

ATTACHMENT October 25, 2022

Federal Authority Advice Record: Designation Request under IAA

Response due by **November 15, 2022**

Sugar Creek Peat Harvesting Project

Department/Agency	Transport Canada
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1. Has your department or agency considered whether it has an interest in the Project; exercised a power or performed a duty or function under any Act of Parliament in relation to the Project; or taken any course of action (including provision of financial assistance) that would allow the Project to proceed in whole or in part?

Specify as appropriate.

Transport Canada has not previously considered whether it has an interest in the Project; exercised a power or performed a duty or function under any Act of Parliament in relation to the Project; or taken any course of action (including provision of financial assistance) that would allow the Project to proceed in whole or in part.

2. Is it probable that your department or agency may be required to exercise a power or perform a duty or function related to the Project to enable it to proceed?

If yes, specify that power, duty or function and its legislative source.

Transport Canada (TC) may be required to exercise a power or perform a duty or function, but there is not enough information to decide. The proponent is requested to inform Transport Canada whether or not the access road will cross any navigable waterways. Approval may be required under the Canadian Navigable Waters Act (CNWA) for access road crossings, should any infrastructure impact the navigability of waterways. It is possible that they fit under the criteria of the Minor works order. It is up to the proponent to decide using the Navigation Protection Program's Project Review Tool - <https://npp-submissions-demandes-ppn.tc.canada.ca/projectreview-outildexamenduprojet>.

3. If your department or agency will exercise a power or perform a duty or function under any Act of Parliament in relation to the Project, will it involve public and Indigenous consultation?

Specify as appropriate.

If the proponent requires an approval from Transport Canada, under the CNWA, the department will

consider consultation activities undertaken through an assessment process if one occurs. Should the department determine that additional consultation is needed, this would occur before an approval was issued.

4. Is your department or agency in possession of specialist or expert information or knowledge that may be relevant to any potential adverse effects within federal jurisdiction caused by the Project or adverse direct or incidental effects stemming from the Project?

Specify as appropriate.

Transport Canada's Navigation Protection Program (NPP) may be able to provide specialist or expert information or knowledge with respect to the *Canadian Navigable Waters Act (CNWA)* and impacts to navigation.

5. Has your department or agency had previous contact or involvement with the proponent or other parties in relation to the Project?

Provide an overview of the information or advice exchanged.

No, Transport Canada has not had previous contact or involvement with the proponent or other parties in relation to the Project.

6. From the perspective of the mandate and area(s) of expertise of your department or agency, does the Project have the potential to cause adverse effects within federal jurisdiction or adverse direct or incidental effects as described in section 2 of IAA? Could any of those effects be managed through legislative or regulatory mechanisms administered by your department or agency? If a licence, permit, authorization or approval may be issued, could it include conditions in relation to those effects?

Specify as appropriate.

No comment.

7. Does your department or agency have a program or additional authority that may be relevant and could be considered as a potential solution to concerns expressed about the Project? In particular, the following issues have been raised by the requestor. The Project could result in potential:

- adverse effects to areas within federal jurisdiction, including Indigenous peoples and lands, species at risk, and fish and fish habitat;
- alteration of the land and hydrological and ecological functions of groundwater, surface water, and wetlands in Fisher River Cree Nation (FRCN) traditional territory;
- adverse effects to fish habitat and spawning within the Sugar Creek watershed system;
- adverse effects to wildlife populations, migration patterns, and wildlife habitat;
- significant adverse impacts on the treaty and aboriginal rights of FRCN, as well as significant adverse effects on FRCN's health, social, and economic conditions;
- change to FRCN's ability to develop its land and economic plans;
- impacts to locations of cultural and historical importance to FRCN and other Indigenous communities;
- adverse effects to the Fisher Bay Provincial Park and Proposed Expansion that is underway;
- contribution to climate change due to loss of peatland carbon storage and sequestration area; and
- cumulative effects of existing peat harvesting operations in the area, which were not considered in previous provincial licensing processes and are likely irreversible or not restorable for well over 100 years.

If yes, please specify the program or authority.

TC does not have any programs or authorities that address these concerns.

8. Does your department or agency have information about the interests of Indigenous groups in the vicinity of the Project; the exercise of their rights protected by section 35 of the *Constitution Act, 1982*; and/or any consultation and accommodation undertaken, underway, or anticipated to address adverse impacts to the section 35 rights of the Indigenous groups?

If yes, please specify.

No comment.

9. If your department has guidance material that would be helpful to the proponent or the Agency, please include these as attachments or hyperlinks in your response.

Holly Poklitar
Name of departmental / agency responder

Regional Environmental Advisor
Title of responder

November 15, 2022
Date