

DOCUMENT "A"

MINISTER'S DETERMINATION CONDITIONS OF APPROVAL

Pursuant to Regulation 87-83 under the *Clean Environment Act*
October 15, 2019
File Number: 4561-3-1508

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 registration document entitled, "Proposed Upham East Gypsum Quarry Project, Upham, New Brunswick", dated October 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 of the Department of Environment and Local Government (DELG) every six months from the date of this Determination until such a time that it is deemed no longer necessary by DELG.
4. If it is suspected that remains of archaeological, including paleontological (i.e. fossils), significance are discovered during construction, operation, or maintenance of the proposed development, as per the *New Brunswick Heritage Conservation Act (2010)*, all activity shall be stopped near the find and the Manager of the Archaeological Regulatory Unit, Archaeological Services Branch, New Brunswick Department of Tourism, Heritage and Culture, shall be contacted at (506) 453-3014 for further direction.
5. The proponent must implement a breeding bird survey within the 2019 breeding bird season. The breeding bird survey results must be submitted for review and must be approved by the Director of DELG's EIA Branch prior to the commencement of any project related activities. Please note that the results of the survey may necessitate additional monitoring and mitigation as identified by the Director of DELG's EIA Branch.
6. 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. The proponent must ensure that all project-related activities comply with the *Migratory Birds Convention Act*.
7. 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.

8. The proponent must complete a wetland delineation and functional assessment on WL3. The results must be submitted for review and receive approval from the Director of DELG's EIA Branch prior to the commencement of any project related activities.
9. All loss of regulated wetland habitat requires wetland compensation at a 2:1 ratio. A Wetland Compensation Plan for regulated wetland areas permanently impacted by the project must be submitted to the Director, EIA Branch, DELG for review and approval within six months of the date of this Determination.
10. A wetland monitoring plan including monitoring of wetland function at one, three and five year intervals from the date of the onset of construction must be submitted to the Director, EIA Branch, DELG for review and approval within six months of the date of this Determination. Compensation for permanently impacted regulated wetlands and additional mitigation for unmapped wetlands may be required if the results of the monitoring program demonstrate a loss of wetland function.
11. Any proposed work in or within 30 metres of a watercourse requires review by the Fisheries Protection Program of Fisheries and Oceans Canada (DFO) and a *Fisheries Act Authorization* must be obtained if required based on DFO's review.
12. The proponent must submit a water management plan for review and receive approval from the Director of DELG's EIA Branch prior to the commencement of each phase (e.g. construction (Phases 1 & 2), operation, decommissioning, etc.). The water management plan must include a protocol for pit dewatering and runoff management and mitigation. In order to ensure that there is no net increase in flow to the receiving watercourse which flows through the Department of Transportation and Infrastructure (DTI) watercourse crossing structures, the water management plan must include anticipated pre- and post-development stormwater flows, assuming a 100-year return rain event + 20% to account for climate change. Please note, if the calculated post-development flow is greater than the pre-development flow, a flow attenuation/retention pond will be required.
13. The proponent must submit to the Director of DELG's EIA Branch for review and approval the locations of the proposed nested monitoring wells and the proposed well construction details. The proposed monitoring wells must be installed, and baseline samples collected prior to the commencement of blasting activities or Phase 2 construction activities.
14. The proponent must submit a groundwater monitoring plan for review and receive approval from the Director of DELG's EIA Branch prior to the commencement of blasting activities or Phase 2 construction activities.
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 of DELG's EIA Branch. 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. Prior to the commencement of any construction activities (Phases 1 & 2), an *Approval to Construct* must be obtained from the Authorizations and Compliance Branch, DELG. Prior to the commencement of any operational activities, an *Approval to Operate* must be obtained from the Authorizations and Compliance Branch, DELG. For more information, please contact the Authorizations and Compliance Branch at (506) 453-7945.
17. The project involves work in and within 30 meters of watercourses and a regulated wetland. 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.
18. Pre-blast surveys must be conducted within the pre-blast survey radius. 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 of DELG's EIA Branch.
19. 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.
20. A follow-up vegetation survey must be conducted in the Spring of 2019 to confirm *Spiranthes* species for proper identification of the potential rare plant, *Spiranthes lucida*. The vegetation survey results must be submitted for review and receive approval from the Director of DELG's EIA Branch prior to the commencement of construction work associated with the project. Please note that the results of the survey may necessitate additional monitoring and mitigation, as identified by the Director of DELG's EIA Branch.
21. Prior to the extraction of the mineral, the proponent must obtain a *Mining Lease* from the Department of Energy and Resource Development.
22. Prior to the commencement of any operational activities, the proponent must submit a Financial Security Plan (FSP) to the Director of DELG's EIA Branch for review and approval. The FSP is subject to the following conditions:
 - a. 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.
 - b. 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.
 - c. Security funds used by the Minister shall be replaced by the proponent as required by the Minister.
23. The proponent is required to contact the New Brunswick Department of Transportation and Infrastructure's (NB DTI) Permit Office (506-453-2982) to apply for a *Special Permit* for the transport of oversize and overweight loads on NB DTI highways. Also, the proponent shall submit a Traffic Management Plan to NB DTI for the transport of oversized/overweight loads.
24. 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 of DELG's EIA Branch prior to the commencement of decommissioning activities.

25. The proponent must prepare and submit for approval an Environmental Management Plan (EMP). Plans for specific phases (e.g. construction (Phases 1 & 2), operation, decommissioning, etc.) can be submitted separately for review to the Director of DELG's EIA Branch 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 of DELG's EIA Branch. Contingency and emergency response plans must also be included as part of the EMP.
26. 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 within three months of the date of this Determination and must include a reporting schedule.
27. 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 DELG's EIA Branch.
28. The proponent shall ensure that any proposed project modifications are submitted for review and must be approved by the Director of DELG's EIA Branch prior to implementing the changes.
29. The proponent must ensure that all developers, contractors, and operators associated with the construction and operation of the project comply with the above.