

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

The Impact Assessment Agency of Canada is contemplating the following potential conditions in relation to the Boat Harbour Remediation Project (the Designated Project) located in Nova Scotia for recommendation to the Minister of the Environment (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.

Pursuant to subsection 306(2) of the *Budget Implementation Act, 2024* a Decision Statement issued by the Minister under subsection 54(1) of the *Canadian Environmental Assessment Act, 2012* is deemed to be a Decision Statement issued under subsection 65(1) of the *Impact Assessment Act*.

1 Definitions

- 1.1 *Agency* means the Impact Assessment Agency of Canada.
- 1.2 *Baseline* means the environmental conditions prior to initiating site preparation of the Designated Project.
- 1.3 *Closure* means the phase of the Designated Project during which the Proponent undertakes construction of a temporary water main and causeway, construction of a final bridge and associated infrastructure, dam removal, dredging of the estuary to match the channel shape and depth required for the bridge, construction of containment cell infrastructure to support monitoring, installation of a final cover on the containment cell, demolition of historic treatment buildings, and infilling, regrading, and seeding of construction areas where wetlands were permanently removed.
- 1.4 *Contact water* means water that has come into contact with any Designated Project components, including leachate from the containment cell and dewatering effluent.
- 1.5 *Days* means calendar days.
- 1.6 *Designated Project* means the Boat Harbour Remediation Project as described in chapter 2 of the Draft Environmental Assessment Report prepared by the Impact Assessment Agency of Canada (Canadian Impact Assessment Registry Reference Number 80164).
- 1.7 *Environment and Climate Change Canada* means the Department of the Environment as established under subsection 2(1) of the *Department of the Environment Act*.
- 1.8 *Environmental assessment* means “environmental assessment” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.

- 1.9 *Environmental Assessment Report* means the draft report prepared by the Impact Assessment Agency of Canada pursuant to subsection 25(2) of the *Canadian Environmental Assessment Act, 2012* (Canadian Impact Assessment Registry Reference Number 80164).
- 1.10 *Environmental effects* means “environmental effects” as described in section 5 of the *Canadian Environmental Assessment Act, 2012*.
- 1.11 *Environmental Impact Statement* means the November 2020 document entitled *Boat Harbour Remediation Project Environmental Impact Statement* (Canadian Impact Assessment Registry Reference Number 80164, Document Number 22).
- 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 *Hazard Quotient* means a ratio that compares the level of exposure to a substance with a reference level that is considered safe or acceptable.
- 1.17 *Health Canada* means the Department of Health as established under subsection 2(1) of the *Department of Health Act*.
- 1.18 *Heritage value* means the aesthetic, historic, scientific, cultural, social or spiritual importance or significance for past, present or future generations.
- 1.19 *Residual human health risk* means the potential for adverse health effects in humans resulting from exposure to hazardous chemicals, substances, or environmental conditions, and that remain after implementing risk management measures. This risk is quantified using different metrics, including the Hazard Quotient and Incremental Lifetime Cancer Risk.
- 1.20 *Incremental Lifetime Cancer Risk* means an estimate of the additional risk of developing cancer over a person’s lifetime due to exposure to a specific chemical or environmental factor, compared to a baseline or unexposed scenario.
- 1.21 *Mi’kmaq of Nova Scotia* means the following Aboriginal Peoples: Acadia First Nation, Annapolis Valley First Nation, Bear River First Nation, Eskasoni First Nation, Glooscap First Nation, Membertou First Nation, Millbrook First Nation, Paqtnkek First Nation, Pictou Landing First Nation, Potlotek First Nation, Sipekne’katik First Nation, Wagmatcook First Nation and We’koqma’q First Nation.
- 1.22 *Listed species at risk* means a species that is listed on the List of Wildlife Species at Risk set out in Schedule 1 of the *Species at Risk Act*.

- 1.23 *Migratory bird* means “migratory bird” as defined in subsection 2(1) of the *Migratory Birds Convention Act, 1994*.
- 1.24 *Mitigation measures* means “mitigation measures” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.25 *Monitoring* means collecting, analyzing, and using information to measure the environmental effects of the Designated Project or to verify the accuracy of the environmental assessment or to determine the effectiveness of any mitigation measure or any of these combined.
- 1.26 *Nova Scotia Communities, Culture, Tourism and Heritage* means the Department of Communities, Culture, Tourism and Heritage established under section 30 of the *Government Administration Amendment (2011) Act*.
- 1.27 *Nova Scotia Environment and Climate Change* means the Department of Environment and Climate Change established under section 156 of the *Environment Act*.
- 1.28 *Offsetting plan* means “offsetting plan” as described in Schedule 1 of the *Authorizations Concerning Fish and Fish Habitat Protection Regulations*.
- 1.29 *Operable exposure pathways* means the complete routes through which contaminants move from their sources to receptors, leading to exposure events. For a pathway to be operable, it must include a contaminant source, mechanism of chemical release, retention of transport media, points of potential contact with contaminated media (exposure points), and an exposure route.
- 1.30 *Participate* means to directly or indirectly assist or support initiatives through the provision of resources, including knowledge, time, data, access and other means that are technically and economically feasible and within the care and control of the Proponent.
- 1.31 *Post-closure* means the phase of the Designated Project that begins when closure and final remediation activities are complete, and ends when the containment cell no longer releases contaminants into the environment based on the results of the continued monitoring activities as set out in conditions in this document.
- 1.32 *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 feasible.
- 1.33 *Proponent* means Build Nova Scotia and its successors or assigns.
- 1.34 *Qualified individual* means someone who, through education, experience and knowledge relevant to a particular matter, provides the Proponent with advice within their area of expertise. Knowledge relevant to a particular matter may include community and Indigenous knowledge.
- 1.35 *Record* means “record” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.

- 1.36 *Reference sites* means locations where background data for contaminants of potential concern may be gathered, that are in proximity to the Site Study Area, have similar environmental conditions to the Site Study Area, and that would not be impacted by the Designated Project.
- 1.37 *Relevant authorities* means federal or provincial authorities or both 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.
- 1.38 *Remediation* means the phase of the Designated Project starting when remediation activities begin and continuing until the start of closure, including periods during which these activities may temporarily cease. This includes removal, dewatering and storage of contaminated materials from wetlands, the estuary, Boat Harbour and associated basins into the containment cell; disposal of construction and demolition waste and processing of non-contaminated organic material to be used as mulch or soil; installation of a temporary cover on the containment cell; and construction and operation of a temporary leachate treatment facility.
- 1.39 *Reporting year* means January 1 to December 31 of the same calendar year.
- 1.40 *Site preparation* means the phase of the Designated Project during which the Proponent undertakes ground disturbance activities as an initial step for the Designated Project components, including periods during which these activities may temporarily cease. This includes vegetation clearing, upgrading of existing roads and containment cell infrastructure, construction of stormwater management infrastructure, decommissioning of the existing pipeline, temporary relocation of waste from the containment cell, and removal of hazardous materials from existing infrastructure.
- 1.41 *Site Study Area* means the geographic area occupied by the Designated Project as identified in Figure 1 of the draft Environmental Assessment Report (Canadian Impact Assessment Registry Reference Number 80164).
- 1.42 *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 associated with an aspect of the history or culture of the people of Canada, including Aboriginal peoples.
- 1.43 *Fish-bearing waterbodies* means “Canadian fisheries waters” as defined in subsection 2(1) of the *Fisheries Act*.
- 1.44 *Wetland* means land that is saturated with water long enough to promote wetland or aquatic processes as indicated by poorly drained soils, hydrophytic vegetation and various kinds of biological activity which are adapted to a wet environment and as further defined in the *Canadian Wetland Classification System*.

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 affecting what may be required of the Proponent to comply with all applicable legislative or legal requirements. In this document, a reference to a statute will include every amendment to it, every regulation made under it, every amendment made to a regulation made under it and any law enacted in substitution for, or in replacement of, it.

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 the most recent version of policies, guidelines and directives and community and Indigenous 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 technically and economically feasible technologies.
- 2.2 The Proponent shall ensure that its actions in meeting the conditions set out in this document are taken in a way that is consistent with any applicable recovery strategy and action plans for listed species at risk.

Consultation

- 2.3 The Proponent shall, where consultation is a requirement of a condition set out in this document:
 - 2.3.1 provide a written notice of the opportunity for the parties being consulted to present their views and information on the subject matter of the consultation;
 - 2.3.2 provide all information available and relevant to the scope and the subject matter of the consultation and a reasonable period of time agreed upon with the parties being consulted, not to be less than 30 days, to prepare their views and information;
 - 2.3.3 undertake an impartial consideration of all views and information presented by the parties being consulted on the subject matter of the consultation; and
 - 2.3.4 advise as soon as feasible the parties being consulted on how the views and information received have, or have not, been integrated into the subject matter of the consultation by the Proponent, and provide a justification.
- 2.4 The Proponent shall provide opportunities for collaboration, and seek mutual agreement with the Mi'kmaq of Nova Scotia with respect to the manner to satisfy the consultation requirements referred to in condition 2.3, including:
 - 2.4.1 methods of notification;
 - 2.4.2 the type of information and the period of time to be provided when seeking input;
 - 2.4.3 the process to be used by the Proponent to undertake impartial consideration of all views and information presented on the subject of the consultation; and
 - 2.4.4 the period of time and the means to advise the Mi'kmaq of Nova Scotia of how their views and information were considered by the Proponent.

- 2.5 The Proponent shall, where consultation with the Mi'kmaq of Nova Scotia is a requirement of a condition set out in this document, consult with Pictou Landing First Nation as the representative of the Mi'kmaq of Nova Scotia unless otherwise requested by any of the Mi'kmaq of Nova Scotia.

Follow-up programs

- 2.6 The Proponent shall, where a follow-up program is a requirement of a condition set out in this document, develop the follow-up program taking into account any guidance documents provided by the Agency and determine, as part of the development of each follow-up program and in consultation with the parties being consulted during the development, the following information, unless otherwise specified in the condition:
- 2.6.1 a description of the effects predictions or mitigation measures or both, that will be evaluated through the follow-up program as required in the particular follow-up program condition;
 - 2.6.2 the methodology, location, frequency, timing and duration of monitoring associated with the follow-up program;
 - 2.6.3 the scope, content and frequency of reporting of the results of the follow-up program to the parties consulted for the development of the follow-up program;
 - 2.6.4 the minimum frequency at which the follow-up program must be reviewed and, if necessary, updated;
 - 2.6.5 the levels of environmental change relative to baseline that would require the Proponent to implement modified or additional mitigation measure(s), including instances where the Proponent may require Designated Project activities causing the environmental change to be stopped;
 - 2.6.6 the technically and economically feasible mitigation measures to be implemented by the Proponent if monitoring conducted as part of the follow-up program shows that the levels of environmental change referred to in condition 2.6.5 have been reached or exceeded in order to return below the level referred to in condition 2.6.5; and
 - 2.6.7 the specific and measurable end points that must be achieved before the follow-up program can end. Those end points should indicate that the accuracy of the environmental assessment has been verified or that the mitigation measures are effective or both.
- 2.7 The Proponent shall update the information determined for each follow-up program pursuant to condition 2.6 during the implementation of each follow-up program, at the minimum frequency determined pursuant to condition 2.6.4 and in consultation with the parties being consulted during the development of each follow-up program.
- 2.8 The Proponent shall provide the details of the follow-up programs referred to in conditions 3.7, 4.6, 5.4, 5.5, 5.6, 5.7 and 5.8, including the information determined for each follow-up program pursuant to condition 2.6, to the Agency and to the parties being consulted during the development of each follow-up program prior to the implementation of each follow-up program. The Proponent shall also provide any update made pursuant to condition 2.7 to the Agency and to the parties being consulted during the development of each follow-up program within 30 days of the follow-up program being updated.

- 2.9 The Proponent shall, where a follow-up program is a requirement of a condition set out in this document:
- 2.9.1 implement the follow-up program according to the information determined pursuant to condition 2.6 and any requirement specified in conditions specific to each follow-up program;
 - 2.9.2 conduct monitoring and analysis to verify the accuracy of the environmental assessment predictions as it pertains to the particular condition or to determine the effectiveness of any mitigation measure or both;
 - 2.9.3 determine whether modified or additional mitigation measure(s) are required based on the monitoring and analysis undertaken pursuant to condition 2.9.2;
 - 2.9.4 if modified or additional mitigation measure(s) are required pursuant to condition 2.9.3, develop and implement these mitigation measure(s) as soon as feasible and monitor them pursuant to condition 2.9.2. The Proponent shall notify the Agency in writing within 24 hours of any modified or additional mitigation measure being implemented. If the Proponent implements any additional or modified mitigation measure not previously submitted to the Agency pursuant to condition 2.6, the Proponent shall submit a detailed description of the measure(s) to the Agency within 7 days of their implementation; and
 - 2.9.5 report all results of the follow-up program, including whether assessment predictions are accurate or mitigation measures are effective, or both as required in the follow-up program condition, to the Agency no later than March 31 following each reporting year during which the follow-up program is implemented and, subject to information determined pursuant to condition 2.6.3, to the parties being consulted during the development of the follow-up program.
- 2.10 Where consultation with the Mi'kmaq of Nova Scotia is a requirement of a follow-up program, the Proponent shall discuss the follow-up program with the Mi'kmaq of Nova Scotia and shall determine opportunities for their participation and the resources required to support their participation in the implementation of the follow-up program, including the conduct of monitoring, the analysis and reporting of follow-up results and the determination of whether modified or additional mitigation measure(s) are required, as set out in condition 2.9.

Annual reporting

- 2.11 The Proponent shall prepare an annual report for each reporting year that sets out:
- 2.11.1 the activities undertaken by the Proponent to comply with each of the conditions set out in this document;
 - 2.11.2 how the Proponent complied with condition 2.1;
 - 2.11.3 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;
 - 2.11.4 the information referred to in conditions 2.6 for each follow-up program and any update to that information made pursuant to condition 2.9;

- 2.11.5 a summary of the information reported pursuant to condition 2.9.5 for each follow-up program;
 - 2.11.6 for any plan that is a requirement of a condition set out in this document, any update(s) to the plan that have been made during the reporting year; and
 - 2.11.7 any modified or additional mitigation measure implemented or proposed to be implemented by the Proponent, as determined pursuant to condition 2.9.
- 2.12 The Proponent shall submit the annual report referred to in condition 2.11 to the Agency, including a plain language executive summary in both official languages, no later than March 31 following the reporting year to which the annual report applies.
- 2.13 The first reporting year for which the Proponent shall prepare an annual report pursuant to condition 2.11 shall start on the day the Minister of the Environment issues the Decision Statement pursuant to subsection 54 (1) of the *Canadian Environmental Assessment Act, 2012*.

Information sharing

- 2.14 The Proponent shall publish on the Internet, or any medium which is publicly available, the annual reports and the summaries referred to in conditions 2.11 and 2.12, the protocol referred to in condition 5.2, the reports related to accidents and malfunctions referred to in conditions 9.5.3 and 9.5.4, the communication plan for accidents and malfunctions referred to in condition 9.6, the schedules referred to in conditions 10.1 and 10.2, and any update or revision to the above documents, upon submission of these documents to the parties consulted for the respective conditions. The Proponent shall keep these documents publicly available for 25 years following the end of closure, or until the end of post-closure, whichever comes first. The Proponent shall notify the Mi'kmaq of Nova Scotia and the Agency in writing of the availability of these documents within 48 hours of their publication.
- 2.15 When the development of any plan is a requirement of a condition set out in this document, the Proponent shall submit the plan to the Agency prior to its implementation, unless otherwise required through the condition.

Change of Proponent

- 2.16 The Proponent shall notify the Mi'kmaq of Nova Scotia and the Agency in writing no later than 30 days after the day on which there is any transfer of ownership, care, control or management of the Designated Project in whole or in part.

Change to the Designated Project

- 2.17 If the Proponent is proposing to carry out the Designated Project in a manner other than described in condition 1.6, the Proponent shall notify the Agency in writing in advance of carrying out the proposed activities. As part of the notification, the Proponent shall provide:
- 2.17.1 a description of the proposed change(s) to the Designated Project and the environmental effects that may result from the proposed change(s);

- 2.17.2 any modified or additional measure to mitigate any environmental effect that may result from the proposed change(s) and any modified or additional follow-up requirement; and
 - 2.17.3 an explanation of how, taking into account any modified or additional mitigation measure referred to in condition 2.17.2, the environmental effects that may result from the proposed change(s) may differ from the environmental effects of the Designated Project identified during the environmental assessment.
- 2.18 The Proponent shall provide to the Agency any additional information required by the Agency about the proposed change(s) referred to in condition 2.17, which may include the results of consultation with the Mi'kmaq of Nova Scotia and relevant authorities on the proposed change(s) and environmental effects referred to in condition 2.17.1 and the modified or additional mitigation measures and follow-up requirements referred to in condition 2.17.2.

3 Fish and fish habitat

- 3.1 The Proponent shall develop, prior to site preparation and to the satisfaction of Fisheries and Oceans Canada and in consultation with the Mi'kmaq of Nova Scotia, and implement any offsetting plan(s) to offset effects from the harmful alteration, disruption, or destruction of fish and fish habitat, and the death of fish associated with the carrying out of the Designated Project. The Proponent shall provide the approved offsetting plan(s) to the Agency before implementing them.
- 3.2 The Proponent shall, for any fish habitat offsetting measure proposed in any offsetting plan referred to in condition 3.1 that may cause adverse environmental effects not considered in the environmental assessment, develop and implement, following consultation with the Mi'kmaq of Nova Scotia and relevant authorities, measures to mitigate those effects. The Proponent shall provide these measures to the Agency before implementing them.
- 3.3 The Proponent shall implement, during all phases of the Designated Project, measures to protect fish and fish habitat when undertaking activities in or near fish-bearing waterbodies, in a manner that complies with any authorization issued under the *Fisheries Act*. In doing so, the Proponent shall:
 - 3.3.1 conduct activities in or near fish-bearing wetlands and the estuary in accordance with Fisheries and Oceans Canada's *Timing Windows to Conduct Projects In or Around Water*, unless otherwise authorized by Fisheries and Oceans Canada;
 - 3.3.2 maintain, during all phases of the Designated Project, a buffer of undisturbed vegetation of at least 15 metres from the high-water mark around all fish-bearing waterbodies within and adjacent to the Site Study Area, in a manner that complies with any authorization issued under the *Fisheries Act*. If Designated Project activities within 15 metres of the waterbodies are required, the Proponent shall implement measures to limit rutting, diversion of water flow and sedimentation while conducting these activities, including using weight-distributing materials under machinery and floating equipment;
 - 3.3.3 develop, in consultation with the Mi'kmaq of Nova Scotia, Fisheries and Oceans Canada and any other relevant authorities, and implement prior to any Designated Project activity requiring the removal of fish habitat in the Site Study Area, a protocol to euthanize fish in

Boat Harbour and fish-bearing wetlands impacted by Designated Project activities, and to capture fish in the estuary and relocate them; and

- 3.3.4 identify, as part of the protocol referred to in condition 3.3.3 and in consultation with the Mi'kmaq of Nova Scotia, opportunities for the Mi'kmaq of Nova Scotia to take part in the euthanization, and the capture and relocation of fish.
- 3.4 The Proponent shall conduct, prior to dam removal and in consultation with Fisheries and Oceans Canada and Environment and Climate Change Canada, modeling of sediment transport and deposition in the Northumberland Strait as a result of dam removal. In doing so, the Proponent shall:
 - 3.4.1 identify, in consultation with Fisheries and Oceans Canada and Environment and Climate Change Canada, modeling parameters, scenarios, including dismantling the dam gradually over different time scales and other dam removal approaches, and any other measures that mitigate sediment transport and deposition to be included in modeling;
 - 3.4.2 conduct modeling by incorporating the parameters, scenarios and measures identified pursuant to condition 3.4.1; and
 - 3.4.3 develop and implement modified or additional mitigation measures based on the results of modeling conducted pursuant to condition 3.4.2, to mitigate effects from dam removal on fish and fish habitat in the Northumberland Strait. The Proponent shall provide the measures to the Agency before implementing them.
 - 3.5 The Proponent shall develop, prior to dam removal and in consultation with the Mi'kmaq of Nova Scotia, Fisheries and Oceans Canada, Environment and Climate Change Canada, and any other relevant authorities, and implement during dam removal, measures to control erosion and sedimentation, as a result of dam removal in fish-bearing waterbodies within the Site Study Area and the introduction of tidal influence in Boat Harbour, in a manner that complies with the *Fisheries Act* and its regulations, and taking into account Fisheries and Oceans Canada's *Measures to Protect Fish and Fish Habitat*. The Proponent shall provide the measures to the Agency before implementing them. As part of these measures, the Proponent shall:
 - 3.5.1 implement and maintain energy dissipation measures to control flows and sediment transport. Measures shall include operating water control components in a manner that controls the release of water and sediment transport into the marine environment, and dismantling the dam and water control structures in a progressive manner;
 - 3.5.2 install, prior to dam removal, and maintain, during dam removal, rock armour throughout the estuary to minimize scouring; and
 - 3.5.3 conduct dam removal in late fall or early winter to avoid sensitive timing windows for fish and impacts to fishing activities for current use of lands and resources by the Mi'kmaq of Nova Scotia.
 - 3.6 The Proponent shall collect and treat leachate from the containment cell, and treat contact water in Boat Harbour as necessary, in accordance with the pollution prevention provisions of the *Fisheries Act*, prior to releasing it into the estuary. When treating leachate and contact water, the Proponent shall also take into account the Canadian Council of Ministers of the Environment's *Canadian Water Quality Guidelines for the Protection of Aquatic Life*.

- 3.7 The Proponent shall develop, prior to site preparation and in consultation with the Mi'kmaq of Nova Scotia, Fisheries and Oceans Canada, Environment and Climate Change Canada and any other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and the effectiveness of mitigation measures as they pertain to the effects from removal of the dam on water quality and sediment deposition as predicted in modeling conducted pursuant to condition 3.4. The Proponent shall implement the follow-up program during all phases of the Designated Project. As part of the follow-up program, the Proponent shall:
- 3.7.1 monitor, prior to dam removal and continuing through post-closure, benthic habitat, including substrate types, macrofaunal and macrofloral species, and eelgrass (*Zostera marina*) in the estuary and the Northumberland Strait embayment area north of the estuary, and in other areas identified in consultation with Fisheries and Oceans Canada, including sensitive benthic habitat; and
 - 3.7.2 monitor, prior to dam removal and continuing through post-closure, surface water quality, including total suspended solids and the extent and thickness of sediment deposition in the estuary and the Northumberland Strait embayment area north of the estuary, and in other areas identified in consultation with Fisheries and Oceans Canada, including sensitive benthic habitat.

4 Migratory birds

- 4.1 The Proponent shall carry out the Designated Project in a manner that protects migratory birds and avoids capturing, killing, taking, injuring or harassing migratory birds or destroying, taking or disturbing their eggs, or damaging, destroying, removing or disturbing their nests, while taking into account Environment and Climate Change Canada's *Guidelines to avoid harm to migratory birds*.
- 4.2 The Proponent shall determine the presence, or likely presence of migratory bird nest(s) protected under the *Migratory Birds Convention Act, 1994* and its regulations that may be adversely affected by any Designated Project activity prior to initiating the activity.
- 4.3 The Proponent shall delineate, as determined by and under the direction of a qualified individual, set back distances around the nest(s) whose presence or likely presence is determined pursuant to condition 4.2 within which that activity shall not occur while those nests are protected under the *Migratory Birds Convention Act, 1994* and its regulations.
- 4.4 The Proponent shall control lighting within the Site Study Area during all phases of the Designated Project by aiming lighting downwards at nighttime to mitigate adverse effects on migratory birds while meeting health and safety requirements for Designated Project employees and contractors.
- 4.5 The Proponent shall develop, prior to site preparation and in consultation with the Mi'kmaq of Nova Scotia, Environment and Climate Change Canada and any other relevant authorities, measures to prevent migratory birds from using dredged wetlands, the settling basins, the aeration stabilization basin, the containment cell, and areas of the Site Study Area where contact water is stored or conveyed. Measures shall include installing and maintaining deterrents and shall be implemented prior to site preparation and continuing until the dredged wetland or Project infrastructure where contact water is stored or conveyed has been reclaimed.

- 4.6 The Proponent shall develop, prior to site preparation and in consultation with the Mi'kmaq of Nova Scotia, Environment and Climate Change Canada, and any other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and to determine the effectiveness of all measures used to comply with conditions 4.1 to 4.5. The Proponent shall implement the follow-up program during all phases of the Designated Project.

5 Health and socio-economic conditions of Indigenous peoples

- 5.1 The Proponent shall implement, from site preparation and continuing through closure, measures to mitigate fugitive dust and particulate emissions within the Site Study Area. In doing so, the Proponent shall:
- 5.1.1 apply water or other dust suppressants on access roads during periods when dust generation is expected or occurring, including periods of drought and high winds, taking into account the document *Best Practices for the Reduction of Air Emissions from Construction and Demolition Activities (2005)* prepared for Environment and Climate Change Canada;
 - 5.1.2 cover all soil and aggregate material stored in stockpiles or being transported within the Site Study Area to reduce particulate matter emissions from wind exposure;
 - 5.1.3 develop and implement policies to reduce the fuel consumption of equipment and vehicles operating in the Site Study Area, including a no-idling policy, taking into account the document *Best Practices for the Reduction of Air Emissions from Construction and Demolition Activities (2005)* prepared for Environment and Climate Change Canada;
 - 5.1.4 establish speed limits on all roads located in the Site Study Area taking into account the recommended speed limits in the document *Best Practices for the Reduction of Air Emissions from Construction and Demolition Activities (2005)* prepared for Environment and Climate Change Canada. The Proponent shall post these speed limits along the Designated Project roads and require all persons to abide by these speed limits; and
 - 5.1.5 ensure all equipment and vehicles used, including equipment and vehicles operated by third-party contractors, are serviced and maintained in accordance with the manufacturer's maintenance guidelines to meet or exceed applicable emission standards, including Tier 4 emission standards for off-road equipment with off-road diesel engines, pursuant to the *Off-Road Compression-Ignition (Mobile and Stationary) and Large Spark-Ignition Engine Emission Regulations* and *Off-Road Compression-Ignition Engine Emission Regulations*.
- 5.2 The Proponent shall develop, prior to site preparation and in consultation with the Mi'kmaq of Nova Scotia and relevant authorities, and implement during all phases of the Designated Project, a protocol for receiving and addressing complaints related to the exposure to noise and odours generated by the Designated Project. The Proponent shall provide the protocol to the Agency and the Mi'kmaq of Nova Scotia prior to site preparation, and make the protocol publicly available online. As part of the protocol, the Proponent shall:
- 5.2.1 identify how a person may provide a complaint, how the Proponent will record and address the complaint received, including developing an approach for ranking and responding to the complaint based on the anticipated level of noise or odour impacts, and

how the Proponent will implement modified or additional mitigation measures(s) or follow-up requirement(s) or both in response to the complaint; and

- 5.2.2 implement, as soon as technically feasible, any modified or additional mitigation measure or follow-up requirement or both that the Proponent deems necessary to respond to the complaint received.
- 5.3 The Proponent shall develop, in consultation with the Mi'kmaq of Nova Scotia, Health Canada, Nova Scotia Environment and Climate Change, and any other relevant authorities, a Human Health Risk Assessment to assess post-remediation risks to the health of the Mi'kmaq of Nova Scotia from the Designated Project. The Proponent shall establish the timeline for completion of the Human Health Risk Assessment in consultation with the Mi'kmaq of Nova Scotia, Health Canada, and any other relevant authorities, and take into account the results of monitoring conducted pursuant to condition 5.3.2 in establishing the timeline. As part of the Human Health Risk Assessment the Proponent shall:
 - 5.3.1 identify, in consultation with the Mi'kmaq of Nova Scotia and Health Canada, the locations including reference sites, where monitoring of soil, sediment, country foods, air, groundwater and surface water shall be conducted and the frequency of monitoring, in relation to the Human Health Risk Assessment;
 - 5.3.2 monitor, during post-closure, soil, sediment, country foods, air, groundwater and surface water, at the locations and frequency identified pursuant to condition 5.3.1, unless otherwise conducted pursuant to conditions 5.4 to 5.7;
 - 5.3.3 incorporate the results of monitoring conducted pursuant to condition 5.3.2, including relevant monitoring conducted pursuant to conditions 5.4 to 5.7, into the Human Health Risk Assessment;
 - 5.3.4 identify contaminants of potential concern, potential human receptors, and operable exposure pathways, based on the results of monitoring conducted pursuant to condition 5.3.2;
 - 5.3.5 determine, in consultation with Health Canada, post-remediation residual human health risks and whether the risks are acceptable taking into account Health Canada's *Guidance for Evaluating Human Health Effects in Impact Assessment: Human Health Risk Assessment*, for the following:
 - 5.3.5.1 dioxins and furans, vanadium and any contaminant of potential concern that exceeds human health-based provincial or federal standards for environmental quality criteria, or exceeds concentrations at reference sites, in sediment, soil, country foods, air, groundwater or surface water based on the results of monitoring conducted pursuant to condition 5.3.2, including relevant monitoring conducted pursuant to conditions 5.4 to 5.7; and
 - 5.3.6 if the results of the Human Health Risk Assessment identify unacceptable residual human health risks pursuant to condition 5.3.5, develop, in consultation with the Mi'kmaq of Nova Scotia and Health Canada, and implement modified or additional mitigation measures pursuant to condition 2.9.
- 5.4 The Proponent shall develop, prior to dam removal and in consultation with the Mi'kmaq of Nova Scotia, Health Canada, Nova Scotia Environment and Climate Change and any other relevant

authorities, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as they pertain to the adverse environmental effects from the Designated Project on the health of the Mi'kmaq of Nova Scotia caused by concentrations of contaminants remaining in sediment after remediation. The Proponent shall implement the follow-up program prior to dam removal through post-closure. As part of the implementation of the follow-up program, the Proponent shall:

- 5.4.1 identify the contaminants of potential concern to be monitored in sediment, including dioxins and furans and vanadium;
 - 5.4.2 identify the locations where the contaminants of potential concern identified pursuant to condition 5.4.1 shall be monitored;
 - 5.4.3 monitor, prior to dam removal and continuing through post-closure, the contaminants of potential concern identified pursuant to condition 5.4.1 in sediment at locations identified pursuant to condition 5.4.2; and
 - 5.4.4 if the results of monitoring referred to in condition 5.4.3 indicate that contaminants of potential concern exceed the remedial objectives for the Designated Project established during the provincial industrial approval process pursuant to the *Nova Scotia Environment Act*, implement modified or additional mitigation measures pursuant to condition 2.9. The Proponent shall provide the remedial objectives to the Agency once established.
- 5.5 The Proponent shall develop, prior to the site preparation and in consultation with the Mi'kmaq of Nova Scotia, Health Canada and any other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as they pertain to the adverse environmental effects from the Designated Project on the health of the Mi'kmaq of Nova Scotia caused by changes to country foods, including vegetation, wildlife and fish. The Proponent shall implement the follow-up program prior to site preparation and continuing during all phases of the Designated Project. As part of the implementation of the follow-up program, the Proponent shall:
- 5.5.1 identify, during all phases of the Designated Project and in consultation with the Mi'kmaq of Nova Scotia, the species of vegetation, wildlife and fish, including shellfish, consumed or intended to be consumed as country foods that may be adversely affected by the Designated Project and the locations within and adjacent to the Site Study Area where these species shall be monitored;
 - 5.5.2 identify, in consultation with the Mi'kmaq of Nova Scotia, Health Canada and any other relevant authorities, the contaminants of potential concern to be monitored in country foods identified pursuant to condition 5.5.1 and the target levels of contaminants of potential concern in tissues for country foods established pursuant to condition 2.6.5;
 - 5.5.3 monitor, prior to site preparation and continuing through post-closure, contaminants of potential concern identified pursuant to condition 5.5.2 in the species and at the locations identified pursuant to condition 5.5.1; and
 - 5.5.4 if the results of monitoring referred to in condition 5.5.3 indicate that contaminants of potential concern exceed target levels established pursuant to condition 5.5.2, implement modified or additional mitigation measures pursuant to condition 2.9.

- 5.6 The Proponent shall develop, prior to site preparation and in consultation with the Mi'kmaq of Nova Scotia, Health Canada, and any other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as they pertain to the adverse environmental effects from the Designated Project on the health of the Mi'kmaq of Nova Scotia caused by changes to air quality. The Proponent shall implement the follow-up program prior to site preparation and continuing during all phases of the Designated Project. As part of the implementation of the follow-up program, the Proponent shall:
- 5.6.1 identify, in consultation with the Mi'kmaq of Nova Scotia, Health Canada, and any other relevant authorities:
 - 5.6.1.1 contaminants of potential concern to be monitored, including total suspended particles, PM₁₀, PM_{2.5}, diesel particulate matter, volatile organic compounds, polycyclic aromatic hydrocarbons, and reduced sulfur compounds;
 - 5.6.1.2 locations where the contaminants of potential concern identified pursuant to condition 5.6.1.1 shall be monitored;
 - 5.6.1.3 contaminants of potential concern associated with landfill gas emissions from the containment cell to be monitored, including volatile organic compounds and reduced sulfur compounds; and
 - 5.6.1.4 locations where the contaminants of potential concern associated with landfill gas emissions from the containment cell identified pursuant to condition 5.6.1.3 shall be monitored.
 - 5.6.2 monitor, prior to site preparation and continuing through closure, ambient air concentrations of contaminants of potential concern identified pursuant to condition 5.6.1.1 at locations identified pursuant to condition 5.6.1.2;
 - 5.6.3 monitor, during closure and post-closure, ambient air concentrations of contaminants of potential concern associated with the containment cell identified pursuant to condition 5.6.1.3 at locations identified pursuant to condition 5.6.1.4;
 - 5.6.4 monitor, prior to site preparation and continuing through closure and at locations upwind and downwind of the Site Study Area, meteorological conditions including wind speed, wind direction, temperature, and relative humidity; and
 - 5.6.5 if the results of monitoring referred to in condition 5.6.2 or 5.6.3 indicate that contaminants of potential concern exceed predicted levels identified in Table 6.1 and 6.2 of Appendix U in the Environmental Impact Statement as a result of the Designated Project, taking into account the results of monitoring meteorological conditions pursuant to condition 5.6.4, implement modified or additional mitigation measures pursuant to condition 2.9.
- 5.7 The Proponent shall develop, prior to site preparation and in consultation with the Mi'kmaq of Nova Scotia, Health Canada, Nova Scotia Environment and Climate Change, and any other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as they pertain to the adverse environmental effects from the Designated Project on the health of the Mi'kmaq of Nova Scotia caused by changes to drinking water quality and quantity. The Proponent shall implement the follow-up program prior to site preparation and continuing during all phases of the Designated Project. As part of the implementation of the follow-up program, the Proponent shall:

- 5.7.1 identify contaminants of potential concern to be monitored, including fluoride, nitrogen, total suspended solids, phenols, dioxins and furans;
 - 5.7.2 identify the locations where groundwater quality and quantity shall be monitored within the Site Study Area, including the Pictou Landing First Nation wellfield identified in Figure 7.1-14 of the Environmental Impact Statement, and at a minimum the wells identified in Figures 7.14-12 and 7.1-14 of the Environmental Impact Statement with the potential to measure effects to drinking water quality;
 - 5.7.3 monitor groundwater, prior to site preparation and continuing through post-closure, for contaminants of potential concern identified pursuant to condition 5.7.1 and static water levels, at locations identified pursuant to condition 5.7.2; and
 - 5.7.4 if the results of monitoring referred to in condition 5.7.3 indicate that contaminants exceed the thresholds in Health Canada's *Guidelines for Canadian Drinking Water Quality*, implement modified or additional measures pursuant to condition 2.9.
- 5.8 The Proponent shall develop and implement, prior to site preparation and in consultation with the Mi'kmaq of Nova Scotia, Health Canada, and any other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and determine the effectiveness of the mitigation measures as they pertain to the adverse environmental effects from the Designated Project on the health of the Mi'kmaq of Nova Scotia caused by changes to the acoustic environment. The Proponent shall implement the follow-up program prior to site preparation and continuing during all phases of the Designated Project. As part of the follow-up program, the Proponent shall:
- 5.8.1 identify, in consultation with the Mi'kmaq of Nova Scotia, Health Canada, and any other relevant authorities, the locations of sensitive noise receptors where Indigenous health may be affected, including permanent and seasonal residences;
 - 5.8.2 monitor, prior to site preparation and continuing through closure, sound levels at the sensitive noise receptors identified pursuant to condition 5.8.1; and
 - 5.8.3 if the results of monitoring referred to in condition 5.8.2 indicate that sound levels exceed the thresholds in Health Canada's *Guidance on Evaluating Human Health Impacts in Environmental Assessment: Noise*, implement modified or additional measures pursuant to condition 2.9.

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

- 6.1 The Proponent shall develop, prior to site preparation and in consultation with the Mi'kmaq of Nova Scotia, Nova Scotia Communities, Culture, Tourism and Heritage and any other relevant authorities, and implement, during all phases of the Designated Project, a cultural resource management plan for any structures, sites or things of historical, archaeological, paleontological or architectural significance discovered within the Site Study Area by the Proponent or brought to the attention of the Proponent by the Mi'kmaq of Nova Scotia or another party. As part of the plan, the Proponent shall:
 - 6.1.1 immediately halt work at the location of the discovery, except for actions required to be undertaken to protect the integrity of the discovery;

- 6.1.2 delineate an area of at least 50 metres around the discovery as a no-work zone;
 - 6.1.3 notify the Mi'kmaq of Nova Scotia, Nova Scotia Communities, Culture, Tourism and Heritage and the Agency within 24 hours of the discovery, and allow the Mi'kmaq of Nova Scotia to monitor archaeological works; and
 - 6.1.4 identify procedures to record, analyze, and mitigate the adverse environmental effects of the Designated Project on any discovered structures, sites or things in accordance with all applicable legislative or legal requirements and associated regulations.
- 6.2 The Proponent shall identify, prior to site preparation and in consultation with the Mi'kmaq of Nova Scotia, opportunities for the Mi'kmaq of Nova Scotia to take part in monitoring Designated Project activities that may result in the discovery of any previously unidentified structures, sites or things of historical, archaeological, paleontological or architectural significance within the Site Study Area.
- 6.3 The Proponent shall develop, prior to site preparation and in consultation with the Mi'kmaq of Nova Scotia, and provide mandatory training to all employees and contractors associated with Designated Project activities that may involve physical ground disturbance. The training shall include:
- 6.3.1 how to identify Mi'kmaq of Nova Scotia physical and cultural heritage features or structures, sites or things of historical, archaeological, paleontological or architectural significance within the Site Study Area;
 - 6.3.2 how to implement the cultural resource management plan developed pursuant to condition 6.1;
 - 6.3.3 how to respect Indigenous knowledge protocols, including keeping Indigenous knowledge confidential, if requested;
 - 6.3.4 the locations of sensitive physical and cultural heritage features or structures, sites or things of historical, archaeological, paleontological or architectural significance within the Site Study Area; and
 - 6.3.5 cultural sensitivity in relation to the physical and cultural heritage features or structures, sites or things of historical, archaeological, paleontological or architectural significance within the Site Study Area.

7 Indigenous monitors

- 7.1 The Proponent shall retain, prior to site preparation, the services of Indigenous monitors from the Mi'kmaq of Nova Scotia to observe, record, and report on the implementation of the conditions set out in this document from site preparation through closure. Prior to retaining the services of Indigenous monitors, the Proponent shall undertake a collaborative process to determine, in consultation with the Mi'kmaq of Nova Scotia, the scope, purpose and objectives of the participation of Indigenous monitors and shall provide that information to the Agency prior to site preparation. As part of that process, the Proponent shall determine:
- 7.1.1 how each Indigenous monitor shall be involved in monitoring their areas of interest, including the location, frequency, timing and duration of their participation;

- 7.1.2 how the Proponent shall support the participation of Indigenous monitors, including through the provision of training (including safety or skills certifications), equipment (including personal protective equipment), and access to the Site Study Area;
- 7.1.3 how Indigenous monitors shall collect information and shall communicate that information to the Proponent, the independent environmental monitor referred to in condition 8.1, and the Agency;
- 7.1.4 how monitoring conducted by Indigenous monitors shall be informed by and shall inform the monitoring activities conducted by the independent environmental monitor referred to in condition 8.1 and any other monitor associated with the Designated Project;
- 7.1.5 how each Indigenous monitor shall be involved in Proponent initiated stop work and corrective action processes should non-compliance with the conditions set out in this document be identified; and
- 7.1.6 how the Proponent shall consider the information obtained from Indigenous monitors and how the Proponent shall report to the Mi'kmaq of Nova Scotia and the Agency about how information obtained from Indigenous monitors has been considered by the Proponent, including a rationale for why any action recommended by Indigenous monitors has, or has not, been taken.

8 Independent environmental monitor

- 8.1 The Proponent shall retain, prior to site preparation and in consultation with the Mi'kmaq of Nova Scotia, the services of a third-party independent environmental monitor, who is a qualified individual with experience conducting environmental monitoring in Nova Scotia, to independently observe and record on the implementation of the conditions set out in this document from the start of site preparation and continuing through closure and to report findings to the Proponent and the Agency.
- 8.2 The Proponent shall require the independent environmental monitor to report to the Mi'kmaq of Nova Scotia and the Agency in writing, prior to or concurrent with reporting to the Proponent, if, in their view, any Designated Project activity does not comply with any condition set out in this document from the start of site preparation and continuing through closure. The Proponent shall require the independent environmental monitor to report the information to the Mi'kmaq of Nova Scotia and the Agency at a frequency and in a format determined in consultation with the Mi'kmaq of Nova Scotia and the Agency respectively.

9 Accidents and malfunctions

- 9.1 The Proponent shall take all reasonable measures to prevent accidents and malfunctions that may result in adverse environmental effects and mitigate any adverse environmental effect from accidents and malfunctions that do occur.
- 9.2 The Proponent shall consult, prior to site preparation, the Mi'kmaq of Nova Scotia and relevant authorities about the measures to be implemented to prevent accidents and malfunctions.
- 9.3 The Proponent shall develop, prior to site preparation and in consultation with the Mi'kmaq of Nova Scotia and relevant authorities, and implement, an accidents and malfunctions response

plan in relation to each phase of the Designated Project. The accidents and malfunctions response plan shall include:

- 9.3.1 a description of the types of accidents and malfunctions that may cause adverse environmental effects during any phase of the Designated Project, including:
 - 9.3.1.1 infrastructure malfunction or failure, including of the containment cell liner or cap, the bridge, the stormwater management pond, and the dredge line;
 - 9.3.1.2 erosion and sediment control failure;
 - 9.3.1.3 accidental release of effluent or hazardous materials;
 - 9.3.1.4 vehicular accidents; and
 - 9.3.1.5 fire.
 - 9.3.2 the measures to be implemented in response to each type of accident and malfunction referred to in condition 9.3.1 to mitigate any adverse environmental effect caused by the accident or malfunction, including measures for the response, protection, and rehabilitation of migratory birds, while taking into account Environment and Climate Change Canada's *Guidelines for Wildlife Response Plans*; and
 - 9.3.3 for each type of accident and malfunction referred to in condition 9.3.1, the roles and responsibilities of those involved in the implementation of the measures referred to in condition 9.3.2, including the Proponent, each relevant authority, and any other party that may be called upon to respond to an accident or malfunction.
- 9.4 The Proponent shall maintain the accidents and malfunctions response plan referred to in condition 9.3 up to date during the phase to which it pertains. The Proponent shall submit any updated accidents and malfunctions response plan to the Agency and to parties consulted for the development of the plan within 30 days of the plan being updated.
- 9.5 In the event of an accident or malfunction with the potential to cause adverse environmental effects, including an accident or a malfunction referred to in condition 9.3.1, the Proponent shall immediately implement the measures appropriate to remedy the accident or malfunction, including any measure referred to in condition 9.3.2, and shall:
- 9.5.1 notify relevant authorities with responsibilities related to emergency response, including environmental emergencies, in accordance with applicable legislative and regulatory requirements;
 - 9.5.2 notify, as soon as feasible and pursuant to the communication plan referred to in condition 9.6, the Mi'kmaq of Nova Scotia of the accident or malfunction, and notify the Agency in writing no later than 24 hours following the accident or malfunction. When notifying the Mi'kmaq of Nova Scotia and the Agency, the Proponent shall specify:
 - 9.5.2.1 the date and time when and location where the accident or malfunction occurred;
 - 9.5.2.2 a summary description of the accident or malfunction;
 - 9.5.2.3 a list of any substance potentially released into the environment as a result of the accident or malfunction; and
 - 9.5.2.4 a description of the relevant authorities notified pursuant to condition 9.5.1 and of the relevant authorities engaged in response to the accident or malfunction.

- 9.5.3 submit a written report to the Agency and the Mi'kmaq of Nova Scotia no later than 30 days after the day on which the accident or malfunction occurred. The written report shall include:
 - 9.5.3.1 a detailed description of the accident or malfunction and of its adverse environmental effects;
 - 9.5.3.2 a description of the measures that were taken by the Proponent to mitigate the adverse environmental effects caused by the accident or malfunction;
 - 9.5.3.3 any view from the Mi'kmaq of Nova Scotia and advice from relevant authorities received with respect to the accident or malfunction, its adverse environmental effects and the measures taken by the Proponent to mitigate these adverse environmental effects;
 - 9.5.3.4 a description of any residual adverse environmental effect and any modified or additional measure required by the Proponent to mitigate residual adverse environmental effects; and
 - 9.5.3.5 details concerning the implementation of the accidents and malfunctions response plan referred to in condition 9.3.
- 9.5.4 submit a written report to the Agency and the Mi'kmaq of Nova Scotia no later than 90 days after the day on which the accident or malfunction occurred that takes into account the information submitted in the written report referred to in condition 9.5.3. The written report shall include:
 - 9.5.4.1 a description of the changes made to avoid a subsequent occurrence of the accident or malfunction;
 - 9.5.4.2 a description of the modified or additional measure(s) implemented by the Proponent to mitigate and monitor residual adverse environmental effects and to carry out any required progressive reclamation; and
 - 9.5.4.3 all additional views from the Mi'kmaq of Nova Scotia and advice from relevant authorities received by the Proponent since the views and advice referred to in condition 9.5.3.3 were received by the Proponent.
- 9.6 The Proponent shall develop, in consultation with the Mi'kmaq of Nova Scotia, a communication plan for accidents and malfunctions in relation to the Designated Project. The Proponent shall develop the communication plan prior to site preparation and shall implement and keep it up to date during all phases of the Designated Project. The plan shall include:
 - 9.6.1 the types of accidents and malfunctions requiring the Proponent to notify the Mi'kmaq of Nova Scotia;
 - 9.6.2 the manner by which the Mi'kmaq of Nova Scotia shall be notified by the Proponent of an accident or malfunction identified pursuant to condition 9.6.1 and of any opportunity for the Mi'kmaq of Nova Scotia to assist in the response to the accident or malfunction; and
 - 9.6.3 the names and contact information of the Proponent and the Mi'kmaq of Nova Scotia representatives for the purposes of notifying pursuant to condition 9.6.2.

10 Schedules

- 10.1 The Proponent shall submit to the Mi'kmaq of Nova Scotia, the Agency and any other relevant authorities, and no later than 60 days prior to the start of site preparation, a schedule outlining all

measures planned to fulfill each condition set out in this document, including consultation activities to be conducted pursuant to condition 2.3.1. The schedule shall indicate the commencement and estimated completion month(s) and year(s) and duration for each of these measures and activities.

- 10.2 The Proponent shall submit to the Mi'kmaq of Nova Scotia, the Agency and any other relevant authorities, and no later than 60 days prior to the start of site preparation, a schedule outlining all activities required to carry out all phases of the Designated Project. The schedule shall indicate the commencement and estimated completion month(s) and year(s) and duration of each of these activities.
- 10.3 The Proponent shall submit to the Mi'kmaq of Nova Scotia, the Agency and any other relevant authorities in writing an update to schedules referred to in condition 10.1 and 10.2 every year no later than March 31, until completion of all activities referred to in each schedule.

11 Record keeping

- 11.1 The Proponent shall maintain all records relevant to the implementation of the conditions set out in this document. The Proponent shall retain the records and make them available to the Agency from site preparation through closure, and for 25 years following the end of closure, or until the end of post-closure, whichever comes first. The Proponent shall provide the aforementioned records to the Agency upon demand within a timeframe specified by the Agency.
- 11.2 The Proponent shall retain all records referred to in condition 11.1 at a facility in Canada and shall provide the address of the facility to the Agency. The Proponent shall notify the Agency in writing at least 30 days prior to any change to the physical location of the facility where the records are retained, and shall provide to the Agency the address of the new location.
- 11.3 The Proponent shall notify the Agency in writing of any change to the contact information of the Proponent within 30 days of the change in contact information.