

ATTACHMENT November 23, 2022

Federal Authority Advice Record: Designation Request under IAA

Response due by December 19, 2022

Clearwater Peat Harvesting Project

Department/Agency	Transport Canada
Lead Contact	Jackie Barker, Regional Environmental Advisor
Full Address	344 Edmonton Street, Winnipeg, Manitoba R3P 2G5
Email	Jackie.barker@tc.gc.ca
Telephone	204-979-1739
Alternate Departmental Contact	Adam.downing@tc.gc.ca

-
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?

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 based on the initial Project description provided, as follows:

Based on available project information, including the site diagram provided by the proponent, it appears unlikely that Transport Canada will be required to exercise a power or perform a duty or function. However, approval may be required under the *Canadian Navigable Waters Act* (CNWA), should any project components potentially impact navigable waterways. If there is potential for the project to impact a navigable waterway, the proponent should consider using the Project Review Tool found on the Navigation Protection Program (NPP)'s External Submission Site (<https://npp-submissions-demands-ppn.tc.canada.ca/projectreview-outildexamenduprojet>). This tool can help determine the proponent's responsibilities under the CNWA.

-
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;
 - adverse impacts to soil, water, wetlands, watersheds, medicines, vegetation and other component of the environment important to O'Chiese First Nation treaty rights;
 - alteration of the land and hydrological and ecological functions of groundwater, surface water, and wetlands in O'Chiese First Nation's traditional territory;
 - significant adverse impacts on the treaty and aboriginal rights of O'Chiese First Nation as well as significant adverse effects on health, social, and economic conditions;
 - adverse impacts to O'Chiese First Nation's Section 35 rights;
 - impacts to highly used traditional hunting, trapping and gathering areas including areas of cultural importance (i.e. gravesite located approximately 6km from the Project area);
 - 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 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.

Jackie Barker

Name of departmental / agency responder

Regional Environmental Advisor

Title of responder

December 16, 2022

Date