

**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.

**REVISED RESPONSE FROM TRANSPORT CANADA: February 14, 2024**

|                   |                                                                                                    |
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| Department/Agency | Transport Canada                                                                                   |
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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.

Based upon a review of the Initial Project Description (IPD) submitted by the proponent, the only regulatory approval required from Transport Canada for the Project would be an approval under the *Canadian Navigable Waters Act* (CNWA) for water crossings needed for the electrical transmission line and 14 km natural gas pipeline. However, there is not enough information in the IPD, such as the navigability of waterways in the project area, for Transport Canada to determine whether a CNWA approval is required.

Waterways that are not navigable are not regulated by the CNWA. As such, any works, such as watercourse crossings, in, on, over, under, through or across these waterways do not require a CNWA approval.

If one or more of the waterways in the project area is navigable, Transport Canada has determined that none of them are on the CNWA list of scheduled waterways. The only work in, on, over, under, through or across non-scheduled navigable waterways that definitively requires an approval under the CNWA is a work listed in the Major Works Order when it may interfere with navigation. An example of a major work is a new bridge with piers.

If one or more of the waterways in the project area are navigable, then works that meet all the applicable requirements of the Minor Works Order do not require approval under the CNWA. Works listed in the Minor Works Order are considered likely to only slightly interfere with navigation. An example of a work listed in the Minor Works Order that may be required for the project is a shorter clear span bridge(s) (i.e., watercourse crossing).

The proponent has two options if the Project requires a work in, on, over, under, through or across a navigable non-scheduled waterway that is not a major work or does not meet the requirements of the Minor Works Order:

Option 1 - Voluntarily apply to Transport Canada for an approval under the CNWA; or

Option 2 - Proceed under the CNWA's public resolution process which involves depositing information in the online registry through a Notification of Work and publishing a notice of a 30-day public comment period. The proponent and the commenter have 45 days to resolve any navigation related concerns. If the concerns are resolved, the proponent may proceed with the work.

Where the resolution process is unsuccessful, or with a voluntary application for approval from the owner, Transport Canada will review the work for approval.

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.

Following from #1(a) above, works that meet the requirements of the Minor Works Order do not require approval from Transport Canada and in turn do not require public and/or Indigenous consultation by Transport Canada. Notices of minor works are required to be published on the Common Project Search site (<https://common-project-search.canada.ca/>.) However, the publication is informative only, and the public cannot comment on such projects.

If the work is a major work, then public and Indigenous consultation would be required. This would commence after Transport Canada received the application for a CNWA approval.

If the work is not a minor or major work and the proponent chooses Option #1 to voluntarily apply for approval under the CNWA, then public and Indigenous consultation would be required. This would commence after Transport Canada received the application for approval.

If the work is not a minor or major work and the proponent chooses Option #2 of going through the public resolution process, then Transport Canada is not required to undertake public and/or Indigenous consultation. If the public resolution process is unsuccessful, consultation may be required as part of the CNWA approval process.

Public notice and Indigenous consultation are required for an application for approval of a major work.

Note that if Transport Canada is a federal authority for the Project, then the Department would participate in the "whole of government" Indigenous consultation led by the IAAC. Transport Canada would use the results of the "whole of government" consultation to fulfil its own consultation responsibilities associated with the later review of an application for a CNWA approval.

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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.

Following from our answer in #1 above, there is not enough information in the IPD for Transport Canada to be able to answer this question currently.

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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.

No.

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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)?

Please provide an overview of the information or advice exchanged.

No.

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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.

No. More specifically, Transport Canada's Indigenous Relations Unit has not carried out consultations for other projects within a 50 km radius of the Compressed Air Energy Storage (CAES) project.

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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.

Please see Table 1.

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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.

Please see Table 2.

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Transport Canada  
Name of department or agency involved

Regional Environmental Advisor  
Speaker title

February 14, 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                                                                                                                                                                                                |
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| <i>Please present comments by organization and comment number</i><br><i>e.g.: IAAC-01</i> | <i>If the comment relates to a specific section of the initial project description, please provide the reference.</i> | <i>Identify valued component(s) or factor to consider—within the mandate of your department or agency—to which the potential effect or issue applies.</i> | <i>Please provide a brief description of the issue and rationale for being a key issue.</i><br><br><i>Include, where relevant:</i> <ul style="list-style-type: none"> <li>• <i>the sequence of potential effects;</i></li> <li>• <i>the relevant context that specifies why this is 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>scientific data or traditional knowledge, including from previous projects, that justifies the inclusion of the key issue in the project assessment.</i></li> </ul> | <i>If applicable, please provide brief solutions/advice to address the issue or potential effect, including:</i> <ul style="list-style-type: none"> <li>• <i>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;</i></li> <li>• <i>any powers your department or agency has that may mitigate, manage or set conditions related to the issue;</i></li> <li>• <i>advice or policies to frame and mitigate the potential effect;</i></li> <li>• <i>standardized mitigation or monitoring measures that could manage potential effects, including follow-up on monitoring activities;</i></li> <li>• <i>commitments the proponent could make to respond to the issue.</i></li> </ul> | <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, if applicable.</i>                                                                 |
| TC-01                                                                                     | p. 17 Electrical Transmission Line<br>p. 18 Fuel Gas<br>pp. 52-54<br>(sec.19.1) Fish and Fish Habitat                 | Navigation on navigable waterways.                                                                                                                        | It is unclear whether any project components, including incidental activities, may occur in, on, under, over, through or across navigable waterways. If so, there is potential for interference with navigation during construction and operation.<br><br>Navigation on navigable waterways is a public right. Indigenous peoples also use navigable waterways to exercise Indigenous and treaty rights. Watercourse crossings, such as by pipelines and transmission lines,                                                                                                                                                                  | The proponent should use the Project Review Tool on the Navigation Protection Program (NPP)'s External Submission Site ( <a href="https://npp-submissions-demandes-ppn.tc.canada.ca/projectreview-outildexamenduprojet">https://npp-submissions-demandes-ppn.tc.canada.ca/projectreview-outildexamenduprojet</a> ). This tool is designed to help a proponent understand their requirements under the CNWA.                                                                                                                                                                                                                                                                                                                                                                                                                    | 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 |

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|  |  |  | that are not constructed and operated in accordance with the <i>Canadian Navigable Waters Act</i> can potentially unreasonably interfere with navigation. |  | all project phases, including proposed mitigation measures. |
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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                                                                                                                                                                                                                                                                   |
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| <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"> <li><i>• Clarifications to elements of Project Description (e.g. components, activities, locations or alternatives);</i></li> <li><i>• Proposals on Project design changes that could avoid effects;</i></li> <li><i>• Evidence that could demonstrate that the effects will be negligible;</i></li> <li><i>• Evidence that standard mitigation measures will reduce or eliminate potential effects;</i></li> <li><i>• Commitments the proponent could make to respond to the question/issue, including the implementation of federal operational policies or guidance documents.</i></li> </ul>                                                                                | <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>                                                                                                                               |
| TC-02                                                                                                 | Navigation on navigable waterways.                                                                                                                                                              | <p>It is unclear whether any project components, and in particular the natural gas pipeline and electrical transmission line, may occur in, on, under, over, through or across navigable waterways. If so, there is potential for interference with navigation during construction and operation.</p> <p>The Initial Project Description (IPD) indicates there may be incidental activities such as power lines and natural gas lines but does not provide any details regarding potential watercourse crossings associated with those components nor does the IPD specify any required <i>Canadian Navigable Waters Act</i> (CNWA) approvals in Section 5.1. The IPD also does not describe potential effects and mitigation measures related to navigation.</p> <p>TC understands that the level of detail provided in the IPD is reflective of the relatively early stage in the planning process. However, given the extremely limited description, it is difficult to provide any specific</p> | <p>The Detailed Project Description (DPD) should include information about the historic, current, and potential future navigational use of all navigable waterways potentially affected by the project, such as by watercourse crossings. If a waterway(s) where a project component(s), including incidental activity(ies), may occur in, on, under, over, through or across is not navigable, the DPD should state so.</p> <p>To identify if the project may impact a navigable waterway, the proponent should use the Project Review Tool on the Navigation Protection Program (NPP)'s External Submission Site (<a href="https://npp-submissions-demandes-ppn.tc.canada.ca/projectreview-outildexamenduprojet">https://npp-submissions-demandes-ppn.tc.canada.ca/projectreview-outildexamenduprojet</a>). As discussed above, the results of this review should be reported in the DPD.</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> |

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|  |  | comments on the assessment of potential effects to navigation or the adequacy of mitigation. | 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. As an example, project components and incidental activities may be able to be designed to meet the relevant requirements of the Minor Works Order under the Canadian Navigable Waters Act (CNWA) ( <a href="https://laws.justice.gc.ca/eng/regulations/SOR-2021-170/index.html">https://laws.justice.gc.ca/eng/regulations/SOR-2021-170/index.html</a> ). As described in the Minor Works Order, minor works “are likely to slightly interfere with navigation.” |  |
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*Please insert additional lines if necessary.*