

Potential Conditions under the *Canadian Environmental Assessment Act, 2012*

The Canadian Environmental Assessment Agency is contemplating the following potential conditions in relation to the Marine Terminal Project on the North Shore of the Saguenay (the Designated Project) located in Quebec for recommendation to the Minister of Environment and Climate Change (the Minister) for inclusion in a Decision Statement issued under the *Canadian Environmental Assessment Act, 2012*. If the Minister decides that the carrying out of the Designated Project is unlikely to cause significant adverse environmental effects as defined under subsections 5(1) and 5(2), or if the Minister decides that the Designated Project is likely to cause significant adverse environmental effects and the Governor in Council decides such effects are justified in the circumstances, the Designated Project would be allowed to proceed, and any conditions established by the Minister under the *Canadian Environmental Assessment Act, 2012* would become legally binding.

1 Definitions

- 1.1 *Agency* means the Canadian Environmental Assessment Agency.
- 1.2 *Baseline* means the environmental conditions prior to initiating construction of the Designated Project.
- 1.3 *Construction* means the phase of the Designated Project during which site preparation, building or installation of any components of the Designated Project is undertaken by the Proponent.
- 1.4 *Daylight* means from one hour before sunrise to one hour after sunset, as calculated by the National Research Council of Canada for Saguenay (Quebec).
- 1.5 *Days* means calendar days.
- 1.6 *Decommissioning* means the phase of the Designated Project during which the Proponent removes from service any or all components of the Designated Project.
- 1.7 *Designated Project* means the Marine Terminal Project on the North Shore of the Saguenay as described in section 2 of the draft environmental assessment report prepared by the Canadian Environmental Assessment Agency (Canadian Environmental Assessment Registry Reference Number 80103).
- 1.8 *Environmental assessment* means “environmental assessment” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.9 *Environmental effects* means “environmental effects” as described in section 5 of the *Canadian Environmental Assessment Act, 2012*.
- 1.10 *Environmental impact statement* means the May 2016 document entitled Terminal maritime en rive nord du Saguenay - étude d’impact environnementale volumes 1-3 (Canadian Environmental Assessment Registry Reference Number 80103, Document Number 39).

- 1.11 *First Nations* means the following Aboriginal Peoples: Première nation des Innus Essipit, Première nation des Pekuakamiulnuatsh (Mashteuiatsh), Première nation des Innus de Pessamit and Nation huronne-wendat.
- 1.12 *Fish* means “fish” as defined in subsection 2(1) of the *Fisheries Act*.
- 1.13 *Fish habitat* means “fish habitat” as defined in subsection 2(1) of the *Fisheries Act*.
- 1.14 *Fisheries and Oceans Canada* means the Department of Fisheries and Oceans as established under subsection 2(1) of the *Department of Fisheries and Oceans Act*.
- 1.15 *Follow-up program* means “follow-up program” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.16 *Heritage value* means the aesthetic, historic, scientific, cultural, social, or spiritual importance or significance for past, present, or future generations.
- 1.17 *Marine mammal* means all mammal species which are morphologically adapted to the marine environment, including cetaceans and pinnipeds.
- 1.18 *Migratory bird* means “migratory bird” as defined in subsection 2(1) of the *Migratory Birds Convention Act, 1994*.
- 1.19 *Ministère du Développement durable, de l’Environnement et de la Lutte contre les changements climatiques* – the Ministère du Développement durable, de l’Environnement et des Parcs, as designated in the Loi sur le ministère du Développement durable, de l’Environnement et des Parcs and by Order 978-2017 dated Octobre 11, 2017.
- 1.20 *Mitigation measures* means “mitigation measures” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.21 *Offsetting plan* means “offsetting plan” as defined in section 1 of the *Applications for Authorization under Paragraph 35(2)(b) of the Fisheries Act Regulations*.
- 1.22 *Operation* means the phase of the Designated Project during which storage, material handling and transshipment activities take place, including periods during which these activities temporarily cease.
- 1.23 *Potentially affected party* means an entity or a person that uses or who resides in the local study area identified by the Proponent on map 10-1 of the environmental impact statement.
- 1.24 *Progressive reclamation* means reclamation which is carried out by the Proponent concurrently with all phases of the Designated Project to progressively return any physically disturbed areas to a state as close to the baseline as possible, as soon after the disturbance as practical.
- 1.25 *Proponent* means Administration portuaire du Saguenay and its successors or assigns.
- 1.26 *Qualified individual* means someone who, through education, experience, and knowledge relevant to a particular matter, may be relied on by the Proponent to provide advice within his or

her area of expertise. Knowledge relevant to a particular matter may include community and Indigenous traditional knowledge.

- 1.27 *Record* means “record” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.28 *Relevant authorities* means federal and/or provincial authorities that are in possession of specialist or expert information or knowledge, or that have a responsibility for the administration of a law or regulation, with respect to the subject matter of a condition set out in this document.
- 1.29 *Reporting year* means October 1 of a calendar year through September 30 of the subsequent calendar year.
- 1.30 *Serious harm* means “serious harm” as defined in subsection 2(2) of the *Fisheries Act*.
- 1.31 *Structure, site, or thing of historical, archeological, paleontological or architectural significance* means a structure, site or thing that is determined by a qualified individual, on the basis of heritage value, to be directly associated with an important aspect of the history or culture of the people of Canada, including First Nations.
- 1.32 *Wetland* means land saturated with water long enough to promote formation of water-altered soils, growth of water-tolerant vegetation and various kinds of biological activity that is adapted to the wet environment.
- 1.33 *Wetlands functions* means the natural processes and derivation of benefits and values associated with wetland ecosystems, including economic production, fish and wildlife habitat, organic carbon storage, water supply and purification (e.g. groundwater recharge, flood control, maintenance of flow regimes, shoreline erosion buffering), and soil and water conservation, as well as tourism, heritage, recreational, educational, scientific, and aesthetic opportunities.

Potential Conditions

These conditions may be established for the sole purpose of the Decision Statement issued under the *Canadian Environmental Assessment Act, 2012*. They do not relieve the Proponent from any obligation to comply with other legislative or other legal requirements of the federal, provincial, or local governments. Nothing in this document shall be construed as reducing, increasing, or otherwise affecting what may be required of the Proponent to comply with all applicable legislative or legal requirements.

2 General conditions

- 2.1 The Proponent shall ensure that its actions in meeting the conditions set out in this document during all phases of the Designated Project are considered in a careful and precautionary manner, promote sustainable development, are informed by the best information and knowledge available at the time the Proponent takes action, including community and Indigenous traditional knowledge, are based on methods and models that are recognized by standard-setting bodies, are undertaken by qualified individuals, and have applied the best available economically and technically feasible technologies.

- 2.2 The Proponent shall, where consultation is a requirement of a condition set out in this document:
- 2.2.1 provide a written notice of the opportunity for the party or parties being consulted to present their views and information on the subject of the consultation;
 - 2.2.2 provide sufficient information on the scope and the subject matter of the consultation and a period of time agreed upon with the party or parties being consulted, but of at least 15 days, to prepare to prepare their views and information;
 - 2.2.3 provide a full and impartial consideration of any views and information presented by the party or parties being consulted on the subject matter of the consultation; and
 - 2.2.4 advise in a timely manner the party or parties being consulted on how their views and information have been considered by the Proponent.
- 2.3 The Proponent shall, where consultation with First Nations is a requirement of a condition set out in this document, communicate with each First Nation with respect to the manner by which to satisfy the consultation requirements referred to in condition 2.2, including methods of notification, the type of information and the period of time to be provided when seeking input, the process to be used by the Proponent to undertake impartial consideration of all views and information presented on the subject of the consultation, the period of time to advise First Nations of how their views and information were considered by the Proponent and the means by which First Nations will be advised.
- 2.4 The Proponent shall, where a follow-up program is a requirement of a condition set out in this document, determine, as part of the development of each follow-up program, the following information in consultation with First Nations and relevant authorities:
- 2.4.1 the methodology, location, frequency, timing and duration of monitoring associated with the follow-up program;
 - 2.4.2 the scope, content and frequency of reporting of the follow-up results;
 - 2.4.3 the levels of environmental change relative to baseline conditions that would require the Proponent to implement modified or additional mitigation measure(s), including instances where the Proponent may require Designated Project activities to be stopped; and
 - 2.4.4 the technically and economically feasible mitigation measures to be implemented by the Proponent if monitoring conducted as part of the follow-up shows that the levels of environmental change referred to in condition 2.4.3 are reached or exceeded.
- 2.5 The Proponent shall submit the information referred to in condition 2.4 to the Agency prior to the implementation of each follow-up program. The Proponent shall update that information in consultation with First Nations and relevant authorities during the implementation of each follow-up program, and shall provide the updated information to the Agency, First Nations, and relevant authorities within 30 days of the information being updated.
- 2.6 The Proponent shall, where a follow-up program is a requirement of a condition set out in this document:
- 2.6.1 conduct the follow-up program according to the information determined pursuant to condition 2.4;

- 2.6.2 undertake monitoring and analysis to verify the accuracy of the environmental assessment as it pertains to the particular condition and/or to determine the effectiveness of any mitigation measure(s);
 - 2.6.3 determine whether modified or additional mitigation measures are required based on the monitoring and analysis undertaken pursuant to condition 2.6.2; and
 - 2.6.4 if modified or additional mitigation measures are required pursuant to condition 2.6.3, develop and implement the modified or additional mitigation measures in a timely manner and monitor them pursuant to condition 2.6.2.
- 2.7 Where consultation with First Nations is a requirement of a follow-up program, the Proponent shall discuss with each First Nation opportunities for the participation of that First Nation in the implementation of the follow-up program, including the analysis of the follow-up results and whether modified or additional mitigation measures are required, as set out in condition 2.6.
- 2.8 The Proponent shall, commencing in the reporting year during which the Proponent begins the implementation of the conditions set out in this document, prepare an annual report that sets out:
- 2.8.1 the activities undertaken in the reporting year to comply with each of the conditions set out in this document;
 - 2.8.2 how the Proponent complied with condition 2.1;
 - 2.8.3 for conditions set out in this document for which consultation is a requirement, how the Proponent considered any views and information that the Proponent received during or as a result of the consultation;
 - 2.8.4 the information referred to in conditions 2.4 and 2.5 for each follow-up program;
 - 2.8.5 the results of the follow-up program requirements identified in conditions 3.13, 3.14, 3.15, 3.16, 3.17, 4.2, 6.4, 6.5, 9.6 and 10.5; and
 - 2.8.6 any modified or additional mitigation measures implemented or proposed to be implemented by the Proponent, as determined under condition 2.6.
- 2.9 The Proponent shall submit to the Agency the annual report referred to in condition 2.8, including an executive summary in both official languages, no later than December 31 following the reporting year to which the annual report applies.
- 2.10 The Proponent shall publish on an electronic medium which is widely publicly available the annual reports and the executive summaries referred to in conditions 2.8 and 2.9, any offsetting plan referred to in condition 3.11, the results of archeological survey referred to in condition 9.4, the reports referred to in conditions 12.1 and 12.3, the reports referred to in conditions 13.4.3 and 13.4.4, the communication plan referred to in condition 13.5, the schedules referred to in conditions 14.1 and 14.2, and any update(s) or revision(s) to the above documents, upon submission of these documents to the parties referenced in the respective conditions. The Proponent shall keep these documents and make them publicly available throughout construction and operation and for 10 years following the definitive end of operation. The Proponent shall notify the Agency and First Nations of the availability of these documents within 48 hours of their publication.

- 2.11 When the development of a plan is a requirement of a condition set out in this document, the Proponent shall submit the plan to the Agency prior to construction, unless otherwise required by the condition.
- 2.12 The Proponent shall notify the Agency and First Nations in writing no later than 30 days after the day on which there is a transfer of ownership, care, control or management of the Designated Project in whole or in part.
- 2.13 The Proponent shall consult with First Nations, relevant authorities and potentially affected parties prior to initiating any changes to the Designated Project that may result in adverse environmental effects, including when a new party becomes user of the Designated Project, and shall notify the Agency in writing no later than 60 days prior to initiating the change(s).
- 2.14 In notifying the Agency pursuant to condition 2.13, the Proponent shall provide the Agency with a description of the potential adverse environmental effects of the change(s) to the Designated Project, the mitigation measures and follow-up requirements proposed to be implemented by the Proponent and the results of the consultation with First Nations, relevant authorities and potentially affected parties.

3 Fish, fish habitat and marine mammals

- 3.1 The Proponent shall take measures to avoid the input of total suspended solids into watercourses, including by capturing runoff water.
- 3.2 The Proponent shall collect water from the Designated Project site and treat any water that does not meet the pollution prevention provisions of the *Fisheries Act* before discharging it into the environment, during all phases of the Designated Project.
- 3.3 The Proponent shall install and maintain a silt curtain appropriately sized and of adequate composition for application in the marine environment in the Designated Project area during all construction activities in the marine environment that may cause the resuspension of sediments in the Saguenay River.
- 3.4 The Proponent shall implement mitigation measures to avoid or prevent any effect to fish and fish habitat during all phases of the Designated Project when using explosives in or near any watercourse. When developing these measures, the Proponent shall take into account the *Measures to avoid causing harm to fish and fish habitat including aquatic species at risk* issued by Fisheries and Oceans Canada.
- 3.5 The Proponent shall use emulsion explosives with low dissolution capacity or any other type of explosives with equivalent or lesser dissolution capacity for nitrate and ammonia in the environment.
- 3.6 The Proponent shall restore riparian buffer strips disturbed by the construction activities of the Designated Project on an ongoing basis as the construction work is completed. In doing so, the Proponent shall restore the natural sinuosity of the riparian buffer strips affected.

- 3.7 The Proponent shall not discharge any waste, woody debris or organic matter within 15 metres of any watercourse during any phase of the Designated Project.
- 3.8 The Proponent shall develop, prior to construction in the marine environment and in consultation with Fisheries and Oceans Canada, measures to maintain exposure levels to underwater noise at levels less than 178 dB re 1 $\mu\text{Pa}^2\text{-s}$ (SEL_{cum} over 24 hours), 181 dB re 1 $\mu\text{Pa}^2\text{-s}$ (SEL_{cum} over 24 hours) and 183 dB re 1 $\mu\text{Pa}^2\text{-s}$ (SEL_{cum}) to protect, respectively, beluga (*Delphinapterus leucas*), harbour seal (*Phoca vitulina*) and fish. The Proponent shall develop these measures and identify the circumstances during which the Proponent shall not exceed each exposure level, including according to work methods used, predicted levels of underwater noise to be generated by underwater construction activities and the periods of the year during which these activities take place. The Proponent shall notify the Agency, prior to construction in the marine environment, of these measures and of the circumstances during which each exposure level shall be maintained and shall implement these measures throughout construction in the marine environment, unless otherwise authorized by Fisheries and Oceans Canada. Among other measures, the Proponent shall develop and implement gradual start-up procedures for drilling, vibratory pile driving and impact pile driving activities.
- 3.9 The Proponent shall develop, prior to construction in the marine environment and in consultation with Fisheries and Oceans Canada and First Nations, and implement, throughout construction in the marine environment, a visual monitoring program for the beluga (*Delphinapterus leucas*) and the harbour seal (*Phoca vitulina*). As part of the visual monitoring program, the Proponent shall:
- 3.9.1 carry out, prior to construction in the marine environment, predictive acoustic modelling in order to determine at what distance each construction activity in the marine environment would cause a cumulative level of exposure to underwater noise over 24 hours equal or greater than 178 dB re 1 $\mu\text{Pa}^2\text{-s}$ (SEL_{cum}) and equal or greater than 181 dB re 1 $\mu\text{Pa}^2\text{-s}$ (SEL_{cum}), including for activities occurring simultaneously, and the period or periods during which these activities would occur. The Proponent shall submit the results of the predictive acoustic modelling to the Agency prior to construction in the marine environment;
 - 3.9.2 establish, based on the results of the predictive acoustic modelling carried out in accordance with condition 3.9.1, and maintain, throughout construction in the marine environment, protection zones corresponding to the distances from construction activities at which the cumulative level of exposure to underwater noise over 24 hours are always less than 178 dB re 1 $\mu\text{Pa}^2\text{-s}$ (SEL_{cum}) for belugas and less than 181 dB re 1 $\mu\text{Pa}^2\text{-s}$ (SEL_{cum}) for harbour seals;
 - 3.9.3 require that observers, who are qualified individuals as it pertains to the observation of marine mammals, perform continuous visual monitoring of the protection zones referred to in condition 3.9.2 and report to the Proponent the presence of a beluga or harbour seal within its respective protection zones during each construction activity in the marine environment referred to in condition 3.9.1;
 - 3.9.4 halt or delay the start of construction activities in the marine environment referred to in condition 3.9.1 if a beluga or harbour seal is observed in its respective protection zone referred to in condition 3.9.2 by the marine mammal observers referred to in condition 3.9.3, until the beluga or harbour seal has left its respective protection zone and no

beluga or harbour seal has been observed in its respective protection zone for a continuous period of at least 30 minutes;

- 3.9.5 do not annoy or harass in any way belugas or harbour seals present within the protection zones referred to in condition 3.9.2 in order to have them leave the zone; and
 - 3.9.6 carry out construction activities in the marine environment only during daylight hours and not under conditions of low visibility (including fog).
- 3.10 The Proponent shall submit quarterly to the Agency, commencing in the month during which the Proponent begins construction in the marine environment and throughout construction in the marine environment, the results of the activities carried out as part of the visual monitoring program for beluga (*Delphinapterus leucas*) and harbour seal (*Phoca vitulina*) referred in condition 3.9. The Proponent shall submit these results to the Agency no later than 30 days following the end of the period to which they apply.
- 3.11 The Proponent shall develop, to the satisfaction of Fisheries and Oceans Canada and in consultation with First Nations, any offsetting plan(s) related to any residual serious harm to fish associated with the carrying out of the Designated Project. The Proponent shall submit any approved offsetting plan(s) to the Agency prior to implementation.
- 3.12 The Proponent shall, if any fish habitat offsetting measure(s) proposed in any offsetting plan(s) referred to in condition 3.11 may cause adverse environmental effects not considered in the environmental assessment, develop and implement, following consultation with First Nations and relevant authorities, measures to mitigate those effects. The Proponent shall submit these measures to the Agency before implementing them.
- 3.13 The Proponent shall develop, prior to construction and in consultation with First Nations and relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to the adverse environmental effects on fish and fish habitat in the Saguenay River of changes in surface water quality caused by the Designated Project. The Proponent shall implement the follow-up program weekly during construction and monthly during the first five years of operation. The Proponent shall determine, in consultation with First Nations and relevant authorities and based on the results of the follow-up program, if additional monitoring is required after the first five years of operation and which frequency this additional monitoring shall occur. As part of the follow-up program, the Proponent shall:
- 3.13.1 install, prior to construction, and maintain a sampling station at the discharge point of the temporary sedimentation ponds for monitoring during construction and install, prior to operation, and maintain a sampling station at the discharge point of the permanent retention pond for monitoring during operation; and
 - 3.13.2 monitor concentrations of contaminants, including chlorides, metals, C₁₀-C₅₀ petroleum hydrocarbons and dissolved phosphorus, and suspended solids.
- 3.14 The Proponent shall develop, prior to construction and in consultation with First Nations and relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to the adverse environmental effects on fish and fish habitat in the Saguenay River of changes in groundwater

quality caused by the Designated Project. The Proponent shall implement the follow-up program semi-annually (spring and summer) during construction and the first five years of operation. The Proponent shall determine, in consultation with First Nations and relevant authorities and based on the results of the follow-up program, if additional monitoring is required after the first five years of operation and which frequency this additional monitoring shall occur. As part of the follow-up program, the Proponent shall:

- 3.14.1 install, prior to construction, and maintain a network of groundwater monitoring wells and conduct monitoring of the groundwater quality parameters identified by the Proponent in Table 59 of the response to CEAA Information Request 59 (March 2017), in addition to monitoring concentrations of bicarbonate (HCO_3^-).
- 3.15 The Proponent shall develop, prior to the start of blasting activities and in consultation with relevant authorities, a follow-up program to determine the effectiveness of the mitigation measures as it pertains to the adverse environmental effects on fish and fish habitat caused by the changes in surface water quality downstream of the blasting sites. As part of the follow-up program, the Proponent shall monitor the concentrations of suspended solids, ammoniacal nitrogen and nitrates. The Proponent shall implement the follow-up program during construction.
- 3.16 The Proponent shall develop, prior to construction and in consultation with Fisheries and Oceans Canada, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as it pertains to the adverse environmental effects of terrestrial blasting and underwater noise on fish and marine mammals. The Proponent shall implement the follow-up program during construction and operation. The follow-up program shall include the monitoring of dead or injured fish. As part of the implementation of the follow-up program, the Proponent shall:
- 3.16.1 conduct real-time monitoring, for the first 14 days of construction, of underwater noise levels emitted by the drilling, impact pile driving and vibratory pile driving activities and terrestrial blasting activities in order to validate the results of the acoustic simulations carried out by the Proponent for these activities during the environmental assessment and presented in maps 7-14 to 7-19 of the environmental impact statement;
 - 3.16.2 conduct, once during the first year of operation, real-time monitoring of underwater noise levels emitted by ship-loading activities, for the period of time required to load a ship; and
 - 3.16.3 submit the results of the monitoring referred to in conditions 3.16.1 and 3.16.2 to the Agency and to Fisheries and Oceans Canada no later than 30 days following the end of each monitoring period.
- 3.17 The Proponent shall develop, prior to operation and in consultation with relevant authorities, a follow-up program to verify the accuracy of the environmental assessment as it pertains to the adverse environmental effects of the Designated Project on grass beds H1 and H2 identified by the Proponent on map 92D of the response to CEAA Information Request 92 (March 2017). As part of the follow-up program, the Proponent shall monitor the area, density (number of stems for a determined area) and plant composition (dominant and companion species) of each grass bed. The Proponent shall implement the follow-up program during the first five years of operation. The Proponent shall determine, in consultation with relevant authorities and based on

the results of the follow-up program, if additional monitoring is required after the fifth year of operation.

4 Migratory birds (including migratory birds)

- 4.1 The Proponent shall carry out the Designated Project in a manner that protects migratory birds and avoids harming, killing or disturbing migratory birds or destroying, disturbing or taking their nests or eggs. In this regard, the Proponent shall develop, prior to construction and taking into account Environment and Climate Change Canada's *Avoidance Guidelines*, a migratory birds management plan which includes mitigation measures, including measures related to sensitive periods and locations for migratory birds, risk of incidental take and actions to take if migratory birds and their nests are found. The Proponent shall implement the migratory birds management plan. The Proponent's actions when implementing the migratory birds management plan shall be in compliance with the *Migratory Birds Convention Act, 1994*, the *Migratory Birds Regulations* and the *Species at Risk Act*.
- 4.2 The Proponent shall develop, prior to construction and in consultation with relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures implemented by the Proponent to avoid causing adverse environmental effects on birds, including migratory birds, their eggs and nests. As part of the development of the follow-up program, the Proponent shall identify the bird species to be monitored. The Proponent shall implement the follow-up program during construction and operation, including in the fifth and tenth years of operation. As part of the implementation of the follow-up program, the Proponent shall:
- 4.2.1 conduct an inventory, using standardised inventory techniques, to verify, prior to construction, the accuracy of the environmental assessment as it pertains to the presence of the Canada warbler (*Cardellina canadensis*) and other bird species identified by the Proponent pursuant to condition 4.2 in the areas where tree cutting will be carried out and in potential habitats located within the limited study area identified by the Proponent on map 8-8 of the environmental impact statement and in periphery of this area; and
- 4.2.2 If the Proponent determines that modified or additional mitigation measures are required pursuant to condition 2.6 in order to protect the birds identified in the inventory referred to in condition 4.2.1, the Proponent shall develop these measures in consultation with relevant authorities and implement the measures in a timely manner and monitor them. The Proponent shall submit these measures to the Agency before implementing them.

5 Wetlands and hydrous environment

- 5.1 The Proponent shall design the Designated Project, including the permanent access road, in a manner that mitigates the adverse environmental effects of the Designated Project on wetland functions. In doing so, the Proponent shall give preference for avoiding the loss of wetland functions over minimizing adverse effects on wetland functions. When the loss of wetlands functions cannot be avoided, the Proponent shall give preference for minimizing adverse effects on wetland functions over compensating for adversely affected wetland functions.

- 5.2 For those adverse environmental effects of the Designated Project on the wetlands located within the Designated Project area that cannot be avoided pursuant to condition 5.1, the Proponent shall develop, prior to construction and in consultation with First Nations and relevant authorities, a wetland function compensation plan that takes into account the *Federal Policy on Wetland Conservation*. The Proponent shall start the implementation of the compensation plan prior to the wetlands being adversely affected and shall complete the implementation of the compensation plan in a timely manner. As part of the implementation of the compensation plan, the Proponent shall conduct, prior to the start of tree clearing activities, a survey of the wetland functions affected by the Designated Project and that shall be compensated for, and the Proponent shall submit the results of the survey to the Agency no later than 30 days following the end of the survey.
- 5.3 The Proponent shall develop, prior to construction and in consultation with Quebec's *Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques*, measures to compensate for any net loss of hydrous environment, including the littoral, the shore and the flood plain as those are defined in Quebec's *Politique de protection des rives, du littoral et des plaines inondables*, caused by excavating and filling activities associated with the Designated Project. The Proponent shall submit the compensation measures to the Agency prior to construction and shall implement these measures.

6 Human health

- 6.1 The Proponent shall develop, prior to construction and in consultation with relevant authorities and potentially affected parties, and implement measures to mitigate emissions of dust and fine particulate matter (PM_{2.5}) generated by the Designated Project that take into account the ambient air quality standards and criteria set out in the *Canadian Ambient Air Quality Standards* of the Canadian Council of Ministers of the Environment and Quebec's *Règlement sur l'assainissement de l'atmosphère*. The Proponent shall submit these measures to the Agency prior to construction. Among other measures, the Proponent shall:
- 6.1.1 use dust control agents that comply with Standard NQ 2410-300 of the *Bureau de normalisation du Québec* when undertaking any activity that may generate dust;
 - 6.1.2 not handle granular material during high wind conditions;
 - 6.1.3 establish a speed of 40 kilometres/hour on roads within the property limits of the Designated Project and require that any person abide by this speed limit;
 - 6.1.4 conduct transshipment, storage and material handling activities within leakproof structures; and
 - 6.1.5 use dust extractors during transshipment and material handling activities.
- 6.2 The Proponent shall not exceed the noise limits set out in the *Lignes directrices relativement aux niveaux sonores provenant d'un chantier de construction industriel* and the *Note d'instructions 98-01 sur le bruit* of Quebec's *Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques* during construction and operation, respectively.
- 6.3 The Proponent shall develop, prior to construction and in consultation with relevant authorities and potentially affected parties, and shall implement, during all phases of the Designated Project,

a protocol for receiving complaints related to air quality and to exposure to light and noise caused by the Designated Project. The Proponent shall submit the protocol to the Agency prior to construction. The Proponent shall respond to any complaint within 48 hours of receipt of the complaints and shall implement, in a timely manner, corrective measures to reduce changes in air quality or to exposure to noise or exposure to light.

- 6.4 The Proponent shall develop, prior to construction and in consultation with relevant authorities and potentially affected parties, a follow-up program to verify the accuracy of the environmental assessment and to determine the effectiveness of the mitigation measures as it pertains to the adverse environmental effects of the Designated Project on human health caused by changes to air quality. The Proponent shall implement the follow-up program prior to construction and during construction and operation. The follow-up program shall include:
- 6.4.1 installing, prior to construction, of a meteorological station on the Designated Project site to establish local weather conditions and determine the position of sampling sites based on the prevailing winds, and maintaining the station during construction and operation;
 - 6.4.2 monitoring, in real-time during construction and operation, concentrations of total particulate matter, fine particulate matter (PM_{2.5}) and crystalline silica in air, using as benchmarks the ambient air quality standards and criteria set out in the *Canadian Ambient Air Quality Standards* of the Canadian Council of Ministers of the Environment and the *Quebec's Règlement sur l'assainissement de l'atmosphère*;
 - 6.4.3 notifying the Agency in writing within 24 hours of any exceedance(s) observed by the Proponent during monitoring referred to in condition 6.4.2 of the standards and criteria set out in the Canadian Council of Ministers of the Environment's *Canadian Ambient Air Quality Standards* and the *Quebec's Règlement sur l'assainissement de l'atmosphère*; and
 - 6.4.4 implementing modified or additional mitigation measures pursuant to condition 2.6 if the results of the follow-up program demonstrate exceedance(s) of the ambient air quality standards and criteria set out in the Canadian Council of Ministers of the Environment's *Canadian Ambient Air Quality Standards* and the *Quebec's Règlement sur l'assainissement de l'atmosphère*.
- 6.5 The Proponent shall develop, prior to construction and in consultation with relevant authorities and potentially affected parties, a follow-up program to verify the accuracy of the environmental assessment and to determine the effectiveness of the mitigation measures as it pertains to the adverse environmental effects of the Designated Project on human health caused by changes in the sound environment. The Proponent shall use as benchmark the noise limits referred to in condition 6.2. The Proponent shall implement the follow-up program during construction and operation. The follow-up program shall include:
- 6.5.1 monitoring, during construction, noise levels over a 24-hour period once per season at the four receptors identified by the Proponent on map 1 in the *Programme de surveillance du climat sonore en phase de construction* submitted in response to information request CEAA 2-40 (December 2017). Monitoring shall be conducted on days during which construction activities that have the potential to generate noise and that are identified by the Proponent in section 1.2 of the *Programme de surveillance du climat sonore en phase de construction* are being carried out;

- 6.5.2 monitoring, during the first three years of operation, noise levels over a 24-hour period once per year between May and October at the four receptors identified by the Proponent on map 1 in the *Programme de surveillance du climat sonore en phase de l'exploitation* submitted in response to information request CEAA 2-40 (December 2017). Monitoring shall be conducted on days during which the loading of ships is being carried out. The Proponent shall determine if additional monitoring is required after the third year of operation based on the results of the follow-up program. At a minimum, the Proponent shall conduct additional monitoring during the fourth year of operation if the results of the follow-up program show an exceedance of the noise limits set out in the *Note d'instructions 98-01 sur le bruit* of Quebec's *Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques* during the third year of operation; and
- 6.5.3 implementing modified or additional mitigation measures pursuant to condition 2.6 to reduce noise levels if the results of the follow-up program show exceedances by more than 3 decibels of the noise levels set out in the *Lignes directrices relativement aux niveaux sonores provenant d'un chantier de construction industriel* of Quebec's *Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques* during construction or exceedances by more than 1 decibel of the noise levels set out in the *Note d'instructions 98-01 sur le bruit* of Quebec's *Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques* during operation.

7 Socio-economic conditions

- 7.1 The Proponent shall develop, prior to construction and in consultation with First Nations and potentially affected parties, a communication plan to share information related to the Designated Project with users practicing water activities and hunting, fishing and recreational activities in the local study area identified by the Proponent on map 10-1 of the environmental impact statement. The Proponent shall implement and maintain the communication plan up-to-date during construction and operation. The communication plan shall include procedures, including timing, for sharing information on the following:
- 7.1.1 the location and timing of Designated Project-related construction activities, of marine navigation temporary restrictions and land routing advisories caused by the Designated Project-related construction activities and of safety perimeters associated with the Designated Project in the marine and land environment;
- 7.1.2 the schedule of ships berthed at the wharf; and
- 7.1.3 ways for First Nations and other users of the marine environment to provide feedback to the Proponent about the adverse environmental effects of the Designated Project on navigation, including effects caused by ships berthing and leaving or by ships present within the Saguenay Port Authority's area of jurisdiction established under the *Canada Marine Act*, and ways for the Proponent to respond in a timely manner to the feedback received.
- 7.2 The Proponent shall develop, prior to construction and in consultation with First Nations and potentially affected parties, procedures for First Nations and potentially parties affected to

communicate to the Proponent their concerns about adverse environmental effects caused by the Designated Project, including effects related to access to and use of the marine and land environments, heavy vehicle traffic, air quality and noise, and procedures for the Proponent to document and respond in a timely manner to the concerns received and demonstrate how issues have been addressed. The Proponent shall implement these procedures during construction and operation.

8 Current use of lands and resources for traditional purposes

- 8.1 The Proponent shall develop, prior to operation and in consultation with First Nations and potentially affected parties, an ice fishing management plan so that the activity can be practised safely in the area of jurisdiction of the Port of Saguenay established under the *Canada Marine Act*. The Proponent shall implement the management plan during operation. The management plan shall include how the Proponent took into account the viewpoints and information received from First Nations and potentially affected parties during the development of the management plan. The Proponent shall submit the management plan to the Agency prior to operation.
- 8.2 The Proponent shall provide First Nations with the schedules referred to in conditions 14.1 and 14.2 and updates or revisions to the initial schedules pursuant to condition 14.3 and 14.4 at the same time the Proponent provide these documents to the Agency.

9 Physical and cultural heritage and structures, sites, or things of historical, archaeological, paleontological, or architectural significance

- 9.1 The Proponent shall paint the structures of the Designated Project, including the silo and dome, hangar, service buildings and conveyor, in colours that harmonize with the natural environment in the areas adjacent to the Designated Project using a low-reflectance matte paint.
- 9.2 The Proponent shall revegetate in a uniform manner the constructed slopes, stripped surfaces, riparian strips and the base of the blasted rock faces as construction on them is completed so that there is a composition and abundance of vegetation comparable to that of the areas adjacent to the Designated Project. The Proponent shall use native deciduous and coniferous species.
- 9.3 The Proponent shall revegetate in a uniform manner the entire top of the blasted rock faces that are visible from the Saguenay River with species of hardy falling vines.
- 9.4 The Proponent shall have a qualified individual conduct, prior to the start of tree clearing and in consultation with First Nations, an archeological inventory of archeological potential area number 7 identified by the Proponent on map 9-2 of the environmental impact statement.
- 9.5 For any previously unidentified structures, sites or things of historical, archaeological, paleontological or architectural significance discovered within the Designated Project area by the Proponent during the archeological inventory referred to in condition 9.4 or brought to the attention of the Proponent by a First Nation or another party during any phase of the Designated Project, the Proponent shall:
 - 9.5.1 immediately halt work at the location of the discovery;

- 9.5.2 delineate an area with a radius of at least 30 metres around the discovery as a no-work zone. The no-work requirement shall not apply to action(s) required to be undertaken to protect the integrity of the discovery;
 - 9.5.3 have a qualified individual as it pertains to the recording, transferring and safekeeping of structures, sites or things of historical, archaeological, paleontological or architectural significance conduct an assessment at the location of the discovery;
 - 9.5.4 inform the Agency and First Nations within 24 hours of the discovery, and allow First Nations to monitor archaeological works; and
 - 9.5.5 comply, in consultation with First Nations and relevant authorities, with all applicable legislative or legal requirements and associated regulations and protocols respecting the discovery, recording, transferring and safekeeping of previously unidentified structures, sites or things of historical, archaeological, paleontological or architectural significance.
- 9.6 The Proponent shall develop, prior to construction and in consultation with the First Nations, relevant authorities and potentially affected parties, a follow-up program to verify the accuracy of the environmental assessment and to determine the effectiveness of mitigation measures as it pertains to the adverse environmental effects of changes to the environment caused by the Designated Project on the natural heritage of the Saguenay river. The Proponent shall implement the follow-up program during construction and operation. As part of the implementation of the follow-up program, the Proponent shall:
- 9.6.1 monitor the integrity of the covering material, including the paint, of the structures of the Designated Project referred to in condition 9.1;
 - 9.6.2 monitor the growth, composition and abundance of the vegetation referred to in conditions 9.2 and 9.3;
 - 9.6.3 monitor the residual environmental effects of the Designated Project on the natural heritage using photographs taken from the same viewpoints as those used by the Proponent in visual simulations performed by the Proponent as part of the environmental assessment (Figures 10-1 to 10-6 of the environmental impact statement). The Proponent shall take the photographs at least two years after construction ends, and every two years afterwards until at least 25 years following the end of construction; and
 - 9.6.4 share the results of the follow-up program with the First Nations, relevant authorities and potentially affected parties and consult them to develop and implement modified or additional mitigation measures in accordance with condition 2.6.

10 Terrestrial species at risk

- 10.1 The Proponent shall not undertake any tree clearing in the Designated Project area between June 1 and July 31 inclusively for each construction year.
- 10.2 The Proponent shall delineate on the ground, prior to the start of tree clearing, areas where tree clearing will take place. The Proponent shall not undertake any tree clearing outside these areas, unless required for safety reasons.

- 10.3 The Proponent shall install, prior to the start of terrestrial blasting activities, at least six artificial bat roosts at a distance of at least one kilometre from the areas where the terrestrial blasting activities will take place. The Proponent shall maintain the bat roosts for the entire period during which terrestrial blasting takes place. The Proponent shall have the bat roosts installed by a qualified individual.
- 10.4 The Proponent shall control the lighting required for Designated Project activities throughout all phases of the Designated Project, including its direction, duration of use, intensity, spectrum colour and brightness, to mitigate the adverse effects of the Designated Project on bats and birds (including migratory birds) caused by sensory disturbances due to light, while complying with operational health and safety requirements.
- 10.5 The Proponent shall develop, prior to construction and in consultation with relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and to determine the effectiveness of mitigation measures as it pertains to the adverse effects of the Designated Project on bats. The Proponent shall implement the follow-up program during construction and during the first three years of operation. As part of the follow-up program, the Proponent shall:
- 10.5.1 monitor the use of artificial bat roosts installed in accordance with condition 10.3; and
 - 10.5.2 if any bat maternity roosts are discovered in the Designated Project area, notify the Agency and develop and implement modified or additional mitigation measures in accordance with condition 2.6, which shall include, at a minimum, the implementation of noise barriers and other noise-reduction measures and the installation of additional artificial bat roosts.

11 Cumulative effects

- 11.1 The Proponent shall participate, at the request of relevant authorities, in regional initiatives related to the monitoring, assessment or management of cumulative environmental effects, including cumulative environmental effects on beluga (*Delphinapterus leucas*) caused by commercial navigation on the Saguenay River, likely to result from the Designated Project in combination with other physical activities that have been or will be carried out, should there be any such initiative(s) during construction or operation of the Designated Project.
- 11.2 The Proponent shall implement any mitigation measure that is technically and economically feasible or follow-up program identified through any regional initiative referred to in condition 11.1 and which is under its responsibility pertaining to cumulative environmental effects on beluga (*Delphinapterus leucas*) caused by commercial navigation on the Saguenay River.
- 11.3 The Proponent shall inform the Agency, Fisheries and Oceans Canada and First Nations annually of progress made in the implementation of the mitigation measures proposed by the Proponent in section 3 of the response to the 4th Information Request (June 2018) to prevent or reduce cumulative environmental effects on beluga (*Delphinapterus leucas*) caused by commercial navigation on the Saguenay River. The Proponent shall report the results of discussions with Ariane Phosphate about Ariane Phosphate's commitments to maximise the re-use of ships and to use ships with greater capacity (up to 72,000 deadweight tons).

12 Decommissioning

- 12.1 Prior to the end of operation by a Designated Project user, the Proponent shall develop, in consultation with First Nations and relevant authorities, a decommissioning plan. The Proponent shall submit the decommissioning plan to the Agency at least six months prior to the end of these activities. The decommissioning plan shall include a description of:
- 12.1.1 the components of the Designated Project that will be decommissioned by the Proponent and those that will not;
 - 12.1.2 how the Proponent will conduct in-water and land-based decommissioning activities (including the location, scheduling and sequencing of activities);
 - 12.1.3 the potential adverse environmental effects of decommissioning and of those components of the Designated Project that will not be decommissioned;
 - 12.1.4 how the Proponent will mitigate and monitor the potential adverse environmental effects referred to in condition 12.1.3;
 - 12.1.5 a strategy for progressive reclamation, if appropriate;
 - 12.1.6 all consultations undertaken by the Proponent during the development of the decommissioning plan, including all the views of First Nations and advice of relevant authorities received during the consultation and how the Proponent took these views and advice into account during the development of the plan; and
 - 12.1.7 how First Nations and relevant authorities will be consulted through decommissioning and the timelines of that consultation.
- 12.2 The Proponent shall implement the decommissioning plan referred to in condition 12.1 during decommissioning.
- 12.3 The Proponent shall submit a written report to the Agency no later than 90 days after the end of decommissioning activities included in the decommissioning plan referred to in condition 12.1. The report shall include a description of:
- 12.3.1 the decommissioning activities carried out and the components of the Designated Project decommissioned by the Proponent;
 - 12.3.2 the adverse environmental effects caused by the decommissioning activities or the components of the Designated Project that have not been decommissioned;
 - 12.3.3 the mitigation measures that have been implemented by the Proponent to mitigate the adverse environmental effects referred to in condition 12.3.2 and the results of the monitoring associated with the decommissioning; and
 - 12.3.4 how the site of the Designated Project will be maintained until there is another user, if appropriate.

13 Accidents and malfunctions

- 13.1 The Proponent shall take all reasonable measures to prevent accidents and malfunctions that may result in adverse environmental effects.

- 13.2 The Proponent shall, prior to construction, consult with First Nations and relevant authorities on the measures to be implemented to prevent accidents and malfunctions.
- 13.3 The Proponent shall, prior to construction and in consultation with First Nations and relevant authorities, develop an accident and malfunction response plan in relation to the Designated Project. The accident and malfunction response plan shall include the types of accidents and malfunctions that may cause adverse environmental effects.
- 13.4 In the event of an accident or malfunction with the potential to cause adverse environmental effects, the Proponent shall implement the accident and malfunction response plan referred to in condition 13.3 and shall:
- 13.4.1 notify, as soon as possible, First Nations, potentially affected parties and relevant authorities of the accident or malfunction, and notify the Agency in writing no later than 24 hours following the accident or malfunction. For the notification to First Nations and the Agency, the Proponent shall specify:
 - 13.4.1.1 the date the accident or malfunction occurred;
 - 13.4.1.2 a description of the accident or malfunction;
 - 13.4.1.3 a list of any substances potentially released in the environment as a result of the accident or malfunction.
 - 13.4.2 implement immediate measures to mitigate any adverse environmental effects associated with the accident or malfunction;
 - 13.4.3 submit a written report to the Agency no later than 30 days after the day on which the accident or malfunction took place. The written report shall include:
 - 13.4.3.1 a description of the accident or malfunction and of its adverse environmental effects;
 - 13.4.3.2 the measures that were taken by the Proponent to mitigate the adverse environmental effects of the accident or malfunction;
 - 13.4.3.3 any views from First Nations and potentially affected parties and advice from relevant authorities received with respect to the accident or malfunction, its adverse environmental effects, or measures taken by the Proponent to mitigate adverse environmental effects;
 - 13.4.3.4 a description of any residual adverse environmental effects and any modified or additional measures required by the Proponent to mitigate residual adverse environmental effects;
 - 13.4.3.5 details concerning the implementation of the accident or malfunction response plan referred to in condition 13.3; and
 - 13.4.4 submit a written report to the Agency no later than 90 days after the day on which the accident or malfunction took place, on the changes made to avoid a subsequent occurrence of the accident or malfunction and on the implementation of any modified or additional measure(s) to mitigate and monitor residual adverse environmental effects, taking into account the information in the written report submitted pursuant to condition 13.4.3. The report shall include all additional views from First Nations and potentially affected parties and advice from relevant authorities received since the views and advice referred to in condition 13.4.3.3 have been received by the Proponent.

- 13.5 The Proponent shall develop, prior to construction, a communication plan in consultation with First Nations. The Proponent shall implement and maintain the communication plan up to date during all phases of the Designated Project. The plan shall include:
- 13.5.1 the types of accidents and malfunctions requiring the Proponent to notify the respective First Nations;
 - 13.5.2 the manner by which First Nations shall be notified by the Proponent of an accident or malfunction and of any opportunities for the First Nations to assist in the response to the accident or malfunction; and
 - 13.5.3 the contact information of the representatives of the Proponent that the First Nations may contact and of the representatives of the respective First Nations to which the Proponent provides notification.

14 Schedules

- 14.1 The Proponent shall submit to the Agency a schedule for all conditions set out in this document no later than 60 days prior to the start of construction. This schedule shall detail all activities planned by the Proponent to fulfill each condition set out in this document and the commencement and estimated completion month(s) and year(s) for each of these activities.
- 14.2 The Proponent shall submit to the Agency a schedule outlining all activities required to carry out all phases of the Designated Project no later than 60 days prior to the start of construction. The schedule shall indicate the commencement and estimated completion month(s) and year(s) and duration of each of these activities.
- 14.3 The Proponent shall submit to the Agency in writing an update to the schedules referred to in condition 14.1 and 14.2 every year no later than December 31, until completion of all activities referred to in each schedule.
- 14.4 The Proponent shall provide to the Agency revised schedule(s) if any change(s) are made to the initial schedules referred to in condition 14.1 and 14.2 or to any subsequent update(s) referred to in condition 14.3, upon revision of the schedule(s).

15 Record keeping

- 15.1 The Proponent shall maintain all records relevant to the implementation of the conditions set out in this document. The Proponent shall provide the aforementioned records to the Agency upon demand within a timeframe specified by the Agency.
- 15.2 The Proponent shall retain all records referred to in condition 15.1 at a facility in Canada. The records shall be retained and made available throughout construction and operation and for 10 years following the definitive end of operation. The Proponent shall notify the Agency at least 30 days prior to any change to the physical location of the facility where the records are retained, and shall provide the address of the new location.
- 15.3 The Proponent shall notify the Agency of any change to the contact information of the Proponent.