

Appendix C

MECP Letter to Proponent on Northern Road Link
Environmental Assessment (November 3, 2020)

**Ministry of the Environment,
Conservation and Parks**

**Ministère de l'Environnement,
de la Protection de la nature
et des Parcs**

Environmental Assessment
Branch

Direction des évaluations
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November 3, 2020

Chief Cornelius Wabasse
Webequie First Nation
PO Box 268
Webequie ON P0T 3A6
corneliusw@webequie.ca

Chief Bruce Achneepineskum
Marten Falls First Nation
General Delivery
Ogoki Post ON P0T 1L0
bruce.achneepineskum@gmail.com

Re: Northern Road Link Environmental Assessment

Dear Chief Wabasse and Chief Achneepineskum:

Thank you for requesting that the proposed Northern Road Link Project (the Project) be made subject to the requirements of the Environmental Assessment Act (the Act).

Please find enclosed an original signed copy of the Agreement between the Minister of the Environment, Conservation and Parks, Marten Falls First Nation and Webequie First Nation. The Agreement requires Marten Falls First Nation and Webequie First Nation to fulfill the requirements of the Act prior to proceeding with the Project, including the preparation and submission of a Terms of Reference and environmental assessment for review and approval.

The first step of the environmental assessment process is the preparation of a Terms of Reference. During preparation of the Terms of Reference, and at other milestones, the environmental assessment process requires consultation with “interested persons,” including Aboriginal communities who may have an interest in the project. These are statutory responsibilities that proponents are expected to satisfy to meet the requirements of the Act. Consultation during the regulatory process may be about a wide range of things – including but not limited to consultation with Aboriginal communities whose credibly asserted Aboriginal or treaty rights may be affected by the proposed Project.

Ontario uses existing regulatory processes as one way to fulfill its constitutional duty to consult. The Ministry of the Environment, Conservation and Parks (the ministry) will be relying, in part, on the environmental assessment process established in the Act, including the mandatory public consultation requirements, as a means of ensuring relevant information is shared and that identified Aboriginal communities have an opportunity to participate including by asking questions and bringing forward their concerns.

Based on the information Marten Falls First Nation and Webequie First Nation have provided to date about the Project, the potential effects on the environment, and Ontario's current understanding of Aboriginal and treaty rights in the area, Ontario has concluded that there may be adverse effects to the constitutionally protected rights of a number of Aboriginal communities resulting from the Project, and that other Aboriginal communities may be interested in the environmental effects of the Project. These Aboriginal communities are set out in Attachment B to this letter. It is the ministry's expectation that Marten Falls First Nation and Webequie First Nation, as the proponents for the Project, will reach out to each of the listed Aboriginal communities in preparing its terms of reference.

Please be aware that the list of potentially affected and/or interested communities is subject to change as new information becomes available and/or there are changes to the scope of the Project. Once Ontario has completed its preliminary assessment of communities owed a duty to consult for the purposes of the environmental assessment of the Project we will follow-up with you to provide further clarification.

It should also be noted that we are aware that, at this time, many Indigenous communities have declared a state of emergency or taken other measures to protect community health and safety. Many Indigenous communities are facing unique challenges, particularly in terms of capacity to respond to requests from government, industry and other third parties, and that this may disrupt normal review and consultation processes. Ontario respects the measures taken to protect the health and well-being of communities and remains committed to meeting our obligations with respect to Aboriginal consultation. As the EA process progresses, the ministry will remain flexible in our approach to consultation.

Aboriginal Consultation Resources and Requirements

Steps that you may need to take in relation to Aboriginal consultation for your proposed Project are outlined in the "Code of Practice for Consultation in Ontario's Environmental Assessment Process" (available at: <https://www.ontario.ca/document/consultation-ontarios-environmental-assessment-process>). The "Code of Practice: Preparing and Reviewing Terms of Reference for Environmental Assessments in Ontario" (available at: <https://www.ontario.ca/page/preparing-and-reviewing-terms-reference-environmental-assessments-ontario>) provides additional specific guidance relating to consultation expectations to support the preparation of the terms of reference.

As a starting point, Marten Falls First Nation and Webequie First Nation are expected to develop a program or plan for how you will consult potentially affected or interested Aboriginal communities during the preparation of the terms of reference. At a minimum, consultation activities should include notification about the Project at key milestones, providing information about the Project, considering and providing responses to comments, providing opportunities to meet with communities, and maintaining a record of consultation for each community/organization.

Marten Falls First Nation and Webequie First Nation's record of consultation must contain all related non-confidential communications including letters/emails (outgoing & incoming), public notices, meetings (agendas, meeting minutes), issues raised and how they have been addressed. This information will be a vital component for Ontario's consideration prior to making required decisions about your Project.

Next Steps

Ontario is looking forward to discussing roles and responsibilities, particularly with respect to the consultation program, with you. In the meantime, should you or any members of your project team have any questions regarding the above, please contact Sasha McLeod, Special Project Officer, at 416-268-5984, sasha.mcleod@ontario.ca or Shannon Gauthier, Project Officer, at 416-258-8215, shannon.gauthier@ontario.ca.

Sincerely,

Kathleen O'Neill

Kathleen O'Neill
Director, Environmental Assessment Branch
Ministry of the Environment, Conservation and Parks

Attachments:

Attachment A: Signed Voluntary Agreement for the Northern Road Link Project

Attachment B: List of Aboriginal communities for consultation

cc: Qasim Saddique, Marten Falls First Nation
Michael Fox, Webequie First Nation
Lori Churchill, Ministry of Energy, Northern Development and Mines
Mary Hennessy, Ministry of Energy, Northern Development and Mine
Ariane Heisey, Ministry of Energy, Northern Development and Mines
Paul MacInnis, Ministry of Energy, Northern Development and Mines
Jason Frechette, Ministry of Energy, Northern Development and Mines
Anjala Puvananathan, Impact Assessment Agency of Canada

Attachment A: Signed voluntary agreement for the Northern Road Link

AGREEMENT

This agreement is made in triplicate,

AMONG:

MARTEN FALLS FIRST NATION and its agents, successors and permitted assigns

AND:

WEBEQUIE FIRST NATION and its agents, successors and permitted assigns

(collectively "Proponents", individually "Proponent")

AND:

HER MAJESTY THE QUEEN in Right of Ontario as represented by the Minister of the Environment, Conservation and Parks

(collectively, the "Parties")

CONCERNING

The proposed construction, operation and maintenance of an all-season multi-use road and all associated infrastructure, between the community access road that has been proposed by Marten Falls First Nation and the supply road that has been proposed by Webequie First Nation, and connecting to the proposed Ring of Fire mining development area. The proposal is known as the Northern Road Link Project ("**Undertaking**").

WHEREAS section 3.0.1 of the Environmental Assessment Act, R.S.O. 1990, c. E.18 ("**Environmental Assessment Act**") states:

A person, other than a person referred to in clause 3 (a), who carries out, proposes to carry out or is the owner or person having charge, management or control of an enterprise or activity or a proposal, plan or program in respect of an enterprise or activity may enter into a written agreement with the Minister to have this Act apply to the enterprise, activity, proposal, plan or program;

AND WHEREAS the Proponents are persons, other than persons referred to in clause 3 (a) of the Environmental Assessment Act, who propose to carry out or are the owners or persons having charge, management or control of an enterprise or activity or a proposal, plan or program in respect of an enterprise or activity which is described above as the Undertaking;

AND WHEREAS the Proponents have requested that the Environmental Assessment Act apply to the Undertaking, such that the Proponents will carry out an environmental assessment process in respect of the Undertaking.

The Minister and the Proponents therefore agree that the Environmental Assessment Act applies to the Undertaking.

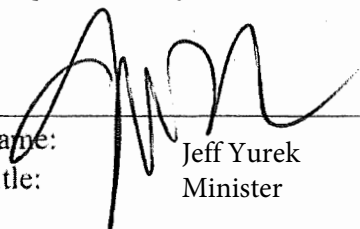
The assignment of the whole or any part of the Agreement shall require the written agreement of all Parties. Such assignment shall be subject to any terms and conditions that may be agreed to by the Parties.

The Agreement may be executed by the Parties in counterparts and may be executed and delivered by facsimile or other electronic means and all the counterparts and facsimile or other electronic transmissions together constitute one and the same agreement.

The Agreement shall take effect from the date of the last signature below and shall continue indefinitely unless terminated by the agreement of all Parties, in writing.

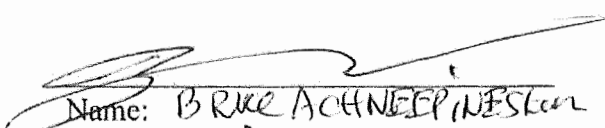
Executed by:

HER MAJESTY THE QUEEN in Right of Ontario
as represented by the Minister of the Environment, Conservation and Parks


Name: Jeff Yurek
Title: Minister

Oct 28 / 2020
Date


MARTEN FALLS FIRST NATION


Name: BRUCE ACHNEEPINESKAN
Title: Chief

Oct 14 / 20
Date

I have the authority to bind Marten Falls First Nation.

WEBEQUIE FIRST NATION


Name: Cornelius Wabasse
Title: Chief

October 9, 2020
Date

I have the authority to bind Webequie First Nation.

Attachment B: List of potentially affected and/or interested Aboriginal communities for consultation on the Northern Road Link Project

- Aroland
- Attawapiskat
- Animbiigoo Zaagi'igan Anishinaabek
- Constance Lake
- Eabametoong
- Fort Albany
- Ginoogaming
- Kasabonika Lake
- Kashechewan
- Kingfisher Lake
- Kitchenuhmaykoosib Inninuwug (KI)
- Long Lake #58
- Marten Falls
- Métis Nation of Ontario Region 2
- Neskantaga
- Nibinamik
- Red Sky Métis Independent Nation
- Wapekeka
- Wawakapewin
- Webequie
- Weenusk
- Wunnumin