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Marten Falls First Nation

Draft Terms of Reference Marten Falls Community Access Road – Environmental Assessment

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SECTIONS: 12 AND 13

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Project #: 60593122

12. Accommodating New Circumstances

The MECP Code of Practice (MECP 2019a) and subsection 6.1(1) of the EAA states that the EA for a proposed undertaking must be prepared in accordance with an approved ToR. However, complex undertakings may undergo changes that could prevent the commitments of the ToR from being met. As the ToR cannot be amended once approved, the MECP Code of Practice requires that flexibility be provided in the ToR to accommodate changes and / or unforeseen circumstances that may arise throughout the environmental planning process.

This ToR has been prepared using preliminary design, readily available information, and input received during consultation activities that took place prior to and during preparation of the ToR. It provides an accurate and realistic description of the proposed CAR known at the time of ToR preparation. However, the final design, location and scope is subject to change as more information becomes available throughout the environmental planning process as a result of the advancement of design, technical and environmental studies, feedback from consultation activities, and input received from government agencies during the preparation of the EA. The ToR allows for the EA to have minor changes from the approved ToR to accommodate these factors. Minor changes include, but are not limited to, modifications or variations to the consultation plan, proposed study areas and alternatives, refinement of evaluation criteria and need for additional studies.

To accommodate new changes and unforeseen circumstances, flexibility has been incorporated into this ToR, where appropriate. In this regard, it is understood that certain aspects of the ToR may be adjusted without the need to re-start the provincial EA process. The ToR does not provide flexibility for significant changes. Any significant changes from the ToR will be discussed with the MECP to identify whether additional requirements are necessary (e.g., preparation of a new ToR) before proceeding with the change.

13. Other Permits and Approvals

To facilitate the construction of the CAR, MFFN will need to acquire a number of permits and approvals from provincial, federal government and other jurisdictional agencies. A preliminary list of permits and approvals applicable or potentially applicable to the Project are detailed in **Table 13-1**. This list is based on preliminary design, and the final determination of permits and approvals that will be required will occur as the design is defined through the EA process.

Table 13-1: Potential Permits and Approvals for the proposed Project

| Approval Authority | Permit / Approval / Authorization | Applicability to the Project |
|--|---|---|
| Provincial | | |
| Ministry of Natural Resources and Forestry (MNR) | Work Permit | <ul style="list-style-type: none"> ▶ Work Permit under the <i>Public Lands Act, 1990</i> to authorize works on public lands and / or shore lands. Examples of works include geotechnical investigations, construction of roads and trails, and culverts / bridges. ▶ Consolidated Work Permit under the <i>Lakes and Rivers Improvement Act, 1990</i>, for work planned on shore land and within water bodies including work and burn authorization for clearing and burning of cleared vegetation. |
| | Land Use Permit | ▶ Land Use Permit under the <i>Public Lands Act, 1990</i> , for rights to Crown land for construction of the CAR, and for construction access, temporary laydown and spoil areas. |
| | Forest Resource Licence (Cutting Permit) | ▶ Forest Resource License (Cutting Permit) under the <i>Crown Forest Sustainability Act, 1994</i> to harvest and / or cut timber on Crown lands. |
| | Burning Permit (only required if a restricted fire zone is in place) | ▶ Burning Permit under the <i>Forest Fires Prevention Act, 1990</i> , to enable burning of materials from forest clearing, if required. |
| | Aggregate Permit | ▶ Aggregate Permit under the <i>Aggregate Resources Act, 1990</i> , to extract aggregate on all Crown Land and also on private land in areas of the province designated (identified) in the regulations. |
| | CBLUP Approvals | ▶ ToR for MFFN to prepare a CBLUP has been approved. The CBLUP is under development. |
| | Licence to Collect Fish for Scientific Purposes | ▶ Licence to Collect Fish for Scientific Purposes under the <i>Fish and Wildlife Conservation Act, 1997</i> , to facilitate capture and transfer of fish during in-water works, such as cofferdam construction or dewatering. |
| | Wildlife Scientific Collectors Permit | ▶ Wildlife Scientific Collectors Permit under the <i>Fish and Wildlife Conservation Act, 1997</i> , to facilitate capture and transfer of wildlife from one site to another. |
| | Approval under the <i>Fish and Wildlife Conservation Act, 1997</i> | ▶ Approval under the <i>Fish and Wildlife Conservation Act, 1997</i> , will likely be required as it is expected that Project activities such as clearing, grubbing, blasting, dewatering, and damming will result in the destruction of beaver dams, furbearer dens, black bear dens and / or bird nests and eggs. |
| | Research Authorization | ▶ Authorization to conduct surveys within Provincial Parks. |
| | Permit / approval under the <i>Far North Act, 2010</i> | ▶ A significant portion of the proposed Project is located in Far North Ontario. Permits / approvals under the <i>Far North Act, 2010</i> may be required depending on the type of development and stage of completion of the CBLUP. |
| | Approval under <i>Lakes and Rivers Improvement Act, 1990</i> | ▶ Approval for water crossings, bridges, culverts and causeways. |
| | Approval and amendment under the <i>Provincial Parks and Conservation Reserves Act, 2006</i> | <ul style="list-style-type: none"> ▶ Approval to cross provincial parks as per the <i>Provincial Parks and Conservation Reserves Act, 2006</i> ▶ Amendment to management direction for provincial parks and nature reserves under the <i>Provincial Parks and Conservation Reserves Act, 2006</i> ▶ Authorization to conduct research in Ontario protected areas for works required within a provincial park from the Park Superintendent |
| Ministry of the Environment, Conservation and Parks (MECP) | Approval | ▶ Approval of this ToR and subsequent Individual EA under the <i>Ontario EAA</i> . |
| | Environmental Compliance Approvals for wastewater, waste, air and noise (if temporary camps are required) | <ul style="list-style-type: none"> ▶ Environmental Compliance Approvals under the <i>Environmental Protection Act, 1990</i>, for the following activities: <ul style="list-style-type: none"> ▪ to transport waste by haulers from the Project work site; ▪ to enable emissions (e.g., air or noise) from on-site equipment; ▪ to facilitate stormwater management; and ▪ to facilitate temporary on-site sewage and water treatment facilities. |
| | Environmental Activity and Sector Registry or Permit to Take Water | <ul style="list-style-type: none"> ▶ Permit to Take Water under the <i>Ontario Water Resources Act, 1990</i>, if the construction of the proposed Project requires taking greater than 50,000 litres of water in a day from a lake, stream, river or groundwater source (e.g., dewatering); or ▶ Registration of the water taking activity in the Environmental Activity and Sector Registry, if the water taking is less than 50,000 litres in a day from the sources identified above. |
| | Approval | ▶ Approval under the <i>Health Protection and Promotion Act, 1990</i> , to facilitate provision of potable water, and on-site sewage treatment and disposal systems at temporary construction camp(s). |
| | Letter of Advice or Permit | ▶ Letter of Advice or Permit under <i>Endangered Species Act</i> if the Project affects a species that is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species. |
| Ministry of Transportation (MTO) | Various Permits | <ul style="list-style-type: none"> ▶ Following permits may be required under the as per the <i>Public Transportation and Highway Improvement Act, 1990</i>: <ul style="list-style-type: none"> ▪ An Entrance Permit for proposed entrances onto provincial highways; ▪ An Encroachment Permit for any work within, under, or over a provincial highway ROW; ▪ A Sign Permit for all signage erected within 400 m of the limit of a provincial highway; and, ▪ A Land Use and Building Permit for construction occurring: <ul style="list-style-type: none"> ○ within 45 m of the ROW limit of any provincial highway, ○ within 180 m of the intersection of a side road and a "King's" highway; or ○ within 395 m of a controlled access highway. |
| Ministry of Energy, Northern Development and Mines (ENDM) | Approval | ▶ Potential for the proposed Project to obtain Minister approval under the <i>Mining Act, 1990</i> for the withdraw from prospecting, mining claim registration, sale and lease of lands, mining rights or surface rights that are the property of the Crown. |
| Ministry of Heritage, Sport, Tourism, and Culture Industries (MHSTCI) | Archaeological and Cultural Heritage clearances | ▶ Archaeological Assessment(s) to be completed as part of the EA under the <i>Ontario Heritage Act, 1990</i> , and submitted to the Ontario Public Register of Archaeological Reports. Built Heritage and Cultural Heritage Landscape screening and, Heritage Impact Assessments, where required, submitted to the Ministry of Tourism, Culture and Sport (MTCS) for review under the <i>EAA</i> . |
| Ministry of Municipal Affairs and Housing | Letters of Conformity or Zoning Conformity Permits | ▶ Potential for the proposed Project to be located in unorganized territory. Letters of Conformity or Zoning Conformity Permits required for areas located in unorganized territories. |
| Ministry of Labour | Notice of Project | ▶ Filing of a notice of Project prior to construction under <i>Occupational Health and Safety At, 1990</i> . |

Table 13-1: Potential Permits and Approvals for the proposed Project

| Approval Authority | Permit / Approval / Authorization | Applicability to the Project |
|---|---|---|
| Federal | | |
| Canadian Environmental Assessment Agency | Determination | ▶ Canadian Environmental Assessment Agency (now Impact Assessment Agency of Canada) to determine if the proposed Project will require a federal EA under the <i>Impact Assessment Act, 2019</i> since the CAR is a designated project under the Act, or if the provincial EA process is considered sufficient under the Canada-Ontario Agreement on Environmental Assessment Co-operation. |
| Environment and Climate Change Canada | Permit | ▶ Permit under <i>Species at Risk Act, 2002</i> , if the proposed Project activities will occur on federal lands (including First Nations reserve lands) and will destroy or remove a SAR listed under the <i>Species at Risk Act, 2002</i> or its habitat. |
| Fisheries and Oceans Canada | Authorization | ▶ Authorization under section 35 of the <i>Fisheries Act, 1985</i> for any work, undertaking or activity that results in serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery. Serious harm to fish is the death of fish or any permanent alteration to, or destruction of, fish habitat. |
| | Permit or Letter of Advice | ▶ Permit or Letter of Advice under the <i>Species at Risk Act, 2002</i> , to authorize an activity affecting a species listed under Schedule 1 of the <i>Species at Risk Act</i> , if it is on federal lands or if an activity is not on federal lands will affect an aquatic species listed under Schedule 1 of the <i>Species at Risk Act, 2002</i> . |
| | Leases or crossing agreements | ▶ Leases or crossing agreements for roads, railways, or canals under the <i>Federal Real Property and Federal Immovables Act, 1991</i> |
| Indigenous and Northern Affairs Canada | Land Use Permit | ▶ Land use permit or equivalent under section 28(2) of the <i>Indian Act, 1985</i> to use federal lands (i.e., to allow the crossing of First Nation reserves). |
| Natural Resources Canada | Permit | ▶ Permit under the <i>Explosives Act, 1985</i> for the use, storage or transportation of explosives. |
| Other | | |
| Hydro One Networks Inc. | Permit to cross Hydro One transmission lines | ▶ Permit to cross existing transmission lines, if required. |
| Local Municipalities | Various Permits | ▶ Building Permit per the <i>Building Code Act, 1992</i> ▶ Permit to Injure or Remove Trees (woodlands / woodlots), as applicable based on municipal by-laws ▶ Noise By-law exemptions, as applicable, based on proposed work and municipal by-laws ▶ Conformance with local land use policy and zoning (e.g., Official Plan amendments and Site Plan Control Approval in accordance with the <i>Planning Act, 1990</i>). ▶ Permits for open-air burning and fires, as applicable. |
| Canadian Pacific Railway | Clearance Letter | ▶ Clearance Letter for crossing of Canadian Pacific Railway rail line, if required. |
| Mining Claim and Crown Interest Holders | Consent | ▶ Consent from existing claim holders under the <i>Mining Act, 1990</i> . |
| Thunder Bay District Health Unit | Notice of Camp Opening under the <i>Health and Promotion Act, 1990</i> | ▶ Notice of Camp Opening under the <i>Health and Promotion Act, 1990</i> |
| | Permit for sewage holding tank under the <i>Building Code Act, 1992</i> . | ▶ Permit for sewage holding tank at construction camps under the <i>Building Code Act, 1992</i> . |
| Other Utility Companies | Permit to cross other utilities | ▶ Permit to cross other utilities (e.g., existing pipelines, fibre optics). |