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Newfoundland and Labrador Regulation 2024

NEWFOUNDLAND AND LABRADOR REGULATION 18/24

*Port au Port-Stephenville Wind Power and Hydrogen Generation
Project Release Order*
under the
Environmental Protection Act
(O.C. 2024-042)

(Filed April 9, 2024)

Under the authority of paragraph 67(3)(a) of the *Environmental Protection Act*, the Lieutenant-Governor in Council makes the following Order.

Dated at St. John's, April 9, 2024.

Krista Quinlan
Clerk of the Executive Council

ORDER

Analysis

1. Short title
2. Definitions
3. Release from environmental assessment
4. Terms and conditions of release

Short title

1. This Order may be cited as the *Port au Port-Stephenville Wind Power and Hydrogen Generation Project Release Order*.

Definitions

2. In this Order,

- (a) "institutional residence" means a hospital, convalescent home, seniors' home, personal care home or detention facility;
- (b) "permanent residence" means a home, apartment building or condominium complex;
- (c) "project" means the Port au Port-Stephenville Wind Power and Hydrogen Generation Project;
- (d) "residence" means
 - (i) a permanent residence,
 - (ii) an institutional residence, or
 - (iii) a seasonal residence;
- (e) "seasonal residence" means a seasonal cottage, tourist lodge, hotel, motel or hostel;
- (f) "shadow flicker" means the shadow caused by the rotating blades of a wind turbine; and
- (g) "World Energy" means World Energy GH2 Limited Partnership.

Release from environmental assessment

3. The project is released from environmental assessment.

Terms and conditions of release

4. (1) The release of the project from environmental assessment under section 3 is subject to the following terms and conditions:

- (a) World Energy shall adhere to all mitigation, monitoring and commitments stated in the Environmental Impact Statement submitted on August 22, 2023 and the additional Environmental Impact Statement Amendments submitted on January 30, 2024;
- (b) World Energy shall be responsible for the costs of follow up and compliance monitoring as required by the minister;
- (c) World Energy shall be responsible for the costs for third-party review of plans, reports or monitoring results considered necessary by the department over the life of the project as required by the minister;
- (d) before construction at each site World Energy shall submit final site designs for each site which shall include the location of all major components;
- (e) before any proposed expansion, modification or relocation of any aspect of the project from that proposed in the Environmental Impact Statement referred to in paragraph (a), World Energy shall submit a proposal to the department to determine if any additional licences, permits, approvals or assessments are required;
- (f) World Energy shall, within 3 years of the date of this order, start work on the project to the satisfaction of the minister unless granted an extension by the minister;
- (g) World Energy shall obtain and pay for all licences, permits, approvals or authorizations necessary for carrying out the project which may be required under another Act or regulation of the province or of Canada or a municipal regulation, by-law or requirement;
- (h) World Energy shall notify the minister before a transfer, sale or lease of the project;
 - (i) World Energy shall ensure accurate mapping is used for project planning and development;

- (j) throughout the life of the project World Energy shall conduct any additional studies or monitoring or implement additional mitigation measures as required by the minister;
- (k) before construction of the project World Energy shall develop a Decommissioning Plan satisfactory to the Minister of Industry, Energy and Technology;
- (l) on or before January 31 of each year until released in writing by the minister, World Energy shall provide the following information to the department:
 - (i) an update on compliance with this order,
 - (ii) a list of licences, permits, approvals and other documents of authorization acquired for the project, and
 - (iii) an update regarding the Public Participation Plan submitted with the Environmental Impact Statement referred to in paragraph (a) and updated in accordance with paragraph (iii);
- (m) before construction at each site World Energy shall submit final site designs for each accommodations camp and batch plant site which shall include the location of all major components;
- (n) before the final design and construction of the Port au Port Accommodations Camp World Energy shall consult with the department regarding the water supply and wastewater treatment and disposal and obtain the necessary licences, permits and approvals;
- (o) before the final design and construction of the Codroy Accommodations Camp World Energy shall consult with the department regarding water supply and treatment and disposal of wastewater and obtain the necessary licences, permits and approvals;
- (p) before the final design and construction of each batch plant World Energy shall submit to the minister for approval a Concrete Batch Plant Management Plan for each concrete batch plant which shall, at a minimum, describe
 - (i) the location,
 - (ii) a groundwater assessment,
 - (iii) water use,
 - (iv) operations,
 - (v) wastewater management,
 - (vi) stormwater and drainage management,
 - (vii) noise mitigations,
 - (viii) dust control,
 - (ix) decommissioning and rehabilitation of the plant,
 - (x) public consultation, and
 - (xi) how public concerns will be mitigated;
- (q) World Energy shall obtain a certificate of approval under the Act for the construction and operation of the hydrogen and ammonia production and storage facility;

- (r) before construction of the project World Energy shall submit to the minister for approval an updated Waste Management Plan that
- (i) describes all aspects of waste generation, storage, transport and disposal for the proposed activities, including the types and volumes of waste produced and areas planned for treatment and final disposal,
 - (ii) references the *Cross Border Movement of Hazardous Waste and Hazardous Recyclable Materials Regulations* (Canada),
 - (iii) references approved transporters and facilities, and
 - (iv) describes how waste dangerous goods and hazardous waste will be stored at the project site, with reference to the best management practices guidance document developed by the department;
- (s) before construction of the project World Energy shall install a groundwater monitoring and test well and submit to the minister for approval a Groundwater Verification and Monitoring Report to verify that Muddy Pond and Noels Pond are perched as modelled in the Environmental Impact Statement referred to in paragraph (a) and that there will be no significant interaction with the underlying aquifer;
- (t) where World Energy proposes any future extraction of water from the groundwater aquifer for hydrogen production, a description of the proposed extraction shall be submitted to the department to determine if any additional licences, permits, approvals or assessments are required;
- (u) groundwater monitoring at Muddy Pond and Noels Pond shall be conducted for the life of the project, in consultation with the department, and the results shall be reported quarterly to the department for review;
- (v) in the final site design, World Energy shall ensure that wind turbines are not sited within the boundaries of Protected Public Water Supply Areas;
- (w) in the final site design, World Energy shall ensure that access roads and transmission lines are not sited within the boundaries of Protected Public Water Supply Areas, unless otherwise advised by the minister;
- (x) a Groundwater and Surface Water Monitoring Program shall
- (i) be submitted by World Energy to the department for approval of the minister before construction of the project, and
 - (ii) at a minimum, include
 - (A) a Real Time Water Monitoring Plan to monitor surface water and groundwater in the vicinity of the project including water quantity, quality and climate,
 - (B) a Surface Water Drainage Management Plan that identifies locations for additional stormwater drainage channels and culverts during stormwater events, and
 - (C) an Ambient Surface Water Quality Grab Sampling Site Plan to ensure representative sampling locations throughout all project areas;
- (y) World Energy shall submit a dam safety review of Noels Pond Dam, including dam break inundation mapping and consequence classification, for the approval of the minister, before undertaking any upgrades to Noels Pond Dam or raising the water level of Noels Pond which review shall be done in accordance with the most recent edition of the Canadian Dam Association Dam Safety Guidelines and associated Bulletins;

(z) World Energy shall submit an expanded Emergency Response and Contingency Plan for the approval of the minister before raising the water level in Noels Pond which plan shall

(i) be developed using the most recent edition of the Canadian Dam Association Dam Safety Guidelines and associated Bulletins, and

(ii) include

(A) dam breach inundation mapping,

(B) an analysis of the potential impact of a dam break on public safety and stakeholders, including the Town of Stephenville, and

(C) the management of Noels Pond, Muddy Pond and Gull Pond water levels and details about an alternate water supply in the event of loss of industrial water supply;

(aa) before construction of the hydrogen and ammonia production facility at the port of Stephenville World Energy shall submit a Storm Surge and Wave Inundation Report to the department for approval of the minister, which report shall

(i) include an analysis of onshore storm surge and wave effects that consider climate change, and

(ii) describe the potential onshore storm surge and wave effects on the project and proposed mitigations;

(bb) World Energy shall run a flood model scenario that includes planned changes to Noels Pond water levels and dam upgrades for both the 1:20 and 1:100 current climate and climate change events and shall map associated floodplain areas before undertaking any upgrades to Noels Pond Dam or raising the water level of Noels Pond;

(cc) before construction of the project World Energy shall update the Domestic Wood Cutting Construction Plan, for approval of the Department of Fisheries, Forestry and Agriculture to include a commitment to support reforestation and afforestation activities on all domestic harvesting land base that has been lost as a result of the project;

(dd) the final location of wind turbines and other project infrastructure shall avoid negatively impacting or interfering with the rights of lease holders and licence holders under the *Petroleum and Natural Gas Act* or the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*, unless shared-use plans can be negotiated within the parameters of any existing rights under those Acts and the shared-use plans or, portions of the plans relevant to rights under those Acts shall be submitted to the Department of Industry, Energy and Technology before the final design of wind turbine locations;

(ee) World Energy shall

(i) advise the Department of Industry, Energy and Technology of any oil seeps it encounters during all phases of the project, and

(ii) undertake any actions that may be reasonably required to avoid impacting or exacerbating such seeps;

(ff) the final location of wind turbines and other project infrastructure shall avoid negatively impacting or interfering with the operations of holders of mining leases or surface leases issued under the *Mineral Act* unless an agreement is negotiated with the holders of the mining leases or surface leases which agreement shall be submitted to the Department of Industry, Energy and Technology before the final design of the wind turbine locations;

- (gg) World Energy shall consult with existing commercial fishing operations and avoid negatively impacting or interfering with on-going operations;
- (hh) before construction of the project World Energy shall develop a Benefits Plan satisfactory to the Minister of Industry, Energy and Technology which shall include a Gender Equity, Diversity and Inclusion Plan satisfactory to the Minister responsible for Women and Gender Equity and the Minister of Industry, Energy and Technology;
- (ii) World Energy shall ensure that shadow flicker does not exceed 30 minutes per day, or 30 hours per year, at a residence;
- (jj) before road construction and upgrades, World Energy shall submit an updated shadow flicker assessment, and noise modelling, including baseline noise, based on the final access road and turbine selection and placement, to the department which updated modelling shall demonstrate compliance with this section;
- (kk) World Energy shall ensure that noise levels as a result of project construction and operations comply with Health Canada's Guidance on "Environmental Noise, Measurement and Assessment";
 - (ll) at the request of the minister, World Energy shall develop a Noise Monitoring and Mitigations Plan for the minister's approval and shall monitor noise in accordance with Health Canada's Guidance on "Environmental Noise, Measurement and Assessment", as amended from time to time, and resolve noise complaints associated with the project to the satisfaction of the minister;
- (mm) at the request of the minister, World Energy shall develop and implement a plan to monitor shadow flicker under varying seasonal conditions which plan shall include sampling locations, parameters, monitoring methods, protocols and frequency;
- (nn) World Energy shall adhere to its commitment in the Environmental Impact Statement to not place a turbine within one kilometer of a residence;
- (oo) a minimum separation distance of 3 times the height of a turbine from base to tip of blade shall be maintained from a turbine tower to
 - (i) an overnight camping park,
 - (ii) a school, college, university, training centre or childcare facility, and
 - (iii) a provincially or municipally maintained paved or unpaved road;
- (pp) wind turbines shall be coloured in a solid light colour and include a non-reflective matte finish, unless otherwise required to conform with Transport Canada regulations for aviation safety;
- (qq) signage is only permitted on the nacelle unit of a wind turbine and only signage relating to the owner, operator or manufacturer of the wind turbine is permitted;
- (rr) lighting shall not be placed on the exterior of a wind turbine unit above a height greater than 5 metres, except as required by Transport Canada for aviation safety purposes and any other lighting used shall be directional lighting towards the ground;
- (ss) before construction of the project World Energy shall
 - (i) consult with the Occupational Health and Safety Division of the Department of Digital Government and Service Newfoundland and Labrador and with Natural Resources Canada, and
 - (ii) submit a Blasting and Explosives Management Plan that outlines federal, provincial

and other regulatory oversight of explosives storage and blasting activities at the proposed scale for the project for the approval of the minister;

- (tt) transportation of heavy loads in excess of normal highway loads is prohibited across the existing Romaines Bridge on Route 460;
- (uu) World Energy shall
 - (i) submit a heavy load application to the Department of Digital Government and Service Newfoundland and Labrador before mobilizing heavy loads on any part of the provincial road network, and
 - (ii) procure separate permission for heavy load access to municipal and federal roads;
- (vv) highway overweight loads in excess of normal highway loads are not permitted on the Main Gut Bridge on Route 490 and World Energy shall consult with the Department of Transportation and Infrastructure and may be required to submit an evaluation of the Main Gut Bridge by a qualified professional satisfactory to the Department of Transportation and Infrastructure before mobilizing a higher than normal highway load to the Main Gut Bridge;
- (ww) the Transportation Management Plan submitted with the Environmental Impact Statement referred to in paragraph (a) shall be updated in consultation with the Department of Transportation and Infrastructure to include a broader description of access points, road closures, speed reductions, modifications of roadways, temporary modifications to signage and other items as required, and permitting requirements, to the satisfaction of the Department of Transportation and Infrastructure and the Department of Digital Government and Service Newfoundland and Labrador before mobilizing a heavy load or oversized load on a provincial road;
- (xx) traffic is restricted to a maximum of 20 tonnes on Whites Road, Route 460 between the Trans Canada Highway and Route 461;
- (yy) World Energy shall maintain a minimum 50-metre undisturbed buffer from the highwater mark of waterbodies and wetlands that appear on 1:50,000 National Topographic Scale maps or on the topographic layer of the provincial land use atlas, unless otherwise permitted in writing by the minister;
- (zz) before the start of construction activities for the Port au Port wind farm and for the Codroy wind farm, respectively, World Energy shall
 - (i) develop a Species at Risk Impacts Mitigation and Monitoring Plan to be approved by the Department of Fisheries, Forestry and Agriculture, which shall use information collected under paragraph (aaa) and include
 - (A) project description, footprint, study area,
 - (B) species addressed and their habitat use,
 - (C) effects of landscape fragmentation, connectivity and cumulative effects of other developments within the project footprint on listed species and their habitats, and
 - (D) avoidance measures, mitigation and monitoring, and
 - (ii) apply to the Minister of Fisheries, Forestry and Agriculture for a permit under the authority of section 19 of the *Endangered Species Act*;
- (aaa) before the start of construction activities for the Port au Port wind farm and for the Codroy wind farm, respectively, World Energy shall submit surveys satisfactory to the Department of Fisheries, Forestry and Agriculture for species at risk which surveys shall

- (i) inform the subsequent development of the Species At Risk Impacts Mitigation and Monitoring Plan required under this order, and
- (ii) be required for species listed under the *Endangered Species Act* such as
 - (A) birds, including but not limited to, the Short-eared Owl, Common Nighthawk and Newfoundland Gray-cheeked Thrush,
 - (B) bats,
 - (C) fish, and
 - (D) plants and lichens;
- (bbb) before the start of construction activities for the Port au Port wind farm and for the Codroy wind farm, respectively, World Energy shall submit an Avifauna Management Plan for each farm satisfactory to the Department of Fisheries, Forestry and Agriculture which shall include raptor, ptarmigan and other required bird surveys, and mitigation and mortality surveys;
- (ccc) World Energy shall
 - (i) before construction, conduct field surveys on moose and caribou across the entire project area satisfactory to the Department of Fisheries, Forestry and Agriculture, and
 - (ii) for the first two years of turbine operations, have an Environmental Effects Mitigation and Monitoring Plan in place satisfactory to the Department of Fisheries, Forestry and Agriculture;
- (ddd) before construction of the project and following consultation with the Department of Fisheries, Forestry and Agriculture World Energy shall conduct field surveys, on Arctic Hare in the Codroy wind farm area, to inform placement and location of infrastructure and the development of an Environmental Effects Mitigation and Monitoring Plan;
- (eee) before construction in each project area World Energy shall conduct field surveys on fish and fish habitat and submit an Environmental Effects Monitoring and Mitigations Plan for Fish and Fish Habitat satisfactory to the Department of Fisheries, Forestry and Agriculture;
- (fff) based on the result of the surveys referred to in paragraphs (aaa) to (eee) mitigations may be required to the final design of wind farms at Port au Port and Codroy;
- (ggg) World Energy shall fund the hiring of one full-time Ecosystem Management Ecologist position to report to the Department of Fisheries, Forestry and Agriculture for all phases of the project and to provide financial support to offset additional survey activities required by the Department of Fisheries, Forestry and Agriculture;
- (hhh) World Energy shall
 - (i) submit a plan to establish and operate a Community Liaison Committee including terms of reference, subject to the approval of the minister, before construction of the project, and
 - (ii) operate the Community Liaison Committee before construction of the project and for the duration of the project, or until otherwise advised in writing by the minister; and
 - (iii) before construction of the project World Energy shall update the Public Participation Plan submitted with the Environmental Impact Statement referred to in paragraph (a) to include a process for public feedback submissions and a complaint resolution process for receiving and responding to complaints related to the project for approval by the minister which complaint resolution process shall include

- (i) a principal contact person and contact information,
- (ii) a reporting system which records all complaints received,
- (iii) a timeline for responding to complaints, and
- (iv) details all corrective measures taken to alleviate the cause and prevent its recurrence;

(2) Notwithstanding paragraphs (1)(ii), (kk), (nn) and (oo), the minister may exempt World Energy from the requirements in one or more of those paragraphs where a property owner consents to an exemption.

(3) Where World Energy fails to comply with the Act, the regulations or one or more of the paragraphs in this section, the minister may issue an order to World Energy to stop or shut down the project permanently or for a specified period of time.

(4) This order does not authorize World Energy to start or continue the project on

- (a) Crown lands for which World Energy does not have the title issued from the Crown; or
- (b) privately owned land for which World Energy does not have consent from the owner of the land.