



Environment,
Water and
Climate Change

Environnement,
Eau et
Changement climatique



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September 2, 2020

Ms. Heather MacLeod
Director of Energy Policy and Assets
Prince Edward Island Energy Corporation
PO Box 2000, Charlottetown PE
C1A 7N8

Dear Ms. MacLeod:

Pursuant to subsection 9(1) of the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9, I hereby grant approval to the Prince Edward Island Energy Corporation (herein “the proponent”) to proceed with the proposed undertaking, specifically the construction and operation of a 30 megawatt wind farm located between Elmira and East Point, Kings County, PEI.

Pursuant to clause 28(d) of the *Environmental Protection Act*, I consider it necessary in the public interest to impose terms and conditions to this approval. I therefore order that your approval is subject to the following terms and conditions:

CONDITION #1: (Compliance with EIS)

The proponent shall ensure that this undertaking is to be constructed in accordance with information provided in their Environmental Impact Statement (EIS) dated October 23, 2019, along with any subsequent revisions and addendums to the foregoing document, as well as all those identified in subsequent correspondence during the Environmental Impact Assessment (EIA) review.

Additionally, on a monthly basis, the proponent shall submit a summary table detailing the status of each condition listed in this approval to the Environmental Land Management (ELM) Section of the Department of Environment, Water and Climate Change (EWCC). The submission of the table shall start 30 days following from the issuance of this approval, and continue until such time that all the conditions have been met.

CONDITION #2: (Environmental Management Plan)

The proponent shall prepare and submit for approval an Environmental Management Plan (EMP) to address possible environmental issues pertaining to each phase of the EKWF's facility development including the construction, operation, and decommissioning phases. As part of this EMP, specific commitments to mitigation must be made based on site-specific environmental constraints. The EMP must be approved by the ELM Section of EWCC prior to the commencement of the construction phase of the project.

CONDITION #3: (Bird Nest Protection)

The proponent must ensure that if a nest or chick of a migratory bird is detected during project construction, work in the area shall be halted and Forest Fish and Wildlife (FFW) Division of EWCC or the Canadian Wildlife Service (CWS) shall be consulted for advice at 1-800-565-1633. The proponent must ensure that all project-related activities comply with the *Migratory Birds Convention Act*, 1994 (S.C. 1994, c. 22)

CONDITION #4: (Indigenous Monitor)

The proponent shall invite L'nuey to supply an environmental monitor for the construction phase of the project. The proponent shall invite L'nuey's monitor to visit the site prior to the construction phase of the project to assist in identifying any culturally significant species of flora, including black ash, within the easement controlled by the proponent.

CONDITION #5: (Environmental Management Committee)

The proponent shall organize, develop any pertinent documents, and fund an Environmental Management Committee for the project. The purpose of the committee is to offer identified stakeholders a mechanism to bring forward significant environmental concerns associated with the operational phase of the wind farm. The committee must be in place prior to commissioning, have an identified Terms of Reference to operate by, will be chaired by EWCC, and should have representation as follows:

- EWCC (1)
- PEI Energy Corporation (2)
- Local community residents (4)
- Souris and Area Wildlife Branch (1)
- L'nuey (1)
- Rural Municipality of Eastern Kings (1)

The committee will meet 4 times per year and exist for a minimum of 2 years after the project is commissioned at which time EWCC will decide if its existence is warranted into the future.

CONDITION #6: (Bird and Bat Monitoring)

The proponent, in order to ensure the protection of avifauna and bats, shall carry out a two-year, post-construction monitoring study in the project area. This monitoring program must be developed and approved in consultation with CWS and the FFW Division of EWCC. The monitoring program should be prepared in accordance with the April 2007 Environment Canada document, *Recommended Protocols for Monitoring Impacts of Wind Turbines on Birds*. The monitoring program must also reflect the most current guidance on post-construction monitoring at wind farms, and “Best Management Practices”, as determined by the two above noted parties, and include provisions for the mitigation of any unanticipated environmental effects revealed through the follow-up monitoring. A specific part of the two-year study must include a post-construction follow-up bird and bat usage and mortality monitoring. The proposed monitoring protocols shall be submitted for review and receive approval from CWS and FFW and be submitted to ELM before any surveys take place and before the start of the operational phase of the project. The proponent shall be responsible for implementing any EWCC recommendations after the Departmental review of the study is complete. A copy of all accumulated operational bird and bat usage and mortality monitoring study data must be provided to L’nuéy once completed.

CONDITION #7: (Bird and Bat Protection)

The mortality of an individual migratory bird species at risk, or 10 or more migratory birds in one 24 hour period, or 3 or more bats in one night is considered a mortality event for which CWS must be contacted within 24 hours (Environmental Emergencies 1-800-565-1633). Such notification is expected to occur even after the formal post-construction bird/bat monitoring program has ended, and must include specific details about the event (e.g. name and location of the wind farm, number of mortalities, species, map showing turbines, associated infrastructure, and location of collisions, meteorological conditions during previous night(s), details of lighting at the site and any other factor that might have influenced the event). Staff and contractors must be instructed that if a mortality event as described above occurs, the area around each wind turbine must be carefully checked to better evaluate the extent of the event, even if this is not described in the regular post-construction bird/bat monitoring protocol, or if the formal post-construction bird/bat monitoring program has ended. Any bird or bat carcasses recovered from mortality monitoring should be examined by staff from the Atlantic Veterinary College (AVC) in Charlottetown, with special emphasis on Barotrauma as a cause of death.

CONDITION #8: (Adaptive Management Plan)

An adaptive management plan outlining mitigation measures (including turbine pausing) that will be implemented should the project be shown to have a significant impact on birds or bats shall also be submitted by the proponent for review and must receive approval from CWS, and the FFW and ELM Section of EWCC prior to the start of the operational phase of the project.

CONDITION #9: (Noise Monitoring)

The proponent shall develop a minimum two-year post operation noise monitoring program which must be reviewed and approved by the ELM Section of EWCC. The noise monitoring program must be approved and in place prior to the commissioning of the wind farm.

CONDITION #10: (Archeological Detection and Notice)

The proponent, if it is suspected that remains of archaeological significance are discovered during construction, operation, or maintenance of the proposed development, shall stop all work and immediately notify the office of the Director of Indigenous Relations Secretariat (by calling 902-368-5378) for further direction. In addition, the proponent shall provide prompt notice to L'nuey to advise them of the discovery. If any further archeology field surveys are required, L'nuey shall be contacted and invited to participate. L'nuey must also be provided with the survey data once completed.

CONDITION #11: (Conflict Resolution/Mitigation Protocol)

The proponent, as a specific part of the EMP, shall develop a Conflict Resolution/Mitigation Protocol to address potential issues such as noise, shadow flicker, etc. This protocol must be reviewed and approved by EWCC prior to the commissioning of the wind farm. As part of the protocol, the proponent must provide an annual written report to the ELM Section of EWCC regarding any complaints received during the year and how they were addressed. In the event that noise or shadow flicker becomes problematic for any receptors, the proponent must consult with affected residents to discuss the potential impacts and develop a receptor specific mitigation plan for them. EWCC will determine if it believes the issue was properly and adequately addressed.

CONDITION #12: (Land Protection)

As compensation for the 14 hectares of forested land lost to the actual construction footprint of the project, the proponent shall purchase a property (minimum size 42 hectares) within Kings County PEI, and have the property protected from development under the *Natural Areas Protection Act* legislation by December 31, 2023.

CONDITION #13: (Permission of Property Owners)

The proponent shall obtain the written permission of property owners to utilize any land for the intended purpose of the project where project activities will occur on land not owned by the Province.

CONDITION #14: (Disposal of Slash and Woody Material)

The proponent shall not be permitted to burn any slash and woody material generated from tree cutting and clearing operations, nor can such material be stored adjacent to individual work sites (access roads, turbine footprints). The proponent must find an alternate means of disposing of the cut material such as chipping and spreading.

CONDITION #15: (Decommissioning)

The decommissioning of the wind turbine site by the proponent shall be undertaken within one year of the cessation of operations. A decommissioning plan, including site reclamation, shall be developed in consultation with EWCC and its Forests, Fish and Wildlife Division. Any decommissioning plan which involves privately owned land should be developed in consultation with the current landowner.

CONDITION #16: (Subcontractors and Agents)

The proponent shall be responsible to ensure that any subcontractors, agents and assigns are aware of and comply with the terms and conditions of this approval.

CONDITION #17: (Sale of Project)

In the event of the sale, lease, or any other conveyance or change of control of the Project, or any portion thereof:

- a) The proponent shall provide written notice of this EIA approval and conditions to the lessee, controller, or purchaser, and said lessee, controller or purchaser shall be subject to and must comply with the EIA approval and conditions.
- b) The proponent shall provide written notice of such lease, change of control, or conveyance to the Minister.

Please be advised that this approval addresses requirements pursuant to the Department of Environment, Water and Climate Change's environmental assessment process. The proponent shall obtain all other necessary permits, licenses and/or approvals required by any other municipal, provincial and/or federal regulatory agencies to commence this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Natalie Jameson", with a long horizontal flourish extending to the right.

Natalie Jameson
Minister