

## Enclosure 1

### Comment Form – Information to Inform the Summary of Issues

**Project:** Hydrogen Ready Power Plant Project

**Proponent:** Eastern Power Inc.

**CIAR No.:** 83696

**End of comment period:** July 13, 2022

Indigenous Group Name: Caldwell First Nation (CFN)	
Contact Name: Michelle McCormack and Zack Hamm	Telephone: 519 322 1766
Address: 14 Orange St. Leamington, ON	Fax: 519 322-1533
Email: <a href="mailto:ecc@caldwellfirstnation.ca">ecc@caldwellfirstnation.ca</a> and <a href="mailto:ecc2@caldwellfirstnation.ca">ecc2@caldwellfirstnation.ca</a>	

The Impact Assessment Agency of Canada invites your community to provide information it has available at this time on the Project and its potential effects or impacts (both positive and negative) to the environment and to your community and your Aboriginal Rights. We also welcome your input on how you would like to be engaged throughout the potential assessment process. Your comments will inform the Summary of Issues<sup>1</sup> with respect to the Project and will be provided to the Proponent to address. You may use this form or use another format of your choice.

All comments should be submitted via the **Submit a Comment** feature available on the Project's Canadian Impact Assessment Registry page (Reference 83696 at <http://iaac-aeic.gc.ca/050/evaluations/proj/83696?culture=en-CA>). Letters and forms can be uploaded using this feature. If you have any difficulties submitting this way, please contact the Agency at *Hydrogen-Hydrogene@iaac-aeic.gc.ca* for assistance.

#### 1. General environmental effects

Please identify any environmental effects of the Project that are of concern to your community, including any that you think of that were not identified in the Initial Project Description.

The proponent's plans to implement sediment and erosion control measures appear insufficient. The mitigation measures proposed hinge on vague 'if' language rather than being conducted as a matter of course. For example, "Develop migratory bird mitigation plan *if required*" (IAA Hydrogen Ready Power Plant Project, June 2022).

The proponent claims to have found no SAR or species of interest on project lands or adjacent lands (Environmental Screen and Review Report, p. 27) from 2012 observations conducted during an unrelated project - Ontario's MECP requires a 5 year limit on study age regarding assessments. By provincial standards, the study is out of date, and not specific to the current project proposal.

The proponent also claims that the project area is not near protected lands. This is false; the project is adjacent to Clay Creek, which feeds into the nearby Bickford Oak Conservation Area through natural corridors. Bickford Oak CA is the largest **protected** Carolinian Clay Plain forest in Canada. Species at Risk and of Interest there include Swamp Cottonwood, Pin Oak, Shumard Oak, Buttonbush Thicket in terms of flora; in terms of avian fauna, the CA hosts the Cerulean Warbler, Tufted Titmouse, Carolina Wren. This list is brief and does not include other cultural species of interest to Anishinaabe communities. Caldwell First Nation considers all Carolinian habitat and its species in Southwestern Ontario to be of direct cultural heritage value to the community. Caldwell

<sup>1</sup> The Summary of Issues is a list of issues raised in the Planning Phase prepared by the Agency, as per section 14(1) of the *Impact Assessment Act*. This document provides the proponent with an understanding of issues and allows participants to see how their comments and concerns have been characterized.

demonstrates this in its involvement at Point Pelee and Pelee Island with efforts to protect and preserve these areas for Seven Generations.

Plans to mitigate disturbances to the environment are insufficient, vague, and non-committal. Assessments of water intake seem to derive from earlier project assessments and are not project-specific. It remains unclear whether the project has a permit to take water, and if so how much and from where.

CFN would like to know if the proponent has identified some sort of timeline of expectations for when and how hydrogen will be utilized within the facility, as this piece of the project is rather vague. The proponent has identified that greenhouse gas emissions will be reduced through this use of hydrogen, without any timeline of expectation for this, and we are seeking to mitigate and lower all greenhouse gas emissions in this region.

## **2. Effects to physical and cultural heritage**

Please describe how Project effects to the environment could result in impacts to your community's physical and cultural heritage (e.g. ceremonial sites, burial sites, cultural landscapes).

Natural corridors for hunting and gathering sustenance and medicines are common in the area. The sedimentation and erosion downstream in Clay Creek is a concern for any SAR present and for water quality.

The project will have an immediate impact in terms of cumulative effects on the area, and the community's enjoyment and use of natural heritage and the land. This area, considering the adjacency of local forest ecosystems and Carolinian habitat, is one of the last areas with public access to hunt, fish and gather reasons that Indigenous communities in the Traditional Territory within a habitat like this.

## **3. Effects to current use of lands and resources for traditional purposes**

Please describe how Project effects to the environment could result in impacts to your community's current use of lands and resources for traditional purposes (e.g. hunting, fishing, trapping).

With the proposed project moving forward, the use of these lands affects CFNs ability to move across the land for gathering medicines, hunting and accessing sacred spaces to gather.

The Bickford Oak Woods Conservation Reserve Management Plan (Section 1.3) identifies that hunting and trapping are known to have occurred in the area historically. In addition to traditional and community knowledge among Three Fires communities, this doubly confirms the area's significance to First Nations communities in terms of inherent and treaty rights to harvesting, land-use, and lifeways.

## **4. Effects to structures, sites or things of historical, archaeological, paleontological or architectural significance.**

Please describe how Project effects to the environment could result in impacts to your community's structures, sites or things of historical, archaeological, paleontological or architectural significance (e.g. artifacts, important historic buildings, symbols).

Without proper engagement or sharing of materials (Stage 1, 2 AA), and without having had the opportunity to participate in any fieldwork, CFN has not had the opportunity to review the potential for these elements in the vicinity of the project area.

However, the project area is identifiable as having archaeological potential, as it is near a historically navigable waterway and historical trade routes.

## **5a. Effects to social conditions**

Please describe how the Project could potentially change social conditions that are important to your community.

The potential for employment at this facility has been referenced within reports (25 positions have been identified by the proponent once the proposed plant is operational), however the proponent makes no mention of training and employment opportunities specifically for members of the Indigenous community. CFN is asking how Eastern Power Inc. plans to adopt and implement the Truth and Reconciliation Commission of Canada: Call to Action, and specifically, Business and Reconciliation number 92 i, ii, iii.

Additionally, social conditions can change regarding the role and importance of traditional economies, potential place of residence, income, health, justice, family and cultural growth.

Food insecurity due to habitat destruction and loss is a perpetual concern for any project impacting land use in Southwestern Ontario, as is damage to any species and habitat.

### 5b. Effects to health conditions

Please describe how the Project could potentially change health conditions that are important to your community.

Water-body pollution, ground-water pollution, and air pollution all lead to demonstrable health effects. Large-scale construction activities are known to lead to all of these issues.

First Nations community members' health suffers when natural heritage is damaged. Damage to the nearby Carolinian habitat would have substantial ramifications on both the physical and mental health of Three Fires Nations members. There is significant potential for fugitive emissions surrounding any natural gas project. The project stands to affect air quality and could possibly impact lands and waterways on which First Nations community members rely. This includes drainage into the Great Lakes Basin, and especially Lake St. Clair and St. Clair River, where Caldwell First Nation community members commonly fish.

### 5c. Effects to economic conditions

Please describe how the Project could potentially change economic conditions that are important to your community.

Fishing and hunting are important traditional activities, as is gathering sustenance for trade and the economy; these are impacted by damaged waterways for transportation and travel. Negative impacts upon these corridors would have ramifications lasting for generations, as Caldwell community members commonly rely on surrounding ecological conditions to participate in the economy. Some examples include operating fishing and hunting charters, as well as CFN interests in local investments like eco-tourism and infrastructure.

### 6. Impact to exercise of rights

Please describe if you expect the Project may impact your community's exercise of rights as protected under section 35 of the *Constitution Act, 1982*, and if so, please describe how.

The project description claims that the project will have no adverse effects, and that the project study area is not located on lands claimed or owned by any First Nation community (IAAC Initial Project Description, p. 12). This is demonstrably and inextricably false; the project lies directly within the Traditional Territory of the Chippewas of Kettle and Stony Point First Nation and Aamjiwnaang First nation - Caldwell First Nation's sister nations of the Three Fires Confederacy. Caldwell First Nation members and relatives live within and move between these areas and communities.

This project's potential environmental effects (claimed to be none by the proponent in its own internal review without oversight) have potential direct consequences to the land, sky, and waters of the area, as well as species - these effects directly impact CFN's treaty rights and those of their sister nations. This project's emissions alone may have impacts to air quality and therefore also the surrounding ecosystems.

### 7-9. Consultation and Engagement

Assuming a federal assessment is required for the Project, please provide information on the how you would like to be consulted by the Agency.

Caldwell First Nation should be consulted for the review of any reports and assessments, but also included in the fieldwork of any studies that are conducted. Consultation and engagement must include accommodation of appropriate timeframes for deep and meaningful engagement of CFN's community and Chief and Council. To date, this has been completely lacking; while some efforts have been made to contact CFN, there has been no connection between the proponent and CFN representatives. Consultation efforts must account for CFN's low capacity in terms of its ability to commit resources to a project; this means there should be a CFA that funds CFN according to its needs.

If a federal assessment is required for the Project, please provide information on how you would like the proponent to engage your community.

CFN prefers contact via [www.consultwithcaldwell.ca](http://www.consultwithcaldwell.ca) for consultation coordinators regarding assessment progress and project updates.

Engagement must be two-ways, not a simple attempt to call or email. Engagement only begins when both parties are actively engaging with one another.

In-person meetings with CFN representatives have not been scheduled, and our CEC was barred from attendance at an information session with KSPFN by IAAC and proponent representatives. The follow up meeting was never scheduled despite the promise to do so. Engagement should always occur on the terms of the First Nation in question.

There needs to be opportunities for the proponent to answer questions and concerns from the Chief and Council, as well as possible community engagement conducted by CFN consultation coordinators and funded by the proponent.

Based on the information presented in the proponent's Initial Project Description, is there any information about your community that was provided to the Proponent that is not adequately documented?

The proponent failed to engage CFN in its preferred engagement methods, such as using the Caldwell Consultation Tool. Representatives at CFN did not engage with the proponent, but the proponent engagement record and the IAA record indicates that engagement occurred. Without both parties actively engaging one another, engagement did not occur. The proponent inappropriately emailed the Chief directly rather than speaking with consultation coordinators or the CFN Director of Operations/Chief Administrative Officer.

The proponent did not provide adequate information and/or the information was minimal. When the IAA used the CCT, the majority of answers were cut-paste indications that the information is not yet known and will be updated on Feb 23, 2022. The IAA's indications that CFN was 'engaged' along with 7 other First Nations is false.

## 10. Additional considerations under the impact assessment process

Are there any additional comments, such as those considered under the impact assessment process (i.e. gender-based analysis plus, sustainability, Indigenous knowledge or Indigenous cultures) that you wish to note for the Agency's consideration?<sup>2</sup>

A robust and thorough Impact Assessment is needed. The Caldwell Consultation Tool can accommodate additional information being uploaded (CFNs Protocols for Engagement and Consultation, current contact information, etc.).

Should this proposed project move forward CFN would like to see how to offset some of the negative impacts to the communities and environment

No proper engagement with local conservation authorities according to the official engagement record.

Caldwell First Nation considers an independent federal review and Impact Assessment to be absolutely necessary to the health and well-being of Three Fires First Nations in the area, as the project is directly poised to affect the inherent and traditional rights of several communities, including Caldwell.

<sup>2</sup> The text of the *Impact Assessment Act* is available online: <https://www.parl.ca/DocumentViewer/en/42-1/bill/C-69/royal-assent>

CFN would like to ask of the IAA: How are you monitoring and assessing true and meaningful engagement with First Nation communities on the part of the proponent? We are concerned with the information presented by the proponent in Section 5 of the Government Agency and First Nation Consultation Report.

Please provide your comments on the Summary of the Initial Project Description using the **Submit a Comment** button on the Canadian Impact Assessment Registry **by July 13, 2022**. Thank you.

## Enclosure 2

### Overview of Eligible Activities and Expenses

The Impact Assessment Agency of Canada's participant funding is intended to assist your community with eligible costs associated with participation in the planning phase of a potential impact assessment for the Hydrogen Ready Power Plant Project. This funding can be used for the following eligible activities:

Hold internal community meetings and prepare for comment periods held by the Agency;

Participate in meetings with the Agency;

Provide comments on the Initial Project Description, including:

- preferences and expectations of both Agency consultation activities and proponent engagement activities in relation to the Project; and
- views on whether any valued components or issues related to those valued components<sup>3</sup>, are missing from the proponent's overview of potential effects<sup>4</sup> or potential impacts on the exercise of rights<sup>5</sup> characterized in the Initial Project Description.

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<sup>3</sup> In this context, valued components are the aspects of the environmental, health, social, and economic conditions that may be important to you or your community.

<sup>4</sup> Effects in the Impact Assessment Act means, unless the context requires otherwise, changes to the environment or to health, social or economic conditions and the positive and negative consequences of these changes.

<sup>5</sup> References to rights refer to Aboriginal or treaty rights as described in Section 35 of the the Constitution Act, 1982 which states: (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed. (2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada. (3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired. (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

If an impact assessment is required, provide comments on the draft Tailored Impact Statement Guidelines and the draft Indigenous Engagement and Partnership Plan, including:

- recommendations on valued components or issues related to those valued components or potential impacts on the exercise of rights that should be studied by the proponent during the federal impact assessment;
- requests, if interested, to collaborate with the proponent on any of these studies by providing information on the specific valued components and the role you see for your community;
- preferences and expectations of both Agency consultation activities and proponent engagement activities during the federal impact assessment of the Project; and,
- requests, if interested, for a collaborative approach to an assessment of any impacts on the exercise of rights due to the Project.

Eligible expenses for the above activities are professional services; reporting costs (i.e. staff salaries and administrative fees); travel expenses (including travel kilometers/flights, meals, incidentals and accommodation); and Honoraria and ceremonial costs (including costs associated with providing Indigenous knowledge relevant to the engagement activity).

For more information, please see the Agency's Participant Funding Program – National Program Guidelines at [https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/participant-funding-program-national-program-guidelines.html#\\_Toc018](https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/participant-funding-program-national-program-guidelines.html#_Toc018)

If your community would like to use this funding for an activity or expense not listed above, please contact [fp-paf@iaac-aeic.gc.ca](mailto:fp-paf@iaac-aeic.gc.ca) **prior** to incurring costs for this activity.

By accepting this funding, your community enters into a funding agreement with the Agency. Under this funding agreement, the funding provided to you must be used for the eligible activities listed above or such additional activities determined to be appropriate in consultation with the Agency.

The name of your community, the funding amount provided, and the general nature of the activities supported may be made publicly available by the Agency.