

## DOCUMENT "A"

### MINISTER'S DETERMINATION CONDITIONS OF APPROVAL

Pursuant to Regulation 87-83 under the Clean Environment Act

March 16, 2018

File Number: 4561-3-1491

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 February 2018, 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 Environmental Impact Assessment (EIA) Branch, Department of Environment & Local Government (DELG) every 6 months from the date of this Determination until such a time as all the Conditions have been met or until all conditions have been met.
4. From the date of issue of this Certificate, the proponent has approval to proceed with phase 1 as described in the EIA registration document. Approval to proceed with phase 1 does not guarantee approval of future phases. The proponent will be required to submit additional information well in advance (minimum of three months) in advance of requesting permission to initiate phases 2 and 3. The additional information will be reviewed by the EIA Technical Review Committee (TRC) before a decision is made, and any phase beyond phase 1 cannot be initiated without the written approval of the Director of the EIA Branch, DELG. It is possible that additional Conditions will be imposed if future phases are approved.
5. If it is suspected that remains of archaeological significance are found during construction, as per the Heritage Conservation Act, all activity shall be stopped near the find and the Resource Manager of the Archaeological Services Unit, Heritage Branch of the Department of Tourism, Heritage and Culture, shall be contacted at (506) 453-3014.
6. In the middle of the intertidal zone, the sand must be deposited in layers no thicker than 40-50 cm every two days in order to allow the vertical migration of fauna (e.g. invertebrates).
7. As long as the work is upland of the Ordinary High Water Mark (OHWM), there will not be any Energy and Resource Development (ERD) Submerged Crown Land involved with the subject area. Any lands located below the OHWM are owned and administered by ERD. In the event, that work must be done below the OHWM, a *Licence of Occupation* will be required. Applications may be obtained from ERD's Applications and Information Section by contacting the Applications and Information Coordinator, at (506) 444-4487 or [ally.leach@gnb.ca](mailto:ally.leach@gnb.ca).

8. Migratory birds, as well as their eggs, nests, and chicks are protected as per the Migratory Birds Convention Act. Under Section 6 of the *Migratory Birds Regulations* (MBR), no person shall disturb, destroy or take a nest or egg of a migratory bird; or to be in possession of a live migratory bird, or its carcass, skin, nest or egg, except under authority of a permit. It is important to note that under the current MBR, no permits can be issued for the incidental take of migratory birds caused by development projects or other economic activities.
  - a. The proponent shall ensure that all project related activities are in compliance with the Migratory Birds Convention Act and associated regulations.
  - b. Food scraps and other garbage left on beaches and other coastal habitats can artificially enhance the populations of avian and mammalian predators of eggs and chicks of Piping Plovers and terns. The proponent should ensure that no litter (including food scraps) is left in coastal areas by staff.
  - c. Since even small spills of oil can have very serious effects on birds, every effort should be taken to ensure that not oil spills occur. The proponent should ensure that all precautions are taken by staff to prevent fuel leaks from equipment, and contingency plans in case of oil spills should be prepared.
9. The proponent shall ensure that all project related activities are in compliance with the Species at Risk Act (SARA) and do not result in the destruction of Critical Habitat for the Piping Plover. Prohibitions under SARA are now in force. The complete text of SARA, including prohibitions, is available at [www.sararegistry.gc.ca](http://www.sararegistry.gc.ca).
10. Prior to initiating any project phase, the proponent must obtain an *Approval to Construct* from DELG. For more information, please contact the Approvals Engineer, Authorizations Branch, DELG at (506) 547-2092.
11. The project involves work within 30 meters of a Provincially Significant Wetland. All conditions related to wetland protection and mitigation applicable to the project will be included in the *Approval to Construct* and must be strictly followed.
12. No alterations are permitted within the Provincially Significant wetland.
13. The proponent is required to implement a wetland monitoring program years 1, 3 and 5 following completion of the project. The objective of the monitoring program is to identify if the project has had a negative impact on the wetland. The results of the program must be submitted to the Director of the EIA Branch, DELG for review and approval. Based on the results of the program, it is possible that additional measures will be required. For more information, please contact the Regional Wetland Biologist at (506) 547-2092.
14. The proponent shall ensure that all developers, contractors and operators associated with the construction and operation of the project are aware of and comply with the above requirements.