

**ENVIRONMENTAL ASSESSMENT ACT**

**SECTION 9**

**NOTICE OF APPROVAL TO PROCEED WITH THE UNDERTAKING**

**RE:** An Environmental Assessment for the New Transmission Line to Pickle Lake

**Proponent:** Wataynikaneyap Power

**EA File No.:** 03-03-03

**EA Reference No.:** 13025

Take notice that the period for requesting that the application or matters related to the application be referred to the Environmental Review Tribunal for a hearing and decision expired on October 5, 2018. I received one submission requesting a hearing by the Environmental Review Tribunal before the expiration date.

I consider a hearing to be unnecessary in this case. Having considered the purpose of the Environmental Assessment Act, the approved terms of reference, the Environmental Assessment, the ministry review of the Environmental Assessment and submissions received, I hereby give approval to proceed with the Undertaking, subject to the conditions set out below.

## REASONS

My reasons for my decision are:

- (1) The Proponent has complied with the requirements of the Environmental Assessment Act.
- (2) The Environmental Assessment has been prepared in accordance with the approved Terms of Reference.
- (3) On the basis of the Proponent's Environmental Assessment and the ministry review, the Proponent's conclusion that, on balance, the advantages of this Undertaking outweigh its disadvantages appears to be valid.
- (4) The Proponent has demonstrated that the environmental effects of the Undertaking can be appropriately prevented, changed, mitigated or remedied.
- (5) While there is another viable alternative, the Proponent has demonstrated that the preferred alternative achieves the most appropriate balance of advantages to disadvantages.
- (6) On the basis of the Proponent's Environmental Assessment, the ministry review and the conditions of approval, the Construction, operation and maintenance of the Undertaking will be consistent with the purpose of the Environmental Assessment Act (section 2).
- (7) All concerns raised by government agencies, the public and Indigenous communities regarding the Environmental Assessment and the proposed Undertaking have been resolved or have been addressed to my satisfaction through the conditions set out below or can be resolved through other future approvals that the Proponent will be required to obtain.
- (8) I am not aware of any outstanding issues with respect to this Undertaking which suggest that a hearing should be required; as such, a hearing is unnecessary and would cause undue delay to the implementation of the Undertaking.

## CONDITIONS

The approval is subject to the following conditions:

### **1. Definitions**

For the purposes of these conditions:

**"Environmental Assessment"** means the documents titled Amended Environmental Assessment Report for the Phase 1 New Transmission Line to Pickle Lake Project, August 2018 and Supplemental Assessment re: MNO R1CC, May 2019.

**"Construction"** means physical construction activities, including site preparation works, but does not include the tendering of contracts.

**"Date of Approval"** means the date on which the Order in Council pertaining to the approval of the Undertaking was signed by the Lieutenant Governor-in-Council.

**"Director"** means the Director of the Environmental Assessment and Permissions Branch of the Ministry.

**"ESA"** means Ontario's *Endangered Species Act, 2007*.

**"Indigenous Communities"** means:

- (1) Eagle Lake First Nation, Lac Seul First Nation, Mishkeegogamang First Nation, Ojibway Nation of Saugeen, Slate Falls First Nation, Wabigoon Lake Ojibway Nation and Métis Nation of Ontario Region 1 Consultation Committee, as the communities identified for consultation on the Undertaking pursuant to the 2016 Memorandum of Understanding between the Crown and the Proponent; and
- (2) Eabametoong First Nation, as a community that has requested to be involved in the Indigenous consultation plan.

**"Limits of Work"** means a 200-metre corridor on either side of the 40-metre-wide transmission line alignment right of way.

**"Ministry"** means the Ontario Ministry of the Environment, Conservation and Parks.

**"Proponent"** means Wataynikaneyap Power GP Inc., as general partner for and on behalf of Wataynikaneyap Power L.P., the partnership under the laws of Ontario, and includes its agents, successors, and assigns.

**"Undertaking"** means the design, Construction, operation, maintenance and retirement of an overhead 300-kilometre 230-kilovolt electricity transmission line from the Dinorwic area to Pickle Lake. The Undertaking includes the 40-metre-wide cleared right of way for the transmission line's utility poles and wires; 2-kilometre-wide corridor for the cleared right of way; other structures needed for Construction and operation including camps, access roads and trails, laydown areas, watercourse crossings and waste management; a connection facility in the Dinorwic area; and a transformer station in the Township of Pickle Lake.

## 2. General Requirements

- 2.1 The Proponent shall implement the Undertaking in accordance with the Environmental Assessment, which is hereby incorporated into this Notice of Approval by reference, except as provided in the conditions of this Notice of Approval and as provided in any other approval, permit or authorization that may be issued for this Undertaking.
- 2.2 Should the Proponent wish to make changes to any document required by these conditions after the document has been accepted or approved by the Ministry, the Proponent shall obtain the written approval for the proposed changes from the Ministry decision-maker in the condition requiring the document.
- 2.3 For any document required by these conditions to be prepared, submitted and/or posted publicly by the Proponent, the Director may determine that the Proponent is no longer required to prepare, submit or post the document. The Director shall provide written notice of the decision to the Proponent. Until such time as the

Proponent has received written notice from the Director, the Proponent must continue to prepare, submit and/or post the document as required by the conditions.

- 2.4 The Proponent shall fulfill all commitments made in the Environmental Assessment.
- 2.5 The conditions of the Notice of Approval do not prevent more restrictive conditions being imposed under other statutes.

### **3. Public Record**

- 3.1 Where a document is required for the public record, the Proponent shall post the document on the Proponent's website and shall provide one hardcopy and one electronic copy of the document to the Director.
- 3.2 The Environmental Assessment Reference Number 13025 and File Number 03-03-03 shall be quoted on all documents submitted to the Ministry pursuant to this Notice of Approval.
- 3.3 For every document submitted to the Ministry, the Proponent shall clearly identify which condition of approval the document is meant to fulfill.

### **4. Compliance Monitoring Program**

- 4.1 The Proponent shall prepare and submit to the Director for approval and for the public record an Environmental Assessment compliance monitoring program.
- 4.2 The compliance monitoring program shall be submitted to the Director within 90 days of the Date of Approval or such other date agreed upon by the Director in writing.
- 4.3 The compliance monitoring program shall include a description of how the Proponent will:
  - a. monitor implementation of the Undertaking in accordance with the Environmental Assessment with respect to mitigation measures, public consultation, and additional studies and work to be carried out;
  - b. monitor compliance with the conditions in this Notice of Approval; and
  - c. monitor compliance with all commitments made in the Environmental Assessment with respect to mitigation measures, public consultation, and additional studies and work to be carried out.
- 4.4 The compliance monitoring program shall include an implementation schedule for monitoring activities to be completed.
- 4.5 The Director may require the Proponent to amend the compliance monitoring program at any time. Should an amendment be required, the Director will notify the Proponent in writing of the required amendment and the date by which the Proponent must complete and submit the amendment to the Director.

- 4.6 The Proponent shall submit the amended compliance monitoring program to the Director within the time period specified by the Director in the written notice.
- 4.7 The Proponent shall implement the compliance monitoring program, including any amendments to it.

## **5. Compliance Reporting**

- 5.1 The Proponent shall prepare an annual compliance report outlining the results of the compliance monitoring program (Condition 4).
- 5.2 The first compliance report shall be submitted to the Director for review and for the public record one year following the Date of Approval. Each subsequent annual compliance report shall be submitted on the date that is the anniversary of the Date of Approval thereafter. Each report shall cover the previous year.
- 5.3 The Proponent shall submit annual compliance reports until all conditions in this Notice of Approval are satisfied or the Proponent is instructed otherwise in writing by the Director.
- 5.4 The Proponent shall notify the Director in writing when the final annual compliance report is being submitted. The Ministry will confirm whether the annual compliance reporting requirements in Conditions 5.1-5.3 have been fulfilled and the Director will confirm this in writing to the Proponent.
- 5.5 The Proponent shall retain, either in the Proponent's office or in another location approved by the Director, copies of the annual compliance reports for each reporting year and any associated documentation of compliance monitoring activities. The Proponent shall post the annual compliance reports for each reporting year on its website.
- 5.6 The Proponent shall make the compliance reports and associated documentation available to the Director or a designate in a timely manner when requested to do so by the Ministry.

## **6. Complaint Protocol**

- 6.1 The Proponent shall prepare and implement a complaint protocol for dealing with and responding to inquiries and complaints during all stages of the Undertaking. The complaint protocol shall include a procedure for notifying the Ministry's Thunder Bay District Manager of any complaints received by the Proponent.
- 6.2 The Proponent shall submit the complaint protocol to the Director for approval and for the public record at least 30 days before the start of Construction or such other date that is agreed upon by the Director in writing.
- 6.3 The Director may require the Proponent to amend the complaint protocol at any time. Should an amendment be required, the Director shall notify the Proponent in writing of the amendment required and when the amendment must be completed.

- 6.4 The Proponent shall submit an amended complaint protocol to the Director within the time period specified by the Director.
- 6.5 The Proponent shall implement the complaint protocol and any amendments to it.
- 6.6 The Proponent shall include a summary of the complaints received and how they were addressed in each of the annual compliance reports required by Condition 5.

**7. Consultation with Indigenous Communities**

- 7.1 The Proponent shall prepare, in consultation with the Indigenous Communities, an Indigenous consultation plan that sets forth:
  - a. how, during the implementation of the Undertaking, the Proponent will consult with Indigenous Communities and provide them with opportunities to be involved in the environmental monitoring activities;
  - b. how the Proponent will notify Indigenous Communities if archaeological resources or Indigenous remains are encountered during the implementation of the Undertaking;
  - c. how the Proponent will consider any additional traditional knowledge and traditional land and resource use information that Indigenous Communities may provide during implementation of the Undertaking; and
  - d. how the Proponent will issue notices and updates to Indigenous Communities on key steps during the implementation of the Undertaking.
- 7.2 At least 30 days prior to the start of Construction or by such other date as may be agreed to in writing by the Director, the Proponent shall submit the Indigenous consultation plan to the Director for approval, including details of the consultation that was undertaken with the Indigenous Communities on the plan, as required by Condition 7.1. The Director may require the Proponent to amend the Indigenous consultation plan at any time. Should an amendment be required, the Director shall notify the Proponent in writing of the amendment required and when the amendment must be completed.
- 7.3 The Proponent shall implement the Indigenous consultation plan and any amendments to it.

**8. Indigenous Traditional Land and Resource Use**

- 8.1 The Proponent shall consider and address, as appropriate, any additional traditional knowledge and traditional land and resource use information that Indigenous Communities may provide during implementation of the Undertaking.

**9. Detailed Construction and Environmental Constraints Schedules**

- 9.1 During the Construction stage of the Undertaking, the Proponent shall prepare Construction and environmental constraints schedules to supplement the information in the Environmental Assessment.

- 9.2 A new Construction and environmental constraints schedule shall be submitted every three months after the first schedule is submitted.
- 9.3 The Construction and environmental constraints schedules shall include:
- a. an outline of the activities that are planned to occur during the following three months;
  - b. specific to the project activities outlined in (a):
    - a list of approval and permit applications and requested authorizations that the Proponent intends to submit to regulatory agencies during the next three months;
    - the footprint for that part of the Undertaking that will be under Construction during the relevant three month period;
    - environmental features, environmental constraints and unexpected environmental conditions in the area(s) in which work is being undertaken;
    - mitigation and monitoring plans for the area(s) in which work is being undertaken;
    - any wildlife species, habitat or natural feature timing constraints that apply; and
    - mapping at a sufficient scale to display the information listed above.
- 9.4 The Proponent shall post the schedules on the Proponent's website and provide the schedules to:
- a. the Director,
  - b. the Ministry's Thunder Bay District Manager,
  - c. the Manager of Permissions and Compliance of the Ministry's Species at Risk Branch,
  - d. the Ministry of Natural Resources and Forestry's Director of Northwest Region, and
  - e. Indigenous Communities.
- 9.5 The Proponent shall provide a minimum of 15 days for review of each Construction and environmental constraints schedule by the parties listed in Condition 9.4 prior to carrying out the portion of the Undertaking covered by the schedule.
- 9.6 If, during preparation of a Construction and environmental constraints schedule, the Proponent identifies a change to the Undertaking that is outside of the Limits of Work or that could result in greater adverse environmental effects than were identified in the Environmental Assessment, the Proponent shall comply with Condition 12.

9.7 If changes are required to be made to a Construction and environmental constraints schedule after it has been submitted, the Proponent shall determine if the proposed change:

- a. would result in a change to the Undertaking that is outside of the Limits of Work; or
- b. could result in greater adverse environmental effects than were identified in the Environmental Assessment.

If the proposed change to the Construction and environmental constraints schedule would result in either (a) or (b) above, the Proponent shall submit a revised Construction and environmental constraints schedule in accordance with Conditions 9 and 12 as may be applicable to the change. Otherwise, the Proponent may proceed with the proposed change, subject to any approval, permitting or authorization requirements.

9.8 At the end of the Construction phase of the Undertaking, the Proponent shall provide the Ministry with a summary of how Condition 9 has been satisfied in the following compliance report required by Condition 5.

## **10. Caribou Assessment**

10.1 The Proponent shall develop a comprehensive assessment of impacts to caribou and caribou habitat and mitigation measures based on the final footprint and timing of Construction of the Undertaking. Prior to beginning this assessment, the Proponent shall provide to the Ministry, for review, an outline of information to be included in, and the methodology to be used for, the comprehensive assessment. At a minimum, the outline shall identify how the assessment will address the policy objective and principles of the Range Management Policy in Support of Woodland Caribou Conservation and Recovery (2014, as updated).

10.2 The comprehensive assessment shall be provided to the Ministry as part of the Proponent's relevant authorization request under the ESA.

10.3 If, during preparation of the comprehensive assessment, the Proponent identifies any change to the Undertaking that would be outside of the Limits of Work or that could result in greater adverse effects to caribou or its habitat than were identified in the Environmental Assessment, the Proponent shall follow the requirements of Condition 12.

10.4 The Proponent shall post a notice on its website and provide notice to Indigenous Communities about the information submitted pursuant to Condition 10.2. During the authorization request process, if any requests for this information are received, the Proponent shall provide opportunities for the requester to review the information and shall consider, as appropriate, any feedback received.

## **11. Eastern Whip-poor-will Assessment**

11.1 If, during preparation of information related to the authorization request under the ESA for eastern whip-poor-will, the Proponent identifies any change to the

Undertaking that would be outside of the Limits of Work or that could result in greater adverse effects to eastern whip-poor-will or its habitat than were identified in the Environmental Assessment, the Proponent shall follow the requirements of Condition 12.

- 11.2 The Proponent shall post a notice on its website and provide notice to Indigenous Communities about information submitted to the Ministry as part of its authorization request under the ESA for eastern whip-poor-will. During the authorization request process, if any requests for this information are received, the Proponent shall provide opportunities for the requester to review the information and shall consider, as appropriate, any feedback received.

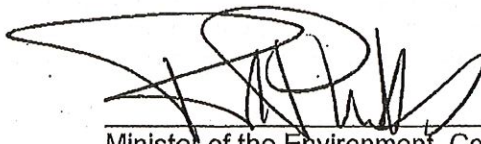
**12. Change Process**

- 12.1 The Proponent shall notify the Director in writing of any proposed change to the Undertaking that is outside of the Limits of Work or that could result in greater adverse environmental effects than were identified in the Environmental Assessment. The Proponent shall follow the amendment procedure as set out in section 13.4 of the Environmental Assessment.

**13. Duration of Approval**

- 13.1 If Construction of the Undertaking has not commenced within 10 years of the Date of Approval, this Notice of Approval shall expire, unless otherwise extended by the Minister.

Dated the 9 day of June 2019 at TORONTO.



Minister of the Environment, Conservation and Parks  
777 Bay Street, 5<sup>th</sup> Floor  
Toronto, Ontario  
M7A 2J3

Approved by O.C. No. 985/2019

Date O.C. Approved June 21, 2019