

DOCUMENT “A”

MINISTER’S DETERMINATION CONDITIONS OF APPROVAL

Pursuant to Regulation 87-83 under the Clean Environment Act

Date: January 11, 2017

File Number: 4561-3-1432

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 Local Government.
3. The proponent shall adhere to all obligations, commitments, monitoring and mitigation measures presented in the document entitled, “*Environmental Impact Assessment Mine Decommissioning Penobsquis Potash Deposit* dated April 2016 (registered May 2, 2016), 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 Manager of the Environmental Assessment (EA) Section of the Department of Environment and Local Government (DELG) every 6 months from the date of this Determination until such a time as all the Conditions have been met.
4. In order to ensure First Nations are meaningfully engaged in ongoing planning, development and delivery of project activities and environmental monitoring, the proponent must provide to the Manager, EA Section, DELG, for review and approval, an ongoing First Nations engagement strategy.
5. If it is suspected that remains of archaeological significance are found while implementing project work, as per the Heritage Conservation Act, all activity shall be stopped near the find and the Resource Manager of the Archaeological Services Unit shall be contacted at (506) 453-3014. Should any archaeological work be required on the project site, the work must be supervised by an indigenous archaeological field technician.
6. The proponent shall ensure that if a nest or chick of a migratory bird is detected, work in the area shall be halted and the Canadian Wildlife Service be consulted for advice at (902) 426-9152. The proponent shall ensure that activities are conducted in a manner that would be in compliance with the Migratory Birds Convention Act.
7. The proponent shall apply for and obtain a *Watercourse and Wetland Alteration (WAWA) Permit* from DELG prior to commencing any activities within 30 meters of a watercourse or wetland. For additional information, please contact DELG’s Regional Wetlands Biologist at (506) 658-2258.

8. The proponent must apply for and obtain an *Approval to Construct* from the Impact Management Branch (IMB), prior to decommissioning any infrastructure that has its own *Approval to Operate*. For more information, please contact the Manager of the Permitting South Section, DELG, at (506) 453-7945.
9. Prior to decommissioning surface infrastructure, the proponent shall contact the Building Inspector/Development Officer with the Local Service District of Sussex at (506) 432-7530, as a *Building Permit* from the Royal District Planning Commission may be required.
10. The proponent shall submit the detailed design for each phase of mine shaft capping work to the Manager, Mining and Mineral Resources Section, Department of Energy and Resource Development for review and approval prior to initiating the work. For more information, please contact the Manager at (506) 453-6046.
11. The proponent shall prepare an Environmental Management Plan (EMP) that includes but is not limited to the following:
 - a. A Vehicle and Equipment Emissions Control Plan.
 - b. Outlines the handling and disposal methods for all waste/debris material that will result from demolition activities.
 - c. Considers erosion and sedimentation control in general, and for any aspect of the project that has the potential to deposit sediment into any adjacent watercourses, spill prevention, hazardous materials management (fuels, lubricants, hydraulic oil, waste oil etc.) and clean-up.
 - d. Includes Emergency Response Plans to be put in place in the event of an accident.
 - e. Includes Site Specific Environmental Protection Plans linking mitigation to location.
 - f. The EMPs may be submitted in phases as the various project activities become more defined however; only activities described within a project phase that has an approved EMP may be carried out.
 - g. EMPs must be submitted to the Manager, EA Section, DELG, for review and approval prior to the commencement of any demolition activities related to that EMP.
12. Upon completion of the baseline monitoring program, the proponent shall submit the results to the Manager, EA Section, DELG for review and approval.
13. Within 120 days of completing the final sampling analysis of the baseline monitoring program, the proponent shall submit a long term Monitoring Plan to the Manager, EA Section, DELG for review and approval. The long term Monitoring Plan shall include:
 - a. Groundwater monitoring.
 - b. Surface water monitoring.
 - c. Micro-seismic monitoring.
 - d. Subsidence monitoring.
 - e. Threshold values associated with each monitoring plan.
 - f. Contingency plans in the event that a threshold value is exceeded.
 - g. All long term monitoring requirements listed herein shall continue until such time as it is deemed by the Manager, EA Section, DELG to be no longer necessary.

14. Should any groundwater supply wells be significantly impacted (quality or quantity) as a result of the mine decommissioning work, the proponent shall remediate or replace the water supply well, unless it can be definitively demonstrated by the proponent that these impacts are not related to the mine decommissioning work.
15. If it is suspected that the mine decommissioning work has had a detrimental impact on the environment (air, water, soil), or has impacted Crown or privately owned property (e.g. building foundations, etc.), the proponent shall undertake any actions necessary to correct the problem, unless it can be definitively demonstrated by the proponent that the impact is not related to the mine decommissioning work.
16. The proponent shall develop a public complaints protocol and submit it to the Manager, EA Section, DELG for review and approval prior to commencing decommissioning activities.
17. At least 30 days prior to undertaking any blasting activities above ground for demolition surface infrastructure, the proponent shall:
 - a. Notify the public through radio and/or newspapers advertisements.
 - b. Submit the details of the work to the Manager, EA Section, DELG for review and approval.
18. The proponent shall inform the public of the progress of the decommissioning work a minimum once per year, until such time as the project is completed and/or until it is deemed, by the Manager, EA Section, DELG to be no longer necessary.
19. The proponent shall contact the Department of Transportation and Infrastructure (DTI)'s District Engineer in Saint John well in advance of commencing the project in order to ensure that all of DTI's concerns are addressed. For more information, please contact (506) 643-7463.
20. Prior to commencing the project, the proponent shall complete and submit a Hazardous Materials Report to the Manager, EA Section, DELG for review and approval. The Hazardous Materials Report shall include:
 - a. A list of all equipment that is left underground, and the condition that it was left in to the Manager, EA Section, DELG for review and approval, prior to commencing demolition activities.
 - b. A summary of all actions undertaken by the proponent to ensure all hazardous waste has been collected, removed and transported to an approved disposal location, by an approved hazardous waste service provider. If the material is tested and is deemed not hazardous, the material may be disposed or recycled in a different manner. For further information on hazardous waste, please contact the Approvals Engineer, Impact Management Branch, DELG, at (506) 453-3824.
21. The proponent shall ensure that all equipment containing, potentially containing or that previously contained ozone depleting substances or other halocarbons as listed in *Schedule A* of the *New Brunswick Ozone Depleting Substances and Other Halocarbons Regulation* (Reg. 97-132) shall be removed from buildings scheduled for demolition and handled as per the Regulation. No building shall be demolished until all such equipment and refrigerants have been removed from the buildings. Within 30 days of the materials being removed from

the buildings and prior to shipment off-site, an inventory of all materials removed must be provided to the Manager, EA Section, DELG for review and approval. For more information please contact the PCB & ODS Program Manager, Impact Management Branch, DELG, at (506) 453-3796.

22. Prior to initiating any decommissioning activities beyond shaft capping work, the proponent must first submit a Financial Security Plan (FSP) to the Minister of DELG, for review and approval. The FSP is subject to the following conditions:
 - a. The financial security shall be in the form of cash, irrevocable letter of credit, bond of an approved guarantee company, or any other form of security or guarantee or protection that is acceptable to the Minister.
 - b. The FSP must indicate and provide that the total amount, or any portion thereof, may be accessed by the Minister on due notice to the proponent, and may be used by the Minister as deemed necessary under the following circumstances:
 - i. Where there has been a non-compliance with the terms and conditions of any approvals, and/or
 - ii. Where there is an impact to the environment (air, water, soil), or an impact to Crown or privately owned property (drinking water supplies, building foundations etc.) to which the proponent has failed to adequately respond, in the opinion of the Minister.
 - c. Security funds used by the Minister shall be replaced by the proponent as required by the Minister.
23. The proponent shall ensure that any proposed project modifications are submitted for review and approval to the Manager, EA Section, DELG, prior to implementing the changes.
24. In the event of the sale, lease, or any other conveyance or change of control of the project, 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 Manager, EA Section, DELG.
25. The proponent shall ensure that all developers, contractors and operators associated with the construction and operation of the project comply with the above requirements.