

Federal Authority Advice Record (FAAR)

The FAAR must be submitted to the Registry by January 28, 2024.

Marguerite Lake Compressed Air Energy Storage Project – Federation Group Inc.

Department/Agency	Fisheries and Oceans Canada (DFO)
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1. a) 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.

b) 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.

a) Fisheries and Oceans Canada (DFO) has legislative and regulatory responsibilities under the *Fisheries Act* and *Species at Risk Act*. Based on the initial project description, a paragraphs 34.4(2)(b) and 35(2)(b) *Fisheries Act* Authorization may be required because the project has the potential to cause the death of fish and/or the harmful alteration, disruption, or destruction of fish habitat, which is prohibited unless authorized. Additional information would be required to make this determination.

b) If DFO makes a determination that a *Fisheries Act* authorization and/or SARA permit is required, the Duty to Consult may be triggered if the decision has the potential to adversely impact potential or established Indigenous or Treaty rights. The Minister must consider any adverse effects that the decision may have on the rights of Indigenous peoples of Canada recognized and affirmed by section 35 of the *Constitution Act*, 1982. If the Agency determines that an IA is required, consultation during the IA may be relied upon for components of DFO's regulatory process dependent on the detail available during the IA. Consultation would continue through the *Fisheries Act* Authorization process. Typically, Indigenous consultation begins when all components of the authorization application have been received and are sufficient from a technical and policy perspective. However, DFO encourages proponents to engage Indigenous communities and incorporate their views and perspectives prior to submitting an application. DFO is available to participate in these early discussions.

The precise nature of consultation activities is dictated by developing a shared understanding with each respective community and determining a mutual path forward. Feedback from

Indigenous groups drives how impacts may be addressed, within the bounds of DFO's mandate.

DFO does not engage the public on a project-by project basis when considering a decision under paragraphs 34.4(2)(b) and 35(2)(b) of the *Fisheries Act*, nor under section 73 of SARA.

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

Specify the specialist or expert information or knowledge.

Yes, DFO's specialist or expert information or knowledge is linked to its legislative and regulatory responsibilities under the *Fisheries Act* and *Species at Risk Act*. DFO possesses specialist or expert information or knowledge of fish and fish habitat including aquatic species at risk, and in the assessment of impacts to fish and fish habitat, and aquatic species at risk. This includes but is not limited to assessing the adequacy of sampling that has been conducted to describe the baseline environment and make comparisons to post-impact outcomes, and whether the avoidance, mitigation, and offsetting measures proposed by the proponent are appropriate and adequate.

3. Has your department or agency 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?

Please specify if applicable.

DFO has not exercised a power or performed a duty or function under any Act of Parliament in relation to the Project.

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)?

Please provide an overview of the information or advice exchanged.

DFO has not had any previous contact or involvement with the proponent or other parties in relation to the Project.

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

Please specify if applicable.

There is currently no mapped critical habitat for aquatic species at risk within the project area as defined by the Proponent.

6. From the standpoint of your department's mandate and expertise, what are the main issues concerning the project?

For each key issue, please:

- 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;
- briefly provide solutions to the issue, including information or studies that, if applicable, should be requested to the proponent in the Tailored Impact Statement Guidelines, potential mitigation measures, or regulatory requirements relevant to the issues;

- provide a concise, plain-language summary of the issue for inclusion in the Summary of Issues.

The information provided will be taken into consideration by the Agency to formulate an opinion on whether an impact assessment is required and, if applicable, will be taken into account in developing project-specific Tailored Impact Statement Guidelines in the next steps of the impact assessment process.

Please use Table 1 to answer this question.

7. If applicable, specify any additional information the proponent could provide in the Detailed Project Description or in its response to the Summary of Issues that:
- would make it possible to verify whether certain minor issues could be addressed and managed by clear measures, existing guidelines, other regulatory processes or other existing tools;
 - help the Agency to provide an opinion if an impact assessment is required, or
 - would support the tailoring of the Impact Statement Guidelines if the Agency is of the opinion that an impact assessment is required.

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

Please use Table 2 to answer this question.

Fisheries and Oceans Canada

Name of department or agency involved

Matthew Teillet, FFHPP Biologist

Speaker title

January 25, 2024

Date

Table 1: Key issues to inform the impact assessment process

The Agency asks that federal authorities guide expert advice on the Agency's approach to project specific tailoring, if the Agency is in the opinion that an impact assessment is required. This approach aims to focus the assessment on the Project's key issues, with an emphasis on the prevention of adverse environmental effects in areas of federal jurisdiction. In determining key issues, federal authorities should be mindful of the Project's context (size, scope, location), Indigenous knowledge and perspectives, and public concerns.

Potential effects that are considered minor, or that can be mitigated through clear measures, existing guidance or other regulatory processes, may be subject to simplified information requests or be disregarded. Advice from federal authorities on key issues and solutions - and on the scope and detail of the studies and information requested - will enable the Agency to focus the analysis on those issues that are important for the impact assessment process.

Comment ID	Relevant section of the initial project description	Valued Component or Factor to Consider	Description of key issue (context and rationale)	Advice	Plain-language summary for inclusion in Summary of Issues
<p>Please present comments by organization and comment number e.g.: IAAC-01</p>	<p>If the comment relates to a specific section of the initial project description, please provide the reference.</p>	<p>Identify valued component(s) or factor to consider—within the mandate of your department or agency—to which the potential effect or issue applies.</p>	<p>Please provide a brief description of the issue and rationale for being a key issue.</p> <p>Include, where relevant:</p> <ul style="list-style-type: none"> • the sequence of potential effects; • the relevant context that specifies why this is a key issue; • key uncertainties that should be addressed in the impact assessment; • Indigenous or public concerns or perspective; • scientific data or traditional knowledge, including from previous projects, that justifies the inclusion of the key issue in the project assessment. 	<p>If applicable, please provide brief solutions/advice to address the issue or potential effect, including:</p> <ul style="list-style-type: none"> • studies or information relevant to describing and characterizing the potential effect, including any guidance for data collection or analysis or existing data sources to inform the assessment; • any powers your department or agency has that may mitigate, manage or set conditions related to the issue; • advice or policies to frame and mitigate the potential effect; • standardized mitigation or monitoring measures that could manage potential effects, including follow-up on monitoring activities; • commitments the proponent could make to respond to the issue. 	<p>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, if applicable.</p>
DFO-01	19.1	Fish and Fish Habitat	<p>The Project may result in the harmful alteration, disruption, or destruction of fish habitat due to the installation of the proposed natural gas pipeline.</p> <p>Currently, there is insufficient information on the location of the proposed pipeline which is likely to cross watercourses considered fish habitat. Without additional information on fish and fish habitat at each impacted waterbody, and the type of works proposed, DFO will be unable to understand potential effects on fish and fish habitat; and if these effects can be effectively mitigated.</p>	<p>DFO requires detailed information on the proposed pipeline to understand potential effects, mitigation, and residual effects.</p> <p>1) DFO suggests that the proponent take the following steps to inform a full understanding of the Project's potential effects on fish and fish habitat:</p> <ul style="list-style-type: none"> - Use of a Pathways of Effects approach to determine potential effects Pathways of Effects (dfo-mpo.gc.ca) 	<p>Impacts to fish and fish habitat due to the pipeline installation are not fully understood. There is the potential for the harmful alteration, disruption, or destruction of fish habitat, dependent on crossing construction methods. Specifics of the locations,</p>

				<ul style="list-style-type: none"> - Identify standard avoidance and mitigation measures, and/or standards or codes of practice can be implemented - Identify whether additional site-specific avoidance and mitigation measures can be implemented. DFO emphasizes the importance of the mitigation hierarchy and the need to avoid and mitigate to the extent possible prior to considering the need to offset. DFO encourages the proponent to explicitly consider this approach in their planning processes - identify all residual effects on fish and fish habitat through a detailed accounting of potential effects and proposed mitigation measures; and - develop an offsetting plan, if required. The proponent's analysis of potential effects and the pathways leading to residual effects should explicitly identify the requirement for offsetting. <p>2) If a <i>Fisheries Act</i> Authorization is required, conditions to mitigate and manage effects to fish and fish habitat would be included in the authorization and/or permit. They would also require monitoring of project impacts and effectiveness of mitigation. These conditions would be legally binding.</p> <p>To further understand impacts of the pipeline on fish and fish habitat the proponent should undertake the following:</p> <ol style="list-style-type: none"> 1) Prepare a list of all waterbodies and watercourses (permanent and intermittent) that may be directly or indirectly affected by the pipeline and provide: 2) type of water body or watercourse; 3) size and depths of the waterbody or watercourse 4) streamflow types and characteristics; 5) substrate type, vegetation and anthropogenic barriers to fish; 6) description of any proposed water work; 7) for each crossing, describe the anticipated method of crossing (trenched or trenchless). 	<p>construction methods, and the application of mitigation are required to determine if residual effects triggering the requirement for a <i>Fisheries Act</i> Authorization, and hence DFO to exercise a power, are likely.</p> <p>If information is provided, and DFO determines that an Authorization is required, effects to fish and fish habitat and standard mitigation associated with pipeline crossings are relatively well understood, and would be incorporated into the requirements for the <i>Fisheries Act</i> Authorization.</p>
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Please insert additional lines if necessary.

Table 2. Details 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 the Issue, Concern or Uncertainty	Clarifications or additional information	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. AEIC-01</i></p>	<p><i>If the comment is related to a specific section of the Initial Project Description, please provide a reference.</i></p> <p><i>You may also choose to copy the relevant text here.</i></p>	<p><i>Provide a description of the issue, concern or uncertainty that the proponent could include in its Detailed Project Description, which could be framed and managed by clear measures, existing guidelines, regulatory processes or other existing tools, and thus be the subject of a simplified information request in the guidelines, or simply be disregarded.</i></p>	<p><i>Specify what additional information the proponent could provide in the Detailed Project Description to address the issue, concern or uncertainty, for example:</i></p> <ul style="list-style-type: none"> <i>• Clarifications to elements of Project Description (e.g. components, activities, locations or alternatives);</i> <i>• Proposals on Project design changes that could avoid effects;</i> <i>• Evidence that could demonstrate that the effects will be negligible;</i> <i>• Evidence that standard mitigation measures will reduce or eliminate potential effects;</i> <i>• Commitments the proponent could make to respond to the question/issue, including the implementation of federal operational policies or guidance documents.</i> 	<p><i>For issues to be included in the Summary of Issues, provide a concise, plain-language synopsis of the issue and any questions or instructions for the proponent, if applicable.</i></p>

Please insert additional lines if necessary.