



Ms. Elaine Hardy  
Senior Policy Advisor  
Ministry of Natural Resources and Forestry, Regional Operations Division  
Far North Branch  
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Toronto, ON  
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**RE: Order under 12(4) of the *Far North Act* to exempt Phase 1 and 2 of the Wataynikaneyap transmission line project (EBR Registry Number: 013-3691)**

Dear Ms. Hardy,

I am writing to express concern regarding the recent posting on the Environmental Registry that Wataynikaneyap Power (the Project) has requested an exempting order under section 12(4) of the *Far North Act, 2010* for the transmission line they are developing in the far north of Ontario.

Overall, the request for exemption is premature given the incomplete environmental assessment process, the lack of approved land use plans for communities that will be affected by both Phase 1 and Phase 2 of the Project, and the inability of Ontario to integrate environmental assessment and land use planning processes in the far north. I am also concerned about the ability for Ontario to assess and manage cumulative effects associated with Phase 1 and Phase 2 of the Project, and the lack of strong technical guidance on cumulative effects in land use planning through the draft Far North Land Use Strategy. Finally, we are concerned about the nature and process of the specific exemption being sought as it relates to processes around consultation and approvals with communities in the far north that will be affected by the Project. My comments below expand on these points.

**Premature request for exemption in land use planning given incomplete environmental impact assessment**

WCS Canada scientists have been engaged as an interested party in the consultation process for Wataynikaneyap since 2013 through Ontario's environmental assessment process. We have previously submitted comments on the Terms of Reference (2013) and the draft of the amended EA report for Phase 1 (2017). We recently submitted comments to the Ministry of Environment, Conservation and Parks (MECP) regarding their review of the amended EA report (EAIMS No. 13025).

Our feedback on Phase 1 has focused consistently on concerns about project-level EA processes as they relate to the consideration of preferred and alternative routes, scoping, criteria for assessing potential biophysical and social impacts, and assessment of cumulative effects. These are key issues in northern Ontario when considering the implications of new linear features on wide-ranging species-at-risk such as caribou and wolverine, culturally important species for First Nations such as moose and freshwater fish,

and ecosystem services related to carbon reservoirs and climate regulation and First Nations (e.g., food security).

We have provided specific comments on the impacts of the Project to caribou, a species-at-risk in Ontario, in the Churchill and Brightsand ranges. Caribou in these ranges are below self-sustaining levels based on the Ministry of Natural Resources and Forestry (MNRF) and Environment and Climate Change Canada (ECCC).

Phase 2 has not begun, but is expected to proceed under three separate Class EA processes under Ontario's *Environmental Assessment Act* (EA Act). Class EA processes are for "routine projects that have predictable and manageable environmental effects." This approach in and of itself is a concern since Class EAs are streamlined, self-assessment processes that are effectively "pre-approved". Ontario's Class EA process has already created concern regarding public participation, piecemeal planning, and cumulative effects elsewhere in Ontario<sup>1,2</sup>. At the same time, Ontario has been unwilling to issue "a Part II order" (also known as a "bump-up" order) when requested to require the project to undergo an individual EA (e.g., ECO 2007:42)<sup>3</sup>.

### **Lack of attention to cumulative effects**

I am concerned about Ontario's approach to impact assessment with respect to cumulative effects. The EA process has paid minimal attention to this aspect. I recognize this inadequacy is due, in part, to a lack of provincial requirement for cumulative effects in Ontario's EA Act, and a lack of provincial guidance on cumulative effects assessment (CEA). Similarly, there is a lack of technical guidance on cumulative effects in land use planning the far north. We have previously provided comments on the draft Far North Land Use Strategy.

With respect to the Project, WCS Canada scientists have also argued in the impact assessment process that the cumulative effects assessment for Phase 1 of the Project should scope in Phase 2 as a "reasonably foreseeable future project". Everything we have read from the Project's description to the priority in Ontario's *Long Term Energy Plan* stipulates that Phase 2 depends on Phase 1. To date, our recommendation has not been taken up.

Finally, baseline work conducted by the proponent, even under Ontario's individual impact assessment process, can provide important scientific information that communities can use to support, complement, or contribute to traditional land use and other studies conducted during land use planning, negotiations around impact benefit agreements, etc. This opportunity is foreclosed when the impact assessment is neither completed nor limited to a Class EA process.

### **Lack of clarity around exemption process**

The lack of approved community-based land use plans in the region of the far north that will be affected by both Phase 1 and Phase 2 of the Project is of public concern. I assumed the exemption would fall

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<sup>1</sup> Lindgren, R. D. and B. Dunn. 2010. Environmental Assessment in Ontario: Rhetoric vs. Reality. *Journal of Environmental Law and Practice* 21:279-303. Available online at: <http://www.cela.ca/publications/environmental-assessment-ontario-rhetoric-vs-reality>

<sup>2</sup> McEachren, J., G. S. Whitelaw, D. D. McCarthy, and L. J. S. Tsuji. 2011. The controversy of transferring the Class Environmental Assessment process to northern Ontario, Canada: the Victor Mine Power Supply Project. *Impact Assessment and Project Appraisal* 29:109–120. Available online at: <https://bit.ly/2PkisBU>

<sup>3</sup> Available online at: <https://eco.on.ca/reports/200708-annual-report-getting-to-know/>

under section 12(2)(c) which enables developments like the Project to proceed if “the First Nations in the area support the development, as evidenced by resolutions passed by each of their councils”. However, this is not the exemption being sought by the proponent. While the posting identifies the social and economic benefits as described in the Project, the environmental risks and concerns are being addressed through the impact assessment process, which is not complete.

I also expected the communities affected by the Project (both positive and negative) would respond to this exemption through the consultation process with communities. Yet, consultation is not completed at this time.

As such, the request for exemption under this section presumes *de facto* that consultation under Phase 1 and Phase 2 will be adequate with affected First Nations, and that community-based land use plans are irrelevant to the Project beyond ensuring routes are adequately zoned in any new plans moving forward.

### **Conclusion**

I have described a number of concerns regarding land use planning and impact assessment processes as they relate to the Project and the current request for an exemption. I am also aware of emerging impact assessments for roads in the Ring of Fire which are still not public. I remain concerned about the precedent the Project may set for communities working with multiple Ontario-led planning processes around infrastructure in the far north. Fundamentally, having two concurrent environmental planning processes in the far north around roads and transmission that are not integrated with one another, or able to consider scales beyond the immediate and often narrowed project scope, contributes to public confusion about the process. Importantly, trade-offs in environmental risk and social and biophysical impacts are not transparent in either piecemeal process.

I appreciate the effort made by the Government of Ontario to let the public know about this proposed exemption and thank you for the opportunity to comment. I am happy to discuss these issues further and my contact information is below.

Sincerely yours,



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cc: Environmental Commissioner of Ontario (ECO)