

TERMS OF REFERENCE - NOTICE OF APPROVAL

ENVIRONMENTAL ASSESSMENT ACT

SUBSECTION 6(4)

APPROVAL OF TERMS OF REFERENCE

FOR

THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT

Proponent: Marten Falls First Nation

Undertaking: The construction and operation of the Marten Falls Community Access Road and ancillary facilities.

EAIMS No.: 18047

As provided for by subsection 6(4) of the *Environmental Assessment Act*, R.S.O. 1990, c.E.18 ("the Act"), the proposed Terms of Reference submitted for approval to the Ministry of the Environment, Conservation and Parks on October 23, 2020, with the amendments which I consider necessary, all of which are set out in this notice, is hereby approved ("the approved Terms of Reference").

Pursuant to subsection 6.1(1) of the Act, any environmental assessment for the above-noted undertaking, submitted to the Ministry of the Environment, Conservation and Parks pursuant to subsection 6.2(1) of the Act, must be prepared in accordance with the approved Terms of Reference.

Reasons:

- I am satisfied that an environmental assessment prepared in accordance with the approved Terms of Reference will be consistent with the purpose of the Act and the public interest;
- The amendments in this Notice of Approval contain additional requirements for consultation with Indigenous communities with respect to the cumulative effects assessment to be prepared as part of the environmental assessment; and additional requirements for consultation with Indigenous communities at key milestones during the development of the environmental assessment. These amendments have been informed by concerns with respect to potential adverse impacts to established or credibly asserted Aboriginal or treaty rights that have been shared with the Crown during consultation with Indigenous communities, or that can reasonably be anticipated at this point in the environmental assessment process.

- The approved Terms of Reference includes other consultation requirements that are intended to provide for appropriate input during the environmental assessment by any interested person;
- The approved Terms of Reference provides adequate rationale for focusing the environmental assessment;
- The approved Terms of Reference contains a sufficient level of detail to provide for an accurate assessment of the environmental effects of alternative methods of carrying out the proposed undertaking and the preferred undertaking;
- There are no outstanding issues that have not been incorporated into the approved Terms of Reference, or that cannot be addressed during the preparation of the environmental assessment.

Amendments:

To the extent that there is any conflict between the requirements outlined in the approved Terms of Reference (ToR) and the amendments below, it is the amendments below that will take precedence.

1. Cumulative Effects

To strengthen the commitments in the ToR regarding the cumulative effects assessment and related consultation, Section 7.2-Potential Environmental Effects of the ToR is amended to include the following:

1.1 Cumulative effects consultation:

During the preparation of its environmental assessment (EA), Marten Falls First Nation (MFFN) will consult with Indigenous communities on the cumulative effects assessment work plan, methodology, results and impact management measures. As part of the consultation on these items, MFFN will offer targeted consultation opportunities to each Indigenous community. MFFN will also consider any consultation activities/tools that Indigenous communities request in order to facilitate the consultation required by this section.

1.2 Consideration of other cumulative effects assessments:

As part of the development of its EA, MFFN will consider, where appropriate, any publicly available information that may be generated through the following which MFFN considers relevant:

- Any cumulative effects assessment developed as part of any EA in respect of the proposed Webequie Supply Road; and
- Any cumulative effects assessment developed as part of any EA in respect of the proposed Northern Road Link.

MFFN will determine how to use any information described in this section in its EA including the cumulative effects assessment. If information described in this section is not available at the time MFFN is prepared to submit its final EA to the Ministry of the Environment, Conservation and Parks (MECP), this will not delay the submission of the final EA.

1.3 Consideration of Regional Assessment:

If there is an ongoing or completed Regional Assessment for the Ring of Fire area, as part of the development of its EA MFFN will consider, where appropriate, any publicly available information that may be generated through that process which MFFN considers relevant. MFFN will determine how to use any information described in this section in its EA including the cumulative effects assessment. If information described in this section is not available at the time MFFN is prepared to submit its final EA to MECP, this will not delay the submission of the final EA.

1.4 Cumulative effects consultation report:

As part of the draft EA and final EA, MFFN will prepare a cumulative effects consultation report to accompany the cumulative effects assessment within the EA. The report will include:

- A summary of the consultation completed with Indigenous communities and any other organizations/agencies regarding the development of the cumulative effects assessment; and
- Comment-response tables showing how comments from Indigenous communities and any other organizations/agencies were considered and incorporated, as appropriate, in the development of the cumulative effects assessment.

1.5 Draft and final EA report documentation:

The draft EA and final EA will contain draft and final cumulative effects assessments, respectively.

2. Table 11.7 and Cumulative Effects

Table 11.7: Milestones and Targeted Input is amended by adding the following to the list of targeted input for each milestone: "Input into the cumulative effects assessment impact management measures."

3. Consultation Reporting at Key EA Milestones

To support Indigenous communities to provide meaningful input during the development of the EA at each key milestone, Section 11.7 - Milestones and Targeted Input and Table 11-2 (and accompanying Table 4-2 within Appendix B) are amended to include the following:

3.1. Preparing progress reports:

MFFN will prepare a written progress report on the consultation activities associated with each of the following EA milestones:

- NoC of Provincial EA;
- Effects Assessment Methods; and
- Identification of Preferred Alternatives.

Each progress report will:

- Be organized by each Indigenous community;
- Contain a consultation log and summary that tracks consultation activities, information shared by MFFN with the community, any community input and MFFN's responses to such input for the EA milestone; and

- Contain a discussion of how any input and information provided by the Indigenous communities have informed the development of the EA milestone.

3.2. Distributing progress reports:

As soon as practicable after MFFN has reached each EA milestone set out above and prepared the progress report associated with that milestone, MFFN will:

- Provide the relevant progress report to MECP; and
- Provide each Indigenous community with a copy of the community-specific portion of the progress report that relates to that community.

3.3. Proceeding to the next EA milestone:

Once the requirements in sections 3.1 and 3.2 have been completed for a milestone, MFFN will determine when to move to the next milestone.

3.4. Responding to questions or concerns:

In a timely manner, MFFN will respond to any questions or concerns raised by MECP or an Indigenous community in response to the progress reports distributed under section 3.2, including making any revisions to the progress reports as MFFN considers appropriate.

3.5. Records of consultation:

MFFN will append the final progress reports, with any relevant updates made in response to feedback received under section 3.4, as part of the records of consultation that are submitted with the draft EA and final EA.

Dated the 8 day of October, 2021 at TORONTO.



Minister of the Environment, Conservation and Parks
777 Bay Str. 5th flr. Toronto, ON, M7A 2J3