

Marten Falls First Nation

DRAFT Permitting Plan: Review Comments

Marten Falls All-Season Community Access Road

Date: January 28, 2020

Issue Number	Section Number	Section Title	Page	Request to IAAC for Revision or Clarification
1	2	Description of the Marten Falls Community Access Road Project	1	Marten Falls First Nation, as represented by Chief and Council (i.e. the proponent, and hereafter: 'MFFN') requests the deletion of ' <i>could enable future access road to potential mineral development activities in the Ring of Fire area</i> ' for the following reasons: 1) A mineral development supply road is not part of the Project; 2) because industry may choose to build a supply road in the absence of the Community Access Road. This comment applies to all DRAFT plans provided by the Impact Assessment Agency of Canada (IAAC).
2	3	Required Regulatory Instruments Identification and Justification	2	On page 2, regarding species at risk permits, clarify if one Species at Risk permit application may be made for all Species at Risk that may be affected by Project activities or is there a requirement for one application per species?
3	3	Authorization under paragraph 73(1) of the Species at Risk Act	2	On page 2, regarding a permit for Project activities that create sensory disturbances affecting species listed on Schedule 1 of the <i>Species at Risk Act (SARA)</i> , noise is specifically mentioned as one of the sensory disturbances. However, the SARA does not mention the effects of noise on species. Similarly, the referenced Federal and current Provincial noise guidelines do not include thresholds correlated to species disturbance. IAAC to advise.
4	3,4,7	Permit under the <i>Species at Risk Act</i>	9	The DRAFT Permitting Plan does not include the (potential) requirements for permitting under the Ontario <i>Endangered Species Act</i> and the interaction between SARA and ESA, where there is Critical Habitat on Non-Federal Lands. For portions of the study area which fall on lands under provincial jurisdiction, permitting would be required under ESA but also potentially under SARA where the habitat fits as federal Critical Habitat. While this document is issued by a federal agency, there is potential for overlap AND coordination between provincial and federal agencies where there are shared SAR. Reference "Policy on Critical Habitat Protection on Non-federal Lands" (https://registrelep-sararegistry.gc.ca/virtual_sara/files/policies/CH_Protection_NFL_EN.pdf). The first sentence on page 9 may mislead MFFN, as it indicates applicability only "where found on federal land".
5	4.2	Approval of works under the Canadian Navigable Waters Act	3	Page 3 discusses the Navigable Protection Program. The application is not anticipated to be required until the detail design phase of the project, as some of the important criteria required for this application will not be known until the preferred alternative has been selected. We would like to confirm with the Agency that this application is not required until the project permitting stage.

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6	4.4	Permit for Use of Indigenous Lands under the <i>Indian Act</i>	8	Please clarify what is meant by the "Impact Assessment Report". Does this refer to the Impact Statement required under the IAA project review process? The former CEAA, 2012 required a separate environmental review process lead by AANDC for projects on federal lands. Does the revised process now differ under the IAA?
7	4.4	Permit for Use of Indigenous Lands under the <i>Indian Act</i>	7	On page 7, it is specified that the authorization accounts for occupying / using the land for less than a year. What specific approval is needed for permanent road infrastructure within the MFFN reserve? Construction of the CAR will take longer than one year and there may be temporary use of the reserve exceeding one year as a result. Is the Agency able to clarify?
8	3,4,7	Authorization under Paragraphs 34.2(2)(b) or 35(2)(b) of the Fisheries Act	2	This document refers to the project either requiring or not requiring a FA Authorization and describes the process for applying for an Authorization. However it does not describe or mention the DFO project review process which would determine whether or not an Authorization is required. It is also possible (or likely) that a Letter of Advice by DFO is issued under this review process. We feel that it would be appropriate to add this context to the document.
9	7	Summary Table	12	In the summary table, on page 12 of the document, the submission of a DFO application as part of the impact assessment phase of the project is listed. However, we note that the information required to submit this application will not be available until after the impact assessment is completed, and not at the early stages of the project. Can this document be revised to reflect this, as a requirement, denoting application following completion of the IA?
10	7	Summary Table	14	In the summary table, on page 14 of the document, the submission of a SAR application as part of the impact assessment phase of the project is listed. However, we note that the information required to submit this application will not be available until after the impact assessment is completed, and not at the early stages of the project. Can this document be revised to reflect this, as a requirement, denoting application following completion of the IA?

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11	7	Summary Table	12	<p>On page 12, the summary table lists the application for Navigable Waters as an item required to take place at the impact assessment phase of the project. We note that this is out of step with the actual development process of the application. The Navigable Waters application is to be submitted following the completion of the impact assessment and after the final decision. We also note that this will affect all other items encompassed underneath the submission of application line in the document. We request that an appropriate change to this requirement be made to reflect actual process timelines.</p>