

# Environmental Assessment Approval

**Approval Date:** March 27, 2023

**Mersey River Wind Farm**

*Mersey River Wind inc.*

**Queens County, Nova Scotia**

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## Terms and Conditions for Environmental Assessment Approval

### 1 Definitions

- 1.1 *Act* means Environment Act 1994-95, c.1, s.1, and includes, unless the context otherwise requires, the regulations made pursuant to the Act, as amended from time to time.
- 1.2 Department means the Department of Environment and Climate Change, and the contact for the Department for this Approval is:  
  
Nova Scotia Environment and Climate Change  
Western Region, Bridgewater Office  
81 Logan Road,  
Bridgewater, NS  
B4V 3T3  
Phone: 902-543-4685 Fax: 902-524-5480
- 1.3 Minister means the Minister of Environment and Climate Change.
- 1.4 Commencement means the same as to commence work, as defined in the Environmental Assessment Regulations.
- 1.5 EA means Environmental Assessment.

## **2 Scope**

- 2.1 This Approval (the "Approval") relates to the Approval Holder(s) and their Registration Document, and all documentation submitted to the Department prior to the issuance of this approval for the Mersey River Wind Farm, situated at or near Milton, Queens County, Nova Scotia, hereafter referred to as the "Project."
- 2.2 The Approval Holder(s) shall ensure the Project is carried out in accordance with this Approval and reference documents, including the Registration Documents and supporting documentation.

## **3 General**

- 3.1 The Approval Holder shall conduct the Project in accordance with the Environment Act, as amended from time to time.
- 3.2 The Approval Holder shall, within two years of the date of issuance of this Approval, commence work on the Project unless granted a written extension by the Minister.
- 3.3 The Approval Holder shall provide written notification to the Department of the commencement date of the Project, at a minimum 30 days prior to the commencement.
- 3.4 The Approval Holder shall provide to the Department a concordance table detailing the status of the EA terms and conditions on or before January 31 of each year until released in writing by the Department.
- 3.5 Prior to any proposed expansion, modification, or relocation of any aspect of the Project from that proposed in the Registration Document, the Approval Holder must submit the proposal to the EA Branch for review and may require additional information from the Approval Holder or an EA.
- 3.6 Nothing in this Approval relieves the Approval Holder of the responsibility for obtaining and paying for all other licenses, permits, approvals or authorizations necessary for carrying out the Project which may be required by municipal by-laws or provincial or federal legislation. The Minister does not warrant that such licenses, permits, approvals or authorizations will be

issued.

- 3.7 No authority is granted by this Approval to enable the Approval Holder(s) to commence or continue the Project on lands which are not in the control or ownership of the Approval Holder(s). It is the responsibility of the Approval Holder(s) to ensure that such a contravention does not occur. Failure to retain said authorization may result in this Approval being cancelled or suspended.
- 3.8 The Approval Holder shall not transfer, sell, lease, assign or otherwise dispose of this Approval without the written consent of the Minister. The sale of a controlling interest of a business or a transfer of this Approval from a parent company to a subsidiary or an affiliate is deemed to be a transfer requiring consent.
- 3.9 Upon any changes to the Registry of Joint Stock Companies information related to the Approval Holder, the Approval Holder shall provide a copy to the Department within 5 days of the changes.
- 3.10 If there is a discrepancy between the Registration Documentation and the terms and conditions of this Approval, the terms and conditions of this Approval shall apply.
- 3.11 Where a timeline is associated with a condition(s) of the Approval, the Approval Holder shall fulfil the requirements of the condition(s) within the prescribed timeline, unless otherwise authorized in writing by the Department.
- 3.12 Where the provision of a plan is associated with a condition(s) of the Approval, the Approval Holder may submit the plan in phases, with the written consent of the department, and shall fulfil the requirements of the condition(s). Where consent is provided in accordance with this section, work associated with and subject to a particular phase of a plan may only continue to the extent where the relevant phase(s) of the plan are complete.
- 3.13 The Approval Holder shall notify the Department of any incidents of non-compliance with this Approval immediately and in accordance with the Act and Regulations.

- 3.14 The Approval Holder shall bear all expenses incurred in carrying out the environmental management and monitoring required under the terms and conditions of this Approval, the Act or the Regulations.
- 3.15 Unless specified otherwise in this Approval, all samples required to be collected by this Approval, the Act or the Regulations shall be collected, preserved, and analysed, by qualified personnel, in accordance with recognized industry standards and procedures and in accordance with any Standard under the Act or Regulations.
- 3.16 The Approval Holder shall ensure that this Approval, or a copy, is present at the Project site while personnel are on site and that personnel directly involved in the Project are made fully aware of the terms and conditions which pertain to this Approval.
- 3.17 The Approval Holder shall update and/or revise any of the plans, programs or other documents required in this Approval to reflect the progressive development of the Project, and at any time deemed necessary by the Department. The Approval Holder shall make the documents available upon request by the Department.
- 3.18 Throughout the life of the Project, the Approval Holder shall conduct any additional studies or monitoring as required by the Department.
- 3.19 The Approval Holder shall provide to the Department a summary table detailing the results of the monitoring required in this Approval, or otherwise completed for the Project, on or before January 31 of each year until released in writing by the Department. The results shall clearly identify and summarize any exceedances.

#### **4 Project Design and Operation**

- 4.1 Prior to road construction and/or upgrades, the Approval Holder shall submit updated noise modelling for all seasonal and permanent receptors identified in the registration documents, to include background/baseline noise, in accordance with Guidance for Evaluating Human Health Impacts in Environmental Assessment: Noise (Health Canada, 2017). The updated modelling must demonstrate compliance with this Approval (See section 7).

- 4.2 Prior to road construction and/or upgrades, the Approval Holder shall submit an updated shadow flicker assessment, noise modelling, and the final turbine selection/placement to the Department. The updated modelling must demonstrate compliance with this Approval.
- 4.3 The Approval Holder shall be responsible for the costs of any third-party review of plans, reports, or monitoring results deemed necessary by the Department over the life of the Project.

## **5 Water Resources**

- 5.1 The Approval Holder shall not conduct any Project activities, construct a turbine (measured from the tip of the blade), or remove vegetation within 30 metres of a watercourse and/or a wetland unless otherwise authorized in writing by the Department.
- 5.2 Prior to road construction and/or upgrades, the Approval Holder shall submit a surface water management plan to the Department. This plan shall identify potential effects from construction of roads or other Project components on local surface water drainage patterns and identify mitigation measures for the protection of wetlands and watercourses. This plan shall be developed by a qualified professional engineer, hydrogeologist or geoscientist licensed to practice in the Province of Nova Scotia.
- 5.3 Prior to commencement, the Approval Holder shall submit a detailed sediment and erosion control plan to the Department. The plan shall include all clearing, grubbing, and stripping required for the Project and shall be designed by a professional engineer licensed to practice in Nova Scotia.
- 5.4 The Approval Holder, at their expense, shall replace any water supplies lost or damaged resulting from Project operations, as authorized and required by the Department.
- 5.5 The Approval Holder shall immediately contact the Department should sulphide bearing material be encountered on the Project site, and at the request of the Department, develop and implement a plan to manage the sulphide bearing material.

## 6 Habitat, Flora and Fauna

- 6.1 Prior to commencement of the Project, the Approval Holder shall provide the Wildlife Division and Regional Services, Department of Natural Resources and Renewables (NRR) with digital way points and shape files revealing precise locations for wetlands, and species listed under the Species at Risk Act (SARA) and/or Endangered Species Act (ESA), as well as Species of Special Concern (i.e. species assessed by the Committee on the Status of Endangered Wildlife in Canada as at risk, but not listed under SARA or ESA, and all S1, S2 and S3 listed species under the Atlantic Canada Conservation data Centre) identified during field work. The data provided to NRR shall include, at minimum, the date of the field observances and habitat description.
- 6.2 Prior to commencement of the Project, the Approval Holder shall submit a Wildlife Management Plan to ECC, NRR and Environment and Climate Change Canada (ECCC). The plan must describe how the Approval Holder intends to meet the requirements of relevant federal and provincial legislation, including but not limited to, *ESA*, the *Migratory Birds Convention Act* and *SARA*.
- 6.3 Prior to the time turbine(s) become operational, the Approval Holder must complete an additional year of field bird studies to inform future monitoring and mitigation planning.
- 6.4 Prior to the time turbine(s) become operational, the Approval Holder must complete an additional year of baseline field bat studies to inform future monitoring and mitigation planning.
- 6.5 The Approval Holder must develop a mortality monitoring program for birds and bats for not less than two years. The program shall be implemented from the time turbine(s) become operational. The monitoring program and associated reporting requirements shall be provided to NRR and ECCC.
- 6.6 The Approval Holder must develop a monitoring program for Mainland Moose for not less than two years. The program shall be implemented from the time turbine(s) become operational.

## **7 Air Quality, Noise and Visual Impact**

- 7.1 The Approval Holder shall ensure that noise levels at any permanent or seasonal receptors do not exceed 40 dBA. At the request of the Department, the Approval Holder shall develop and implement a plan to monitor noise levels under varying climatic conditions. The plan shall include, sampling locations, parameters, monitoring methods, protocols and frequency.
- 7.2 The Approval Holder shall ensure that noise emissions meet sound levels limits specified in the Nova Scotia Environment and Climate Change "Guidelines for Environmental Noise Measurement and Assessment" (2005), as amended from time to time.
- 7.3 At the request of the Department, the Approval Holder shall develop and implement a plan to monitor shadow flicker under varying seasonal conditions. The plan shall include sampling locations, parameters, monitoring methods, protocols and frequency.
- 7.4 The Approval Holder shall ensure that shadow flicker does not exceed the shadow flicker limits of 30 minutes per day, or 30 hours per year, at any permanent or seasonal receptor.

## **8 Archaeological and Heritage Resources**

- 8.1 Prior to construction of the Project, the Approval Holder shall complete subsurface testing for area HPA-06, and if they are to be disturbed, areas HPA-01 to HPA-05, HPA-07, HPA-09 and HPA-14. These areas are identified in Heritage Research Permit Report A2022NS034.
- 8.2 The Approval Holder shall cease work and contact the Special Places Coordinator, Nova Scotia Department of Communities, Culture, Tourism and Heritage (CCTH) immediately upon discovery of an archaeological, or paleontological site, artifact or fossil specimen unearthed during any phase of the Project. If the find is of certain or possible Mi'kmaq origin, the Approval Holder shall also contact the appropriate Mi'kmaq representatives as advised by CCTH.

## **9 Public Engagement**

- 9.1 Prior to commencement of the Project, the Approval Holder shall develop and implement a comprehensive complaint resolution plan for receiving and responding to complaints related to the Project. The plan will include, but not be limited to, a reporting system which records all complaints received, sets out a timeline for responding to complaints and establishes a recording system that details all corrective measures taken to alleviate the cause and prevent its recurrence. The plan shall be made available to the Department upon request.
- 9.2 The Approval Holder shall appoint a contact person designated to deal with complaints and shall provide the contact information to the Department.
- 9.3 At the request of the Department, the Approval Holder shall develop and implement a plan for the formation and operation of a Community Liaison Committee (CLC) including terms of reference, which meet the Department's Guide for the Formation and Operation of a Community Liaison Committee, as amended from time to time. The Approval Holder shall operate the CLC for the duration of the Project or until released in writing by the Department.

## **10 Engagement with the Mi'kmaq of Nova Scotia**

- 10.1 Prior to commencement of the Project, the Approval Holder shall develop and implement a Mi'kmaq Communication Plan, which will include, but not be limited to, a process for communicating Project details and seeking input from the Mi'kmaq of Nova Scotia on the development and implementation of Project mitigation and monitoring plans. The plan shall be updated regularly and be available to the Department and the Mi'kmaq of Nova Scotia upon request.

## **11 Contingency Plan**

- 11.1 Prior to commencement of the Project, the Approval Holder shall submit a comprehensive contingency plan to the Department which meets the Department's Contingency Planning Guidelines. The plan shall provide preventative measures and address accidental occurrences including, but not limited to, spills of hydrocarbons or other hazardous materials, failure of



erosion and sediment control measures, fires, vehicular collisions. The Plan shall be implemented, maintained, and updated over the life of the project.

- 11.2 The contingency plan shall be maintained and updated as necessary, kept on the Project site at all times (while personnel are on site) and be made available to the Department upon request.

## **12 Rehabilitation**

- 12.1 The Approval Holder shall submit a decommissioning and site reclamation plan to the Department two years prior to the end of operation.
- 12.2 Project operations shall be completed and reclaimed to the satisfaction of the Department and other appropriate regulatory departments.
- 12.3 In the event any turbine ceases to be operational for a period of two years, the Approval Holder shall submit a report to the Department outlining a timeline for reparation to the unit(s) to either render it fully functional or provide similar details for removing the turbine from the site within two years from the date the report was received by the Department.



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Honourable Timothy Halman, MLA  
Minister of Environment and Climate Change