

**: May 18, 2023**

**Federal Authority Advice Record**

**Response due by June 16, 2023**

Moraine Power Generation Project – Moraine Initiatives Ltd.

Agency File: 005860

Department/Agency	Transport Canada
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1. 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 the Act of Parliament and that power, duty or function.

**Transport Canada may be required to exercise a power or perform a duty or function. Specifically, approval may be required under the *Canadian Navigable Waters Act (CNWA)* for works that impact navigable waterways. The Athabasca River is a Scheduled Waterway under the CNWA and is considered navigable. Its tributaries may also be considered navigable based on their details. Project components that are CNWA works include pipelines, transmission lines, and changes to existing waterway intakes and waterway crossings.**

1b. Please describe any Indigenous or public consultation that will be undertaken in relation to the exercise of that power, duty or function, including when it would take place.

**If the Project requires an approval from Transport Canada under the CNWA, the Department will consider consultation activities undertaken through the impact assessment process, if one occurs. If Transport Canada determines that additional consultation is needed, the Department would conduct this before a CNWA approval is issued.**

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2. Is your department or agency in possession of specialist or expert information or knowledge that may be relevant to the conduct of an impact assessment of the Project?

Specify the specialist or expert information or knowledge.

**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.**

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3. Has your department or agency considered 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 that would allow the Project to proceed in whole or in part?

Specify.

**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.**

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4. Has your department or agency had previous contact or involvement with the proponent or other party in relation to the Project? (for example: an enquiry about methodology, guidance, or data; introduction 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.**

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5. Does your department or agency have additional information or knowledge not specified, above, including information on the geographic, environmental, economic or social context of the project? (e.g. location of protected or sensitive areas, previous history between local communities and proponent or similar projects, local or regional social or economic concerns)?

Specify as appropriate.

**No, Transport Canada does not have any additional information or knowledge to provide.**

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6. What are the key issues likely to be relevant to the public interest decision, based on the mandate and area(s) of expertise of your department, and which should be addressed in an impact assessment of the Project, should the Agency determine that one is required?

For each key issue:

- Describe the effect or the nature of the issue, including any relevant context;
- Provide the rationale and/or evidence for why it is a key issue;
- Identify briefly solutions to the issue, including any information or studies that should be required in the Tailored Impact Statement Guidelines, potential mitigation measures, and/or regulatory requirements relevant to the issue;
- Provide a concise, plain-language summary of the issue for inclusion in the Summary of Issues.

The information provided will be used by the Agency to determine if and an impact assessment is required and where appropriate to develop project-specific draft Tailored Impact Statement Guidelines that focus on the key issues likely to be relevant to the public interest decision.

Please use table 1 to respond to this question

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7. Where possible, identify any clarifications or additional information the Proponent could include in the Detailed Project Description or in the response to the Summary of Issues that would:

- give confidence that an issue or effect could be addressed and managed;
- inform the decision as to whether an impact assessment is required; or
- aid in tailoring the Impact Statement Guidelines, if an impact assessment is required.

These clarifications and additional information will be included as specific questions in the Summary of Issues provided to the proponent

Please use table 2 to respond to this question

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Holly Poklitar \_\_\_\_\_  
Name of  
Departmental /  
Agency Responder

Regional Environmental  
Advisor \_\_\_\_\_  
Title of Responder

June 14, 2023 \_\_\_\_\_  
Date

**Table 1: Key Issues to inform decision-making**

The Agency asks that federal authorities align expert advice with the Agency’s approach to tailoring, which focuses on key issues or effects that are likely to be relevant to the public interest decision. In identifying key issues, federal authorities should be mindful of the Project’s context (size, scope, location), Indigenous knowledge and perspectives, and public concerns. Key issues that may be relevant to the public interest decision include:

- effects that may be significant, based on federal experts’ knowledge and experience with past projects;
- effects that may impact Indigenous peoples and their rights, based on Indigenous knowledge and perspectives or experience with past projects;
- effects on key species or habitats (e.g. at risk, important to Indigenous communities, commercial importance, provide important ecosystem function);
- issues or effects that may result from novel project activities, components or technology;
- effects with large uncertainties, including in the effectiveness of mitigation measures;
- transboundary effects where mitigation measures are limited;
- positive effects, including where project may support other governmental priorities, including reconciliation with Indigenous peoples; and
- key concerns raised by Indigenous or local communities.

Effects that are anticipated to be minor or which can be managed using well understood mitigation measures, existing guidance, and/or other regulatory processes may have simplified information requirements or may be removed entirely. Measured advice from federal authorities on key issues and solutions —and on the scope and detail of any required information and studies — will enable the Agency to focus assessments on issues that are important to participants and to decision-makers.

Comment ID	Valued Component or Factor to Consider	Description of Key Issue (Context and Rationale)	Solutions	Plain language summary for inclusion in Summary of Issues
<p><i>Please identify comments by organization and comment number.</i></p> <p><i>e.g.: IAAC-01</i></p>	<p><i>Identify valued component(s) or factor to consider—within the mandate of your department or agency—to which the effect or issue applies.</i></p>	<p><i>Provide a brief description of the issue and rationale for being a key issue.</i></p> <p><i>Include, where relevant,:</i></p> <ul style="list-style-type: none"> <li>• <i>the pathway of effects;</i></li> <li>• <i>social, economic or environmental context which are relevant to it being a key issue;</i></li> <li>• <i>key uncertainties that should be addressed in the impact assessment;</i></li> <li>• <i>Indigenous or public concerns or perspective;</i></li> <li>• <i>potential for differential effects among diverse subgroups;</i></li> <li>• <i>scientific evidence or traditional knowledge, including from past project experience, which supports inclusion as a key issue.</i></li> </ul>	<p><i>Where applicable, briefly identify solutions to address the potential issue or effects including</i></p> <ul style="list-style-type: none"> <li>• <i>Information or studies required to describe and characterize the effect, should an impact assessment be required; including any guidance for data collection and/or analysis or existing data sources to inform the assessment;</i></li> <li>• <i>Any powers, duties or functions that your department or agency has that may mitigate, manage, or set conditions related to the effect;</i></li> <li>• <i>Guidance or policies for mitigating effects or any standard and well-understood mitigation measures that would address the effect, including follow-up monitoring activities; and/or</i></li> <li>• <i>Commitments the proponent could make to respond to the issue.</i></li> </ul> <p><i>Where available, please refer to existing text in the TISG template.</i></p>	<p><i>For issues to be included in the Summary of Issues, provide a concise, plain language synopsis of the key issue and any questions or directions for the proponent.</i></p>
<p><b>TC-01</b></p>	<p>Navigation</p>	<p>Some project components (“works”) occur in, on, under, over, through or across navigable waterways. There is potential for interference with navigation during construction and operation.</p>	<p>Per Section 10.2.4 of the Tailored Impact Statement Guidelines, the Impact Statement must:</p> <ul style="list-style-type: none"> <li>• describe navigable waterways that could be impacted by the project;</li> <li>• describe ancillary project components that will be constructed in, on, under, over, through or across navigable waterways to support the project;</li> <li>• describe potentially affected waterway users and describe consultation with waterway users and Indigenous groups regarding navigational use, issues raised and how issues were addressed; and</li> <li>• describe project effects to navigation and navigation safety.</li> </ul>	<p>The proponent should confirm whether any project components, including incidental activities, may impact a navigable waterway. If so, Transport Canada will need further information on potential effects on navigation on all navigable waterways during all project phases, including proposed mitigation measures.</p>

			<b>Note:</b> If, prior to the completion of the Impact Statement, the proponent uses Transport Canada's self-assessment tool, and determines that no navigable waterways will be impacted by the project, Transport Canada does not require the information as outlined in Section 10.2.4 of the TISGs.	
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*Please insert additional rows as necessary.*

Table 2. Clarifications or additional information the Proponent could include in the Detailed Project Description or in the response to Summary of Issues

Comment ID	Relevant section of the Initial Project Description	Description of Issue, Concern or Uncertainty	Clarification or additional information	Plain language summary for inclusion in Summary of Issues
<p>Please identify comments by organization and comment number.</p> <p>e.g.: IAAC-01</p>	<p>If the comment is related to a specific section of the Initial Project Description, please provide a reference.</p> <p>You may also choose to copy the relevant text here.</p>	<p>Provide a description of the issue, concern or uncertainty the proponent could address in their detailed project description that would give confidence that the issue will be addressed and managed, or which could aid in tailoring the Guidelines</p>	<p>Provide recommended clarification or additional information to be included in the Detailed Project Description to address the issue, concern or uncertainty, for example</p> <ul style="list-style-type: none"> <li>• Clarifications to project description (e.g. components, activities, locations or alternatives);</li> <li>• Project design changes that could avoid effects;</li> <li>• Evidence that could be presented to demonstrate there is no effect pathway or that effects will be negligible;</li> <li>• Evidence that standard mitigations will address potential effects;</li> <li>• Commitments the proponent could make to respond to the issue, including the implementation of federal operational policies or guidance documents.</li> </ul>	<p>For issues to be included in the Summary of Issues, provide a concise, plain language synopsis of the issue and of the question or direction for the proponent.</p>
<p><b>TC-02</b></p>	<p><b>Crossings (general)</b></p> <p>Initial Project Description (IPD) p. 68 - Crossings of waterways will meet the CNWA's Minor Works Order and will therefore not require approval under the CNWA.</p> <p><b>Transmission lines</b></p> <p>IPD p. 91 - Where a transmission line crosses the Athabasca River and its tributaries, there will be no instream works. Transmission line support structures will be placed outside of the high-water mark and the power lines will be suspended overhead.</p> <p><b>Pipelines – trenchless/HDD</b></p> <p>IPD p. 91 - Where a natural gas pipeline crosses the Athabasca River, or other smaller watercourses, it will be installed using a trenchless method (e.g., horizontal directional drill (HDD)). Trenchless crossing activities would be completed above the high-water mark with no proposed instream works, and pipelines will be installed by</p>	<p><b>Issue/Concern:</b> Potential interference with navigation</p> <p><b>Rationale:</b> Works that occur in, on, under, over, through or across navigable waterways have the potential to interfere with navigation and may require approval under the <i>Canadian Navigable Waters Act</i> (CNWA).</p> <p>The Minister of Transport is of the opinion that the works set out in the CNWA Minor Works Order are likely to slightly interfere with navigation. As such, project works that meet the CNWA Minor Works Order do not require approval by Transport Canada under the CNWA.</p> <p><b>Transmission line crossings</b></p> <p>The Initial Project Description (IPD) identifies that the method of installing transmission line crossings across the Athabasca River and its tributaries will meet the CNWA's Minor Works Order.</p> <p><b>Pipeline crossings</b></p> <p>The IPD identifies that the method of installing the pipeline crossings across the Athabasca River and its tributaries, trenchless/horizontal directional drilling (HDD), will meet the CNWA's Minor Works Order.</p> <p>However, the IPD also identifies that where the pipelines cross <b>Athabasca River's tributaries that are not mapped as critical habitat</b>, crossings may be installed using trenched methods. The IPD does not clarify whether they will meet the CNWA Minor Works Order or require approval under the CNWA.</p> <p><b>Vehicle/equipment crossings</b></p> <p>The IPD identifies that no new permanent or temporary vehicle/equipment crossings will be constructed across the Athabasca</p>	<p>The Detailed Project Description (DPD) should confirm whether the following works will meet the CNWA Minor Works Order or require approval under the CNWA:</p> <ul style="list-style-type: none"> <li>• Trenched pipeline crossings across the Athabasca River's tributaries</li> <li>• Temporary vehicle/equipment crossings across the Athabasca River's tributaries</li> <li>• Water intakes or outfalls</li> </ul> <p>To identify if the project may impact a navigable waterway, the proponent should use the Project Review Tool on Transport Canada's Navigation Protection Program (NPP) External Submission Site (<a href="https://npp-submissions-demands-ppn.tc.canada.ca/projectreview-outildexamenduprojet">https://npp-submissions-demands-ppn.tc.canada.ca/projectreview-outildexamenduprojet</a>). The results of this review should be reported in the DPD.</p> <p>Should the proponent determine they may have obligations under the CNWA, the proponent is encouraged to reach out to the regional NPP office to discuss how design changes may minimize impacts to navigation or whether they can pursue public resolution in place of attaining approval under the CNWA.</p> <p>If a CNWA approval is required, the DPD should include information about the historic, current, and potential future navigational use of all navigable waterways potentially affected by the project.</p>	<p>The proponent should confirm whether any project component, including incidental activities, may impact a navigable waterway. If so, Transport Canada will need further information on potential effects on navigation on all navigable waterways during all project phases, including proposed mitigation measures.</p>

	<p>HDD to appropriate depths to limit potential effects.</p> <p><b>Pipelines - trenching</b></p> <p>IPD p. 91 - Where the pipelines cross tributaries to the Athabasca River that are not mapped as critical habitat, crossings may be installed using trenched methods (i.e., isolated crossings if flowing and open cut if dry or frozen to bottom).</p> <p><b>Vehicle/equipment crossings</b></p> <p>p. 91 - No new permanent or temporary vehicle/equipment crossings will be constructed across the Athabasca River. Where the pipelines and transmission line cross tributaries to the Athabasca River, temporary vehicle/equipment watercourse crossings will consist of a clear-span bridge, or ice bridge and snow fill during frozen conditions.</p> <p><b>Water intakes/outfalls</b></p> <p>IPD p. 94 - 95 — Mitigations measures related to pump discharge areas and water intake pipes are listed.</p>	<p>River, but that temporary vehicle/equipment crossings may be constructed across Athabasca River's tributaries. The IPD does not clarify whether they will meet the CNWA Minor Works Order or require approval under the CNWA.</p> <p><b>Water intakes/outfalls</b></p> <p>The IPD identifies that pump discharge areas and water intake pipes will be constructed. The IPD does not clarify whether they will meet the CNWA Minor Works Order or require approval under the CNWA.</p>		
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