

**DOCUMENT “A”
MINISTER’S DETERMINATION
CONDITIONS OF APPROVAL**

Pursuant to Regulation 87-83 under the Clean Environment Act
December 3rd, 2019
File Number: 4561-3-1528

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 document entitled, “Pokeshaw Black Rock Wind Power Project, Environmental Impact Assessment Registration Document, July 2019”, 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 all the Conditions have been met.
4. From the date of issuance of this Certificate, the proponent has approval to proceed with the wind turbine layout as described in “Pokeshaw Wind Energy Project Proposed Layout November 2019”. Approval to proceed with this wind turbine layout does not guarantee approval of future wind turbine layout changes. If the proponent proposes to change the locations of the wind turbines, the proponent will be required to submit additional information well in advance of requesting permission to change the wind turbine layout. The additional information will be reviewed by the EIA Technical Review Committee (TRC) before a decision is made, and any changes in wind turbine locations 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 new wind turbine locations are approved.
5. The proponent is responsible for obtaining permission from all landowners listed on the properties where the alterations, including the access corridors, are to take place.
6. If it is suspected that remains of archaeological 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.
7. The proponent shall implement a radar and acoustical nocturnal bird and bat monitoring program for a minimum of one year, to be completed during the construction phase or during the first year of post-construction. Based on the results of the monitoring program, additional years of monitoring and mitigation measures may be imposed by the Director of DELG’s EIA Branch. Prior to implementation, the proposed protocol for the monitoring program shall be submitted for review by DELG, Environment and Climate Change Canada’s Canadian Wildlife Service (CWS) and the Department of

Natural Resources and Energy Development (DNRED), and must receive approval from the Director of DELG's EIA Branch. Data from the monitoring program shall be provided to DELG, CWS and DNRED, along with annual monitoring reports. The Director of the EIA Branch may alter the details within this condition due to additional relevant technical information or due to policy change.

8. An adaptive management plan outlining mitigation measures that will be implemented should the project be shown to have a significant impact on birds or bats shall also be submitted for review and shall receive approval from the Director of DELG's EIA Branch prior to the start of the operational phase of the project.
9. The proponent shall conduct post-construction follow-up bird and bat usage and mortality monitoring in consultation with CWS and DNRED. The proposed monitoring protocols shall be submitted for review and receive approval from the Director of DELG's EIA Branch before any surveys take place and before the start of the operational phase of the project. The monitoring program shall also include specific provisions for the monitoring of species at risk.
10. The mortality of an individual migratory bird species at risk or 10 or more migratory birds in one night is considered a mortality event for which CWS must be contacted within 24 hours of discovery and confirmation of species type (Environmental Emergencies 1-800-565-1633). Such notification is expected to occur even once the formal post-construction bird monitoring program will have ended, and must include specific details about the event (e.g. name and location of the wind farm, number of mortalities, species, map showing turbines, associated infrastructure, and location of collisions, meteorological conditions during previous night(s), details of lighting at the site and any other factor that might have influenced the event). Staff and contractors must be instructed that if a mortality event as described above occurs, the area around each wind turbine must be carefully checked to better evaluate the extent of the event, even if this is not described in the regular post-construction bird monitoring protocol, or if the formal post-construction bird monitoring program has ended.
11. The proponent must ensure that if a nest or chick of a migratory bird is detected during project construction, work in the area shall be halted and CWS 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.
12. A Watercourse and Wetland Alteration Permit must be obtained from DELG prior to conducting any project-related activities within 30 m of a regulated watercourse or wetland. The application for any required permit should make reference to the EIA file number (4561-3-1528).
13. All loss of wetland habitat requires wetland compensation at a 2:1 ratio. A Wetland Compensation Plan for 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.
14. 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 or additional mitigation may be required if the results of the monitoring program demonstrate that there has been an additional loss of wetland function/area.
15. Special permits are required to operate vehicles which exceed the mass and dimensions prescribed under NB regulation 2001-67. The proponent is required to contact the New Brunswick Department of Transportation and Infrastructure's (DTI) Special Permit Office (506- 453-2982) to apply for any required oversize and overmass permits in advance of operating on NB highways. Historically loads for wind projects are of an excessive mass and size, such that a traffic management plan is required

to be submitted and approved by the department prior to issuance of permits. A Traffic Management Plan must also include the locations and types of modifications that may be required on DTI roads. Any planned modifications to DTI infrastructure must be submitted for review and approval by DTI. The proponent should contact the DTI Design Branch (506-453-3939) to obtain guidance on road design standards.

16. All wind turbines must be setback five hundred metres (500 m) or a distance equal to three and a half (3.5) times the wind turbine height (whichever is greatest) from the right-of-way of public highways (including Route 135) under the administration and control of the Minister of Transportation and Infrastructure, including areas declared as DTI Development Areas. All turbines must be setback a distance equal to one and a half (1.5) times the wind turbine height from a public non-maintained road right-of-way (including Pokeshaw Ridge Road).
17. Should shadow flicker exceed the most recent guidelines that are associated with the EIA Sector-Specific Guideline, the proponent will be responsible to ensure that mitigation measures are implemented, such as, but not limited to providing vegetation, awnings, and/or operational shutdowns during the expected shadow flicker times. The mitigation measures shall be reviewed and approved by the Director of DELG's EIA Branch.
18. Prior to the commencement of any construction activities, the proponent must complete a baseline noise survey and submit the results to the Director of DELG's EIA Branch. The proponent must submit a noise management monitoring plan, including complaint resolution process, which must be submitted to the Director of DELG's EIA Branch and must receive approval prior to the commencement of any construction activities. 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.
19. Decommissioning of the wind turbines once they cease to operate shall be undertaken within one year of the permanent cessation of operation for the wind turbine. A decommissioning plan, including site reclamation, shall be reviewed and approved by the Director of DELG's EIA Branch. During decommissioning, the project area will be restored as close to pre-project conditions as possible, in consultation with DELG and DNRED.
20. The proponent must prepare and submit for approval an Environmental Management Plan (EMP) to address environmental issues pertaining to facility construction and operation. As part of this EMP, specific commitments to mitigation must be made based on site-specific environmental constraints. The EMP must include a spill response contingency plan, fire response, and must address measures pertaining to on-site concrete production, if the latter is proposed. The portions of the EMP for specific phases (e.g. construction, operation, decommissioning, etc.) can be submitted for review to the Director of DELG's EIA Branch and must receive approval prior to the commencement of activities related to those phases.
21. In the event of the sale, lease, or any other conveyance or change of control of the project, 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.
22. The proponent shall ensure that any proposed project modifications are submitted for review and approval to the Director of DELG's EIA Branch prior to implementing the changes.
23. The proponent must ensure that all developers, contractors, and operators associated with the construction and operation of the project comply with the above.

