Mining Lease* from the Department of Natural Resources and Energy Development.
20. Prior to the commencement of any operational activities, the proponent must submit a Financial Security Plan (FSP) for review that must be approved by the Director, EIA Branch, DELG. The financial security shall be in the form of cash, irrevocable letter of credit, bond of an approved guarantee company, or any other form of security or guarantee or protection that is acceptable to the Minister. The FSP must indicate and provide that the total amount, or any portion thereof, may be accessed by the Minister on due notice to the proponent. Security funds used by the Minister shall be replaced by the proponent as required by the Minister.

21. Decommissioning of the project area must be initiated within one year of the cessation of operation. A decommissioning plan, including site reclamation details, must be reviewed and approved by the Director, EIA Branch, DELG prior to the commencement of decommissioning activities.
22. The proponent must prepare and submit for approval an Environmental Management Plan (EMP). Plans for specific phases (e.g., construction, operation, decommissioning, etc.) can be submitted separately for review and approval to the Director, EIA Branch, DELG provided that they receive approval prior to the commencement of activities related to those phases. Each plan for specific phases must include water management. Noise management and noise monitoring plans, including complaint resolution, as appropriate, must be included as part of the EMP for the operational phase of the project. In the event of any noise complaints related to the project, additional mitigation measures may be imposed by the Director, EIA Branch, DELG. Contingency and emergency response plans must also be included as part of the EMP.
23. To ensure that First Nations are meaningfully engaged in ongoing planning, that project information is shared throughout the lifetime of the project, and previously made commitments are adhered to, a First Nations Engagement Strategy must be developed and maintained by the proponent in conjunction with First Nations. The engagement strategy must be provided to the Director, EIA Branch, DELG, for review and approval within three months of the date of this Determination. Once approved, it must be reported on in accordance with the six-month summary table.
24. 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.
25. 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.
26. The proponent shall ensure that all developers, contractors and operators associated with the development project comply with the above requirements.