

ATTACHMENT: November 23, 2022
Provincial Advice Record: Designation Request under IAA
Response requested by December 19 2022
Clearwater Peat Harvesting Project

Ministry	Environment and Protected Areas (EPA)
Lead Contact	Lori Havanka, Approvals Program Manager
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Alternate Ministry Contact	Corinne Kristensen, Director, Regulatory Assurance Corinne.Kristensen@gov.ab.ca 780-427-9116

Please fill out the form in relation to the proposed Clearwater Peat Harvesting Project.

1. In general terms, please confirm and describe your ministry's role (if applicable) in the review of the Project.
 - Environment and Protected Areas (EPA), Regulatory Assurance Division – South Region (RAD-S), Red Deer District is the primary provincial regulator with respect to an application under the *Water Act*.
 - Forestry, Parks and Tourism (FPT) – Lands Division – Integrated Land Delivery South is the primary provincial regulator with respect to an application under the *Public Lands Act*.
 - Environment and Protected Areas (EPA) - Environmental Assessment (EA) team has not received a request from Premier Tech Horticulture Ltd. for a provincial EIA determination of the proposed Clearwater Peat Harvesting Project. Therefore, an EIA determination has not been made. The proposed project is not captured as a mandatory activity, which are typically large industrial projects, in the Environmental Assessment (Mandatory and Exempted Activities) Regulation, therefore it is considered a discretionary activity under the provincial EA process. There are statutory criteria to be considered under the *Environmental Protection and Enhancement Act* to determine whether a discretionary activity would be subject to the provincial EA process.
2. Please provide the contact information of the person or persons responsible for managing your ministry's oversight of the Project (if different from lead contact above).
 - a. Refer to response 1.
3. Describe the provincial legislative or regulatory process or approvals administered by your ministry that may assess or manage the potential adverse effects of the Project. For each mechanism or approval, please provide information regarding the following:
 - Name of the process or authorization (e.g. certificate, licence, permit or approval) and the associated legislative framework;

- Whether (for each) the authorization would set conditions and if yes, what issues would those conditions address;
- Whether (for each) the authorization would require public and/or Indigenous consultation and if yes, provide information on the approach to be taken; and
- Whether (for each) your ministry has guidance material that would be helpful to the proponent or the Agency (please provide these as attachments or hyperlinks in your response)

Approval under the *Water Act*:

- The proposed project has potential to cause an impact to the aquatic environment and water management, therefore requires an approval under the *Water Act*.
- Given the above, the proponent will be required to obtain one or more approvals under the *Water Act* prior to commencement of the proposed project.
- Approvals set out terms and conditions, and attach approved plans that address the following:
 - The timing and location of all activities;
 - Engineered designs for the activities;
 - Construction practices;
 - Mitigations for potential impacts associated with the elements of proposed project that form part of an 'activity' definition under section 1(b) of the *Water Act*; and,
 - Any specific conditions or plans required to address features of the proposed activity that should be considered under the intent, scope and authority of the *Water Act*.
- Proposed approval projects are reviewed by the Alberta Government Aboriginal Consultation Office (ACO) to verify the recommended requirement or adequacy of First Nations conclusion. This review is initiated by the proponent directly with the ACO.
- There is either a public notice of application or public notice of decision for all applications for approvals under the *Water Act*. The notice is typically posted on the EPA Online Public Notice Viewer, in the local municipality, and in a locally available news source. The notice provides directly affected persons to submit Statements of Concern, or to appeal the eventual decision of EPA to the Environmental Appeals Board.
- An application for an approval under the *Water Act* was made in 2017.

Formal Disposition under the *Public Lands Act*:

- The proposed project (peat operations) would require a surface materials lease (formal disposition).
- The application process and considerations for peat projects on public land are covered in the Allocation and Sustainable Management of Peat Resources on Public Land Directive.
- Proposed peat projects are reviewed by the Alberta Government Aboriginal Consultation Office (ACO) to provide recommendations of adequacy on indigenous consultation.
- Decisions on whether to issue or refuse a formal disposition are made by the statutory decision-maker under the Public Lands Administration Regulation and may be appealed to the Public Lands Appeals Board.
- An application for peat extraction was made under the *Public Lands Act* in 2009.

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4. Confirm whether any authorization listed above would contemplate the following matters and if yes, discuss, in general, the benchmarks or standards to which projects of this nature may be held (be specific in relation to each point below that may be applicable to your ministry's mandate):
- Effects on water quality and quantity:
 - Will be addressed in the *Water Act* Approval application for the proposed project.
 - Effects to fish and fish habitat:
 - Will be addressed in the *Water Act* Approval application for the proposed project.
 - Effects to migratory birds and species at risk:
 - Will be addressed in the *Water Act* Approval application for the proposed project.
 - Cumulative effects
 - Section 38(2)(b) of the *Water Act* says "may consider any existing, potential or cumulative
 - effects on the aquatic environment,
 - hydraulic, hydrological and hydrogeological effects, and

- (iii) effects on household users, licensees and traditional agriculture users, that result or may result from the activity.
 - e. Potential impacts to Indigenous peoples resulting from any change to the environment on physical and cultural heritage, the current use of lands and resources for traditional purposes, or any structure, site or thing that is of historical, archaeological, paleontological or architectural significance;
 - v. Proponents are required to address lands with an identified Historic Resource Value within the project area. This is done under the *Historical Resources Act*, and may require the submission of a Historic Resources Application. Historic Resources include archaeological sites, palaeontological sites, Indigenous traditional use sites of a historic resource nature, and historic structures.
 - f. changes to the health, social, or economic conditions of Indigenous peoples:
 - vi. Alberta Indigenous Relations determined level three consultation was required. Consultation is ongoing. No decision has been made to date.
 - g. Potential impacts on Aboriginal and Treaty Rights:
 - vi. Alberta Indigenous Relations determined level three consultation was required. Consultation is ongoing. No decision has been made to date.
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5. Have you received public comments/concerns in relation to the Project? If yes, provide an overview of the key issues and the way in which (in general terms) your ministry intends to address (or would normally manage) these matters.
- a. EPA has received concerns related to the proposed project. The concerns include but are not limited to wildlife, waterfowl and fisheries impacts, water supply issues and downstream impacts.
 - b. EPA has a legislated public review process related to applications under the *Water Act*.
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6. Have you received Indigenous community comments/concerns in relation to the Project? If yes, provide an overview of the key issues and the way in which (in general terms) your ministry intends to address (or would normally manage) these matters.
- Yes, the concerns raised were the lack of capacity to review the project, impacts of the project, and timing of the engagement. Information that indicates that the proposed project would potentially impact Aboriginal and Treaty rights would be used to inform consultation requirements.
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7. Do you have any other information about the Project in relation to potential adverse effects or impacts to the public, or Indigenous peoples and their rights as protected under section 35 of the *Constitution Act, 1982*?
- Not at this time.

Links:

<https://www.alberta.ca/indigenous-consultations-in-alberta.aspx>

<https://www.alberta.ca/water-legislation-and-resources.aspx>

<Original signed by>

Name of responder

Approvals Program Manager

Title of responder

December 19, 2022

Date