

DOCUMENT "A"

**MINISTER'S DETERMINATION
CONDITIONS OF APPROVAL**

Pursuant to Regulation 87-83 under the Clean Environment Act

July 22, 2013.

File Number: 4561-3-1352

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1. In accordance with section 6(6) of the Regulation, 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. 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 Local Government.
 3. The proponent shall adhere to all obligations, commitments, monitoring and mitigation measures presented in the EIA registration document dated November 2012; all subsequent reports submitted and to all those in correspondence during the course of the registration review. Additionally, the proponent shall submit a summary table detailing the status of each Condition listed in this Determination to the Manager of the Environmental Assessment Section, Department of Environment and Local Government (DELG) every 6 months from the date of this Determination until such a time that it is determined that it is no longer necessary.
 4. The following conditions apply to the First Nations archaeological site *DaDo-1 – the Ferris site*, located within the plant boundaries:
 - A 30 metre (m) buffer/exclusion zone must be established around the site where no disturbance is permitted. The zone must be delineated with pin flags prior to any work in the area,
 - Any ground disturbance within 50 m of the site (and outside the 30 m exclusion zone) must be monitored by a permitted professional archaeologist,
 - If anything is found within the project footprint of a known or suspected archaeological nature, all work in the area must cease and Archaeological Services must be contacted at (506) 453-3014 for further direction.
 5. Refueling and maintenance of equipment must take place in designated areas, on level terrain a minimum of 30 m from any surface water or wetland boundary. Appropriate spill response equipment must be kept in a readily accessible location during project construction and operation. All spills and releases must be promptly reported to the 24 hour emergency response line at 1-800-565-1633 after hours and to the DELG office in Bathurst during regular work hours (506) 547-2092.
 6. Abandonment, decommissioning and removal of the fuel pipeline are subject to application to the New Brunswick Energy and Utilities Board under the Pipeline Act, 2005. Please contact Mr. Todd McQuinn, at (506) 658-2504 for further information.

7. Any topsoil used during the closing /decommissioning / construction processes should not originate from agricultural lands. If warranted, a permit may be issued under the Topsoil Preservation Act Sec (24). Please contact the DELG Regional Office in Bathurst regarding this matter at (506) 547-2092.
8. A demolition permit may be required. Please contact Regional Service Commission 2 at (506) 789-2595 for further information.
9. An Approval to Construct will be required for the demolition work. Please contact the Manager, Industrial Processes Section, DELG at (506) 453-7945.
10. Application for a *Watercourse and Wetland Alteration Permit* must be made prior to any activity within 30 meters of a watercourse or wetland. Please contact the Manager of the Surface Water Protection Section, DELG at (506) 457-4850, for further information. Please be advised that distances between the watercourses and the proposed work must be noted on the application.
11. Stack demolition methodology and proposed mitigation measures must be submitted to the Manager, Environmental Assessment, DELG for review and must be approved prior to implementation.
12. Monitoring wells that may be impacted by demolition or decommissioning activities must be properly decommissioned prior to the initiation of activities in that area.
13. A Land Reclamation Site Approval from the DELG Region 1 (Bathurst) Office shall be obtained for any demolition debris to be disposed of onsite (as fill material). Demolition debris leaving the site should be disposed in a facility approved by DELG to accept such waste. These include the L.C.L. EXCAVATION (2006) INC. Construction, the Demolition Debris disposal site located in Charlo and the Restigouche Transfer Station located in Campbellton. For further information, please contact Paul Fournier, Regional Director, (Bathurst office) at (506) 547-2092.
14. The decommissioning of the oil tanks must be coordinated with the DELG Region 1 (Bathurst) Office. For further information, please contact Paul Fournier, Regional Director, at (506) 547-2092.
15. The proponent must ensure that all contractors working at the sites are familiar and will comply with the requirements of the Migratory Birds Convention Act (MBCA) and associated Regulations. In order not to disturb staging birds, the proponent must avoid high disturbance decommissioning activities at the West Wharf during the month of April.
16. An Environmental Protection Plan (EPP) shall be developed for the Project to outline environmental protection commitments to the proponent and their contractor(s) during closure and decommissioning activities and to ensure compliance with commitments as set forth in the EIA Registration Document and all subsequent correspondence. The EPP must be submitted to the Manager of the Environmental Assessment Section for review and must receive approval prior to commencing demolition activities. Upon approval, the proponent must follow the EPP.
The EPP shall:
 - a) document environmental concerns and appropriate protection measures;
 - b) provide concise and clear instructions to project personnel regarding procedures for protecting the environment during demolition, decommissioning and closure phases;
 - c) outline procedures and requirements to address specific materials likely to be encountered during the demolition of the site facilities, their treatment, disposal and disposal location;

- d) provide environmental protection measures to be followed when working near environmentally sensitive areas;
 - e) describe mitigative measures to address air quality issues produced by demolition and other activities;
 - f) provide surface water control plans;
 - g) provide sediment and erosion control plans, soil stabilization plans, a spill prevention plan, and an emergency response plan; and
 - h) include a description of post-closure monitoring and inspection programs.
17. The proponent shall ensure that there are inspection/monitoring programs in place for landfill infrastructure to verify that it is functioning as intended. The specifics of these programs shall be addressed in the *Approval to Operate*.
18. Asbestos must be disposed of in accordance with DELG's most current Asbestos Waste Disposal Guideline.
19. The Ecological Risk Assessment for Hamilton Brook must be completed prior to the onset of decommissioning and once completed, shall be submitted to the Manager, Environmental Assessment Section DELG for review and follow up.
20. The proponent shall ensure that the facility is maintained in a safe and secure manner during all phases of the decommissioning and closure and does not pose a threat to public safety or include activities that would threaten human health. Owner/operators must take proper precautions to ensure that regular communication takes place with local Police, Fire and Emergency Services during all phases.
21. To address environmental contamination, the proponent must follow DELG's Contaminated Sites Management process in accordance with the current version of DELG's *Guideline for the Management of Contaminated Sites*. For further information in this matter, please contact the Manager, Remediation and Materials Section, DELG, at (506) 453-7945.
22. Any changes proposed for contaminated water collection and/or conveyance must be reviewed and approved by the Manager, Environmental Assessment DELG prior to implementation.
23. The proponent must follow Conditions included in the *Approval to Construct* to address decommissioning activities located in Zone A or Zone B as defined by NB's Coastal Area Protection Policy.
24. A PCB audit must be completed and submitted to DELG for review and approval. In addition, it may be necessary to submit a Work Plan outlining the removal, transportation and disposal of the waste PCB materials to DELG for review and approval prior to removal of the items. All PCB items identified in the audit document will have to be removed and confirmation provided to DELG prior to initiating the demolition phase. For further information, please contact Rejean Doiron, PCB & ODS Program Manager, Impact Management Branch, DELG, at (506) 453-3796.
25. A full audit must be completed for Ozone Depleting Substances and Other Halocarbons – Refrigerants. All equipment and air conditioning equipment identified in the audit document will have to be removed and confirmation provided to DELG prior to initiating the demolition phase. For further information, please contact Rejean Doiron, PCB & ODS Program Manager, Impact Management Branch, DELG, at (506) 453-3796.

26. With respect to Crown Lands Lease (# 415130005), held by the proponent:

- a) The lease is a 35.87 ha water lot containing some facility intake and outflow pipes, floating markers, anchors, etc., along with more permanent modifications such as an underwater trench and a 400-metre long rip rap breakwater. If decommissioning extends beyond the expiration date of the lease (March 31, 2014), NB Power must notify the Crown Lands Branch in advance to begin the lease renewal process.
- b) NB Power has indicated that the rip rap breakwater is not being decommissioned and will remain in its current configuration indefinitely. NB Power may choose in the future to reduce their lease area by surveying the trench and breakwater footprint and applying for an amendment to the current lease.
- c) NB Power must retain the appropriate permits from Transport Canada with respect to navigability and maintain the breakwater in an acceptable condition.
- d) The decommissioning of any pipelines or other infrastructure and rehabilitation of the submerged Crown lands must be carried out in a manner acceptable to the Minister of Natural Resources. For further information regarding this matter, please contact Jim Richard of the Crown Lands Branch, Department of Natural Resources at (506) 444-3396 or jim.richard@gnb.ca

27. The proponent shall ensure that all developers, contractors and operators associated with the project comply with the above requirements.

28. In the event of the sale, lease, or any other conveyance or change of control of the Project, or any portion thereof:

- i. The proponent shall provide written notice of the conditions to the lessee, controller, or purchaser;
- ii. The proponent shall provide written notice of such lease, change of control, or conveyance to the Minister; and
- iii. All of the above terms and conditions are an integral part of this Determination and will apply to the lessee, controller, or purchaser.