

DOCUMENT "A"

**MINISTER'S DETERMINATION
CONDITIONS OF APPROVAL**

Pursuant to Regulation 87-83 under the *Clean Environment Act*

April 30, 2021

File Number: 4561-3-1538

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 Climate Change.
3. The proponent shall adhere to all obligations, commitments, monitoring and mitigation measures presented in the document entitled, "Burchill Wind Project - Environmental Impact Assessment Registration Document – February 2020 – Natural Forces", 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 & Local Government (DELG) every six months from the date of this Determination until such a time that all the Conditions have been met.
4. To ensure that First Nations are meaningfully engaged, the proponent must adhere to agreements and commitments made during the EIA process, and continue to engage and support the consultation process to understand the potential adverse impacts to Aboriginal or treaty rights, and to avoid or mitigate these impacts where possible.
5. The following turbines are approved for construction: T1i, T2i, T3i, T4i, T5i, T6i, T7i, A9i, A11i, T12i, A13i, T14i and T15i as described in the Burchill Wind Project site plan submitted on January 11, 2021.
6. The proponent shall **not** develop turbines at locations A8i and A10i (as shown on the Burchill Wind Project, January 11, 2021 Proposed Layout, single page turbine siting plan) due to their proximity to Highway 1.
7. All wind turbines shall be set back five hundred metres (500 m) or a distance equal to three and a half (3.5) times the total wind turbine height (whichever is greatest) from the right-of-way of Public Highways under the Administration and Control of the Minister of Transportation and Infrastructure (in this case from the Right-of-Way of Highway 1).
8. At the T1i turbine location, the proponent shall complete a 2021 Spring migration survey for birds and bats that must be designed to compare the amount of migrants and species composition at this turbine versus the results from the rest of the turbines. This information will be used to determine if adaptive mitigation (e.g. cut out speed, shutting down at night during peak migration and fog events, etc.) should be implemented as soon as the turbine is erected.

Spring bat surveys must be conducted from June 1st to July 31st. The information shall be submitted for review/approval to the Director of the EIA Branch, DELG.

9. At the T1i turbine location, the proponent shall complete a 2021 breeding bird survey. The information shall be submitted for review/approval to the Director of the EIA Branch, DELG.
10. At the T1i turbine location, the proponent shall complete a 2021 fall migration survey for birds and bats that must be designed to compare the amount of migrants and species composition at this turbine versus the results from the rest of the turbines. This will be used to determine if adaptive mitigation (e.g. cut out speed, shutting down at night during peak migration, etc.) should be implemented as soon as the turbine is erected. Fall bat surveys must be conducted from August 15th to October 15th. The information shall be submitted for review/approval to the Director of the EIA Branch, DELG.
11. As soon as the T1i turbine becomes operational, increased mortality surveys must be conducted for a minimum of three years, which could be extended if mortality is high. Surveys must be conducted three times per week during migration, and two times per week during breeding season and winter. To determine if fog events result in an increase in collisions at this site, surveys must coincide with fog events and must occur no more than one day after such events. Two mortality reports are required each year, one mid-summer (to cover spring migration) and one end-of-year (to cover breeding season and Fall migration). The information shall be submitted for review/approval to the Director of the EIA Branch, DELG.
12. The proponent shall conduct post-construction follow-up bird and bat usage and mortality monitoring in consultation with the Canadian Wildlife Service (CWS) and the Department of Natural Resources and Energy Development (NRED). 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.
13. An adaptive management plan outlining mitigation measures that will be implemented should the project be shown to have a significant impact on birds and 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.
14. The proponent shall 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 (Environmental Emergencies 1-800-565-1633). Furthermore, the proponent must ensure that all project-related activities comply with the *Migratory Birds Convention Act*.
15. 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 (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, 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.

16. Should shadow flicker exceed the most recent standards referenced in the EIA Branch *Wind Turbines Sector 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.
17. If it is suspected that remains of archaeological significance are found during construction, operation or maintenance of the proposed development, as per the *Heritage Conservation Act* (2010), all activity shall be stopped near the find and the Manager (Regulatory Unit of the Archeology and Heritage Branch, Department of Tourism, Heritage and Culture shall be contacted at (506) 453-2748.
18. A valid *Watercourse and Wetland Alteration Permit* must be obtained prior to conducting any alterations in or within 30 metres of a wetland or watercourse.
19. All loss of regulated wetland habitat according to GeoNB prior to January 1st, 2020 requires Wetland Compensation at a 2:1 ratio. A Wetland Compensation Plan shall be submitted within 6 months of the date of this Determination for review and approval by the Director of the EIA Branch for those regulated wetland areas permanently impacted by this project.
20. Prior to the transportation of major project components to the site (e.g. wind turbine components, power transmission poles and cables, materials for foundation construction and cable bedding such as sand, gravel, concrete, etc.), the proponent is required to contact the New Brunswick Department of Transportation and Infrastructure Special Permit Office at (506)453-2982. The Special Permit Office will guide the proponent through the application process including transportation plan requirements.
21. Decommissioning of the wind turbine once it ceases to operate shall be undertaken within one year of the 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 NRED.
22. The proponent shall prepare and submit for approval an updated 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 shall include a spill response contingency plan and shall address measures pertaining to on-site concrete production. The portions of the EMP for specific phases (e.g., construction, operation, decommissioning) 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. Noise management and noise monitoring plans, including complaint resolution, as appropriate, shall 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.
23. The proponent shall ensure that all hydroseed mixes shall contain a variety of species of plants native to the general project area. Should seed mixes for herbaceous native species for the area not be available, plants used in revegetation efforts must not be invasive.
24. The proponent shall conform to the requirements of the *Electricity Act*.

25. The proponent shall conform to the *Local Governance Act*.
26. 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.
27. The proponent shall ensure that any proposed project modifications or future expansions are submitted for review and approval to the Director of the EIA Branch, DELG, prior to implementing the changes.
28. The proponent shall ensure that all developers, contractors and operators associated with the development project comply with the above requirements.