

JUN 08 2022

COR-2022-764

Reg. #2195

Robert Sullivan
Fisheries and Oceans Canada
Real Property Safety and Security
80 East White Hills Road
St. John's NL A1C 5X1
E-mail: robert.sullivan@dfo-mpo.gc.ca

Dear Robert Sullivan;

Re: Middle Brook Fishway Refurbishment

Your proposal has been reviewed by an interdepartmental environmental assessment screening committee and an opportunity to comment has been provided to the public as required by Part X of the Newfoundland and Labrador **Environmental Protection Act**, SNL 2002, cE-14.2. Please be advised that this undertaking is **released** from further environmental assessment subject to the following conditions:

- You are required to uphold all commitments made in your environmental assessment submission to mitigate the effects of the project on the environment.
- The Department of Fisheries, Forestry and Agriculture requires the following:
 - Should instream work overlap with the fish migration period, the Wildlife Division requires a copy of the Fish Relocation Plan for review.
 - No vegetation clearing is to occur within 800 metres of a bald eagle or osprey nest during the nesting season (March 15 to July 31) and 200 metres during the remainder of the year. The 200- metre buffer also applies to all other raptor nests (e.g. Northern Goshawk, Sharp-shinned Hawk, Merlin, American Kestrel, Great-horned Owl, Boreal Owl, Northern Saw-whet Owl). The location of any raptor nest sites must be reported to the Wildlife Division. For more information, please contact the Wildlife Division at (709) 729-2025.
- You are required to advise the Environmental Assessment Division when the conditions of release have been met, by emailing a written description, documents, and images (where applicable) to demonstrate that the conditions have been fulfilled to EAPProjectComments@gov.nl.ca.



- You are required to update the Environmental Assessment Division on the status of your project, including a copy of all permits, licences, certificates, approvals and other authorizations required for your project, one year from the date of this release letter and to provide additional updates if required. Please email your project updates to EAProjectComments@gov.nl.ca.

Federal and provincial government departments and agencies that reviewed your project during the environmental assessment provide the following advice:

The Pollution Prevention Division (PPD) of my Department recommends that you review the Treated Wood Waste and the Protocol of the Management of Excavated Soils, Concrete Rubble and Dredge Material. These documents can be found online at <https://www.gov.nl.ca/ecc/env-protection/waste/#wmsgd>. The PPD advises that you should have spill response equipment readily available on site in order to ensure a quick and effective response to a spill event. The PPD recommends that you develop a contingency plan specific to the proposed undertaking to enable a quick and effective response to a spill event. For more information, please contact the PPD at (709) 729-5782.

The Water Resources Management Division (WRMD) of my Department advises that a Section 48 permit is required for the refurbishing of the existing deteriorated fishway. You must apply for and obtain this permit prior to the start of work. The WRMD further advises you to consider that for weir structures, anything higher than one (1) metre is a dam, which requires approval the **Water Resources Act**.

The Water Resources Management Division further notes that there is an active hydrometric station that measures water level and flow in the Middle Brook near the Gambo area (02YR001). The location of this station, including the hut, sensors and benchmarks should be identified and verified in the field so that any construction activities related to the fishway refurbishment do not impact the station. For more information, please contact the WRMD at (709) 729-1646.

The Government Service Centre advises that land clearing and grubbing should be restricted such that naturally vegetated areas between the site and surrounding properties and thoroughfares are maintained. The Government Service Centre further advises that written approval from the Town of Gambo is required prior to development. For more information, please contact the Government Service Centre at (709) 256-1420.

The Occupational Health and Safety Division of the Department of Digital Government and Service NL advises you to ensure that the activities associated with the development are conducted in compliance with the **Occupational Health and Safety Act** and its regulations. This includes the responsibility for ensuring that contractors hired to perform



work also comply with this legislation. For more information, please contact the Occupational Health and Safety Division at (709) 729-3275.

The Department of Fisheries, Forestry and Agriculture advises that you are required to submit a Crown land application for transfer of the administration and control of lands of the Crown, pursuant to section 54 of the **Lands Act**. Approval must be received prior to work commencement. For further information, please contact the Crown Land Administration Division at 1-833-891-3249.

The Department of Industry, Energy and Technology advises that any quarry materials that may be required for this project must be obtained from an approved source. For more information, please contact the Mines Branch at (709) 729-5748.

Environment and Climate Change Canada (ECCC) recommends that in order to avoid nest destruction and to accommodate the breeding season of migratory songbirds and waterfowl, operations should consider nesting locations between April 15 and August 15 in this region. ECCC provides a list of avian and non-avian species that are listed on Schedule 1 of the **Species at Risk Act**, and requests that any sightings be reported to ec.scfatdonnesei-cwsatlidata.ec@ec.gc.ca. The species list is included in the "Comments for the Proponent" attached to this letter. ECCC further advises that the **Species at Risk Act** "General prohibitions" apply to this project, and recommends that you complete an analysis of potential impacts on the migratory birds listed on Schedule 1 and take measures to avoid or lessen those effects. ECCC requests that you provide a GIS file of the project boundaries and study area so that the project can be mapped. For more information, please contact ECCC at (709) 772-2126.

Although the undertaking as proposed is released from further environmental assessment, it is still subject to other legislative requirements. A summary of the comments received from government agencies during the review is attached to provide an indication of likely applicable permits, approvals and legislative requirements. You shall comply with all relevant legislation and obtain all necessary permits and approvals. You are required to inform this Department of any proposed significant changes to the undertaking.

Please note that in accordance with Section 17 of the Environmental Assessment Regulations, the Minister's decision is valid for a period of three years from the date of this letter. If you have not commenced your project within this three year period, you may apply to extend the three-year period for a maximum of three one-year periods, if needed. Failure to apply for an extension will result in the expiry of the Minister's decision, and your project will have to be registered again for environmental assessment, should you wish to proceed. For further information, please email EAPProjectComments@gov.nl.ca.



If you have any questions, please contact Joanne Sweeney, Director of the Environmental Assessment Division, at (709) 729-0673 or joannesweeney@gov.nl.ca.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. Davis".

HON. BERNARD DAVIS, MHA
District of Virginia Waters - Pleasantville
Minister

Enclosure

Cc: The Honourable John Haggie, MHA – District of Gander