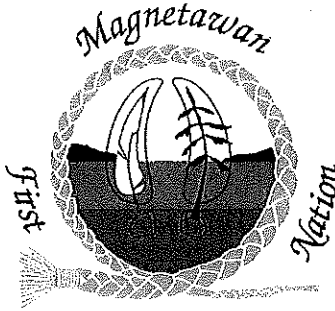




**Land Law 2017/18-003**  
**Magnetawan First Nation**  
**Environmental Protection And Permitting Land Law For The**  
**Henvey Inlet Wind Transmission Line**

*This Land Law is enacted by Magnetawan First Nation to govern environmental assessment, protection, permitting and enforcement with respect to the pre-construction, construction, installation, operation and decommissioning of a power transmission line which Henvey Inlet Wind GP proposes to construct, subject to the terms of a lease to be granted by Magnetawan First Nation in favor of Henvey Inlet Wind GP Inc. (the "T-Line Lease"), on a parcel of Magnetawan First Nation Land within Reserve No. 1.*

*WHEREAS the Magnetawan First Nation has a profound relationship with the Land that is rooted in respect for the spiritual value of the Earth and the gifts of the Creator and has a deep desire to preserve their relationship with the Land;*

*AND WHEREAS the Creator gave Magnetawan First Nation laws that have always been and that govern all of our relationships to live in harmony with nature and humankind and those laws define our rights and responsibilities and we have maintained our freedom, our language, and our traditions from time immemorial.*

*(Collectively, these are the "Relationship Principles".)*

**PART 1.     DEFINITIONS**

**A.     DEFINITIONS**

For the purpose of this Environmental Protection and Permitting Land Law, the following definitions apply:



- (1) "abatement Officer" means a person appointed by the Commissioner to act independently of Council who has environmental protection expertise and relevant experience;
- (2) "Act" and "FNLMA" mean the *First Nations Land Management Act*, S.C. 1999, c. 24, as amended;
- (3) "adverse effect" means one or more of,
  - (a) impairment of the quality of the natural environment for any use that can be made of it,
  - (b) injury or damage to Ga-zhii-ta-bii-doos-siin, land or organic and inorganic matter and living organisms,
  - (c) harm or material discomfort to any person,
  - (d) an adverse impact on the health of any person,
  - (e) impairment of the safety of any person,
  - (f) rendering any land or plant or animal life unfit for human use,
  - (g) loss of enjoyment of normal use of land, resource, structure, or thing, and
  - (h) interference with the normal conduct of business as a result of an effect described in paragraphs (a) to (g).
- (4) "air" means open air not enclosed in a building, structure, machine, chimney, stack or flue;
- (5) "Anishinabe traditional knowledge" means the cumulative knowledge held by Anishinabe peoples through generations of living in close contact with nature. It encompasses cultural, environmental, economic, political, and spiritual inter-relationships;
- (6) "Annex F" means the Annex "F" to the Individual Agreement between Magnetawan FN and Canada under the FNLMA;
- (7) "Application" means all reports and supporting documents received by Magnetawan FN Council from HIW in support of the HIW request for an Environmental Permit for the T-Line;
- (8) "Approved EA Report" means collectively the reports approved by or created in conjunction with Magnetawan FN Council's environmental assessment of the T-Line, as further described in Part 2, I.1(6)(a), and may include the Environmental Review Report and the Environmental Effects Determination Report (with any recommendations or changes made in conjunction with Council's technical review);



- (9) "Archaeological resources" includes artifacts, archaeological sites, and marine archaeological sites. The identification and evaluation of such resources are based upon archaeological fieldwork undertaken in accordance with Ontario Ministry of Tourism, Culture and Sport's Standards and Guidelines for Consultant Archaeologists;
- (10) "Commissioner" means a person appointed by Council to act independently of Council who has environmental and administrative expertise and relevant experience;
- (11) "Community" means the membership from time to time of Magnetawan FN;
- (12) "contaminant" means any solid, liquid, gas, odour, heat, sound, vibration, radiation, or combination of any of them resulting directly or indirectly from human activities that causes or may cause an adverse effect;
- (13) "Construction Activities" means the construction activities described in Section 2 of Schedule B to this Land Law;
- (14) "contractor" includes any person, who is not directly employed by HIW, conducting work or other activities in relation to the T-Line on behalf of or at the request of HIW;
- (15) "Council" means the Council of the Magnetawan First Nation elected pursuant to the provisions of the *Indian Act*, R.S.C., 1985, c. I-5;
- (16) "Decommissioning Activities" means the decommissioning activities described in Section 5 of Schedule B to this Land Law;
- (17) "discharge" when used as a verb includes add, deposit, leak, or emit, and when used as a noun includes addition, deposit, emission, or leak;
- (18) "Disputes" has the meaning set out in Part 5, K.1(1);
- (19) "EA application" means the Environmental Review Report and the Environmental Effects Determination Report and any other information required of HIW by Magnetawan First Nation for the purposes of the environmental assessment;
- (20) "EA Peer Reviewer" means the qualified person retained by Council to conduct the technical review of the EA application;
- (21) "enforcement Officer" means a person appointed by the Commissioner to act independently of Council who has law enforcement expertise and relevant experience;
- (22) "environment" means the components of the Earth and includes:
  - (a) land, *water* and *air*, including all layers of the atmosphere,



- (b) all organic and inorganic matter and living organisms, and
  - (c) the interacting natural systems that include components referred to in (a) and (b);
- (23) "environmental assessment" or "EA" means the Magnetawan FN process for assessing the T-Line that complies with the requirements of Annex F to the Magnetawan FN Individual Agreement with Canada and includes a technical review of the EA application;
- (24) "environmental effects" mean,
  - (1) in respect of the proposed *T-Line*,
    - (a) a change that the *T-Line* may cause to the following components of the environment: fish and fish habitat, aquatic species at risk, and migratory birds,
    - (b) a change that the *T-Line* may cause to the environment on federal lands, including any change it may cause to a listed wildlife species, its critical habitat, or the residences of individuals of that species, as those terms are defined in subsection 2(1) of the *Species at Risk Act*, S.C. 2002, c.29,
    - (c) with respect to aboriginal peoples, an effect of any change to the environment on:
      - (i) health and socio-economic conditions,
      - (ii) physical and cultural heritage, including Ga-zhii-ta-bii-doos-siin,
      - (iii) the current use of lands and resources for traditional purposes by aboriginal persons, or
      - (iv) any structure, site, or thing that is of historical, archaeological, paleontological, or architectural significance; and
  - (2) where the carrying out of the *T-Line* requires the exercise of any federal power, duty or function,
    - (a) a change to the environment, other than a change listed in paragraphs (1)(a) or (b), that is directly linked or necessarily incidental to the exercise of the federal power, duty or function; and
    - (b) an effect of any change to the environment in paragraph (2)(a), other than an effect listed in paragraph (1)(c), on:



- (i) health and socio-economic conditions,
  - (ii) physical and cultural heritage, or
  - (iii) any structure, site, or thing that is of historical, archaeological, paleontological, or architectural significance;
- (25) "Environmental Effects Determination Report" means the report on the T-Line within the Leased Lands prepared by HIW dated June, 2017 to address the requirements of Annex F;
- (26) "Environmental Permit" means the permit, including any schedules to it, issued by Council in accordance with this Regime;
- (27) "Environmental Review Report" means the environmental assessment report for the transmission line as it extends from the eastern boundary of Henvey Inlet First Nation T-Line, including through the Leased Lands (*Henvey Inlet Wind Volume B: Henvey Inlet Wind - Transmission Line Environmental Review Report – Final Draft* dated September 2015), as reviewed and approved by Council with respect to the Leased Lands (including any changes undertaken in conjunction with Council's technical review);
- (28) "EPA" means *Environmental Protection Act*, R.S.O. 1990, c. E.19 and regulations thereunder, as may be amended from time to time;
- (29) "EPP Land Law" means this Environmental Protection and Permitting Land Law, including any schedules to it, enacted pursuant to the Magnetawan FN Land Code;
- (30) "equipment" means equipment as defined in the T-Line Lease;
- (31) "FN" means Magnetawan First Nation;
- (32) "FNLMA" mean the *First Nations Land Management Act*, S.C. 1999, c. 24, as amended;
- (33) Ga-zhii-ta-bii-doos-siin means either (i) a social or cultural feature or condition in the Leased Lands that has been identified as valued by Magnetawan First Nation (including in a traditional land use study), or (ii) a heritage site designated in accordance with the Land Code;
- (34) "HIW" means Henvey Inlet Wind GP Inc. operating as general partner of and on behalf of Henvey Inlet Wind LP, its successors, transferees, and assigns;
- (35) "impair" when used in relation to the quality of water, means the discharge of material if the material or a derivative of the material enters or may enter the water, directly or indirectly, and,



- (a) the material or derivative causes or may cause injury to or interference with any living organism that lives in or comes into contact with,
    - (i) the water, or
    - (ii) the soil or sediment that is in contact with the water,
  - (b) the material or derivative causes or may cause injury to or interference with any living organism as a result of it using or consuming,
    - (i) the water,
    - (ii) soil or sediment that is in contact with the water, or
    - (iii) any organism that lives in or comes into contact with the water or soil or sediment that is in contact with the water,
  - (c) the material or derivative causes or may cause a degradation in the appearance, taste or odour of the water,
  - (d) a scientific test that is generally accepted as a test of aquatic toxicity indicates that the material or derivative, in diluted or undiluted form, is toxic, or
  - (e) peer-reviewed scientific publications indicate that the material or derivative causes injury to or interference with organisms that are dependent on aquatic ecosystems;
- (36) "industrial waste" includes:
- (a) damaged, defective, or superfluous materials, liquids, or substances used or produced by industrial processes or operations, including without restriction, by the T-Line,
  - (b) by-products of materials, liquids, or substances used in industrial processes or operations, including without restriction, by the T-Line operations,
  - (c) used or superfluous lubricants, including petroleum-derived or synthetic crankcase oil, engine oil, hydraulic fluid, transmission fluid, gear oil, heat transfer fluid, or other oil or fluid used for lubricating machinery or equipment, and
  - (d) hazardous waste and hazardous waste chemicals as defined in Ontario Regulation 347: General –Waste Management;
- (37) "In-water Works" means any Construction Activity that takes place below the high water mark during flowing conditions and/or when water is present;



- (38) "land" means surface land not enclosed in a building, land covered by water and all subsoil, or any combination or part thereof;
- (39) "Land Code" means the *Magnetawan First Nation Land Code* as amended from time to time;
- (40) "Leased Lands" means the lands described in Schedule A;
- (41) "mitigation" means the elimination, reduction, or control of any adverse environmental effect of a proposed work or activity. It also includes restitution for any damage to the environment caused by such effects through replacement, restoration, compensation, or other means;
- (42) "monitoring" means plans to provide for the evaluation of the effectiveness of proposed mitigation measures and to verify the accuracy of the environmental assessment predictions. If monitoring indicates that adverse environmental effects are more severe than predicted or if mitigation is less effective than planned, such monitoring results serve as an early indicator to allow adaptive or remedial measures to be implemented in a timely manner;
- (43) "natural environment" means the air, land and water, or any combination or part thereof, on or within Reserve Lands;
- (44) "Notice of Arbitration" is defined in Part 5, K.6(1);
- (45) "Notice of Dispute" is defined in conjunction with the dispute resolution process in Part 5, K.2;
- (46) "Officer" means a person appointed by the Commissioner to act independently of Council who has either law enforcement expertise and relevant experience (in the case of an enforcement Officer) or environmental protection expertise and relevant experience (in the case of an abatement Officer);
- (47) "Operation Activities" means the operation and maintenance activities described in Section 3 of Schedule B to this Land Law;
- (48) "permanent stream" means a stream that continually flows in an average year;
- (49) "person" includes a corporation or a natural person and means HIW, its officers, employees, agents, or contractors;
- (50) "Pre-Construction Activities" means the site preparation and land clearing activities described in Section 1 of Schedule B to this Land Law;
- (51) "proponent" means HIW;
- (52) "public" means persons who are not members of Magnetawan FN;



- (53) "Regime" means the Magnetawan FN EPP Land Law for the T-Line on the FN Reserve Lands, including any documents issued by Magnetawan FN Council pursuant to this Land Law;
- (54) "Reserve Lands" means lands subject to Magnetawan FN's Individual Agreement with Canada;
- (55) "Respondent" means a party to a dispute resolution process as defined in Part 5, K.2, or a party who is not the Claimant in an arbitration under Part 5, K.6 and K.7 of this Land Law;
- (56) "Single Arbitrator" is defined in Part 5, K.6(4).
- (57) "significant adverse environmental effect" means an adverse environmental effect that has been assessed as significant considering residual environmental effects (after mitigation is applied) based on whether the effects are adverse, significant and likely;
- (58) "source of contaminant" means anything that discharges into the natural environment any contaminant;
- (59) "spill" means a discharge of a contaminant (other than heat, sound, vibration or radiation)
  - (a) into the natural environment,
  - (b) from or out of a structure, vehicle or other container, and
  - (c) that is abnormal in quality or quantity in light of all of the circumstances of the discharge,

and when used as a verb has a corresponding meaning.

- (60) "Terms" means the environmental terms and conditions imposed pursuant to Part 4 of this Land Law;
- (61) "T-Line" means the portion of the HIW transmission line that is proposed to cross Magnetawan FN Reserve Lands on the Leased Lands (but is distinguished from whole of the HIW transmission line which extends approximately 86 kilometres from the eastern boundary of the Henvey Inlet First Nation Reserve Lands to the HONI transmission system south of Parry Sound, of which the T-Line is only a part) and, for clarity, the T-Line does not include any ownership interest in the Reserve Lands;
- (62) "waste" means industrial waste, commercial waste, construction waste, ashes, garbage, refuse, domestic waste and sewage;



- (63) "water" means a well, lake, river, pond, spring, stream, reservoir, artificial watercourse, intermittent watercourse, groundwater, or other water or watercourse;
- (64) "wetland" means land such as a swamp, marsh, bog, or fen, other than land that is being used for agricultural purposes and no longer exhibits wetland characteristics, that,
  - (i) is seasonally or permanently covered by shallow water or has the water table close to or at the surface, and
  - (ii) has hydric soils and vegetation dominated by hydrophytic or water-tolerant plants;
- (65) "wildlife habitat" means an area where plants, animals, and other organisms live or have the potential to live and find adequate amounts of food, water, shelter, and space to sustain their population, including an area where a species concentrates at a vulnerable point in its annual or life cycle and an area that is important to a migratory or non-migratory species;
- (66) "woodland" means a treed area, woodlot, or forested area, other than a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees; and
- (67) "well" means a hole made in the ground to locate or to obtain ground water or to test or to obtain information in respect of groundwater or an aquifer, and includes a spring around or in which works are made or equipment is installed for collection or transmission of water and that is or is likely to be used as a source of water for human consumption.

## **PART 2. ENVIRONMENTAL ASSESSMENT**

### **A. ENVIRONMENTAL ASSESSMENT PRINCIPLES**

- A.1 The following principles guide the environmental assessment required by Council for the proposed T-Line, pursuant to Annex F:
  - (1) The purpose of an environmental assessment of the T-Line is to adhere to the Relationship Principles and to assess the proposed pre-construction, construction, operation, and decommissioning of the T-Line to avoid or minimize and mitigate potential significant adverse environmental effects on Reserve Lands, including with respect to species at risk.
  - (2) To promote the avoidance or mitigation of adverse environmental effects, the environmental assessment will provide for protection of any Ga-zhii-ta-bii-doos-siin and otherwise consider substantive standards that are at least equivalent in



effect to the federal and provincial standards applicable to similar transmission facilities located in Ontario, not on Reserve Lands.

- (3) To promote community engagement, the environmental assessment will include a process of notice, information, and opportunity for comment, including receipt of Anishinabe traditional knowledge relevant to the EA.
- (4) Council may delegate to any person the exercise of some or all powers, duties, or functions required to carry out and complete the environmental assessment other than Council's decisions on the environmental assessment.
- (5) Council shall not make a decision with respect to the environmental assessment unless Council is satisfied that the reports to be approved in its decision conform to this Land Law.

## **B. APPLICATION**

### **B.1**

- (1) Prior to any irrevocable decision by Council to issue an Environmental Permit that would authorize the construction or operation of the T-Line, the proponent of the T-Line shall carry out and complete an environmental assessment that is acceptable to Council.
- (2) Pursuant to this Land Law, Council authorizes HIW to undertake all investigations or actions necessary to conduct the preliminary analysis for the environmental assessment required by this Part. Council acknowledges that HIW has, as of the date of the EPP Land Law, undertaken such investigations and analysis and has issued the Environmental Review Report and the Environmental Effects Determination Report for review by Council and in satisfaction of Section B.1(1).
- (3) HIW's EA application comprises the Environmental Review Report and the Environmental Effects Determination Report and any other information required of HIW by Magnetawan First Nation for the purposes of the environmental assessment.

## **C. ADMINISTRATION**

### **C.1 Council is responsible for:**

- (1) Administering this environmental assessment of the T-Line; and
- (2) Ensuring that all requirements of the environmental assessment process are carried out in accordance with the principles and requirements of this Part before it makes an irrevocable decision to issue a permit for the T-Line.

### **C.2 Council may delegate powers, duties, or functions over the environmental assessment required for the T-Line other than decisions pursuant to Section I of this Part.**



## **D. PROVISION OF INFORMATION**

### **D.1**

- (1) During the environmental assessment process for the T-Line, HIW shall:
  - (a) provide to Council any letter or record received from a third party commenting upon the environmental assessment of the T-Line; and
  - (b) ensure that the Environmental Review Report and the Environmental Effects Determination Report are available on its website for public and Community access.
- (2) During the environmental assessment process for the T-Line, Council shall:
  - (a) provide to HIW and the EA Peer Reviewer a copy of all notices issued by Council or third party comments received by Council with respect to the environmental assessment;
  - (b) where a person or body that has provided or is subject to a duty to provide a record forming part of the environmental assessment under this Land Law reasonably believes that the record would not reasonably be expected to be disclosed under the federal *Access to Information Act* and/or the Ontario equivalent, as amended, permit that person or body at the time of providing the record to the Council to request that such record be held in confidence;
  - (c) following receipt of a record requested to be held in confidence under paragraph (c), review the request and decide within 15 days whether such record would not reasonably be expected to be disclosed under the above-noted legislation and, if so, hold such record in confidence and not disclose it; and
  - (d) maintain on the Magnetawan website a copy of the Environmental Review Report and the Environmental Effects Determination Report.

## **E. EXPERTS**

- E.1 Council may at any time appoint experts to advise it on the environmental assessment, including an EA Peer Reviewer.

## **F. ENVIRONMENTAL ASSESSMENT PROCESS**

### **F.1**

- (1) The environmental assessment process consists of three phases:
  - (a) Phase 1: Community notice by Council;



- (b) Phase 2: Review of the EA application; and
  - (c) Phase 3: Council decision on the EA.
- (2) During the environmental assessment process. Council may at any time:
  - (a) consult with HIW or request information from HIW that Council deems relevant to this environmental assessment; and
  - (b) consult with Canada, Ontario or any other government or ministry or agency.

## **G. PHASE 1: COMMUNITY NOTICE**

### **G.1**

- (1) In addition to Section D.1(2)(d) above, Council shall provide on the Magnetawan website, and by any other means as Council may deem appropriate, a copy of any other documents and notices it determines of benefit to the Community regarding the environmental assessment process. Council will advise the Community and the public of the opportunity to provide comments.
- (2) Council shall hold a meeting for the Community in order to review the environmental assessment process. Notice of such meeting shall be given and the meeting shall be held so as to ensure a period of not less than 30 days for comments on the EA application before any report of the EA Peer Reviewer is considered by the Council.

## **H. PHASE 2: REVIEW OF THE EA APPLICATION**

### **H.1**

- (1) Council shall undertake a review of the EA application.
- (2) Council shall cause a technical review of the EA application to be carried out by any experts that may be retained by Magnetawan, such as the EA Peer Reviewer. Council may provide, in its sole discretion, guidance to any expert retained for the technical review, including requiring current data to be considered.
- (3) The purpose of the technical review is to provide Council with written input that identifies the merits of the Environmental Review Report and the Environmental Effects Determination Report, with particular attention to possible adverse environmental effects, the significance of such effects, and measures to avoid or mitigate such effects.

## **I. PHASE 3: COUNCIL DECISION ON THE EA**

### **I.1**



- (1) On completion of the technical review, Council may, in respect of any concerns, findings or conclusions (including any recommended changes to the Environmental Review Report and the Environmental Effects Determination Report by the EA Peer Reviewer) that it considers to be relevant to the assessment of the significance of adverse environmental effects:
  - (a) provide opportunities for further Community input;
  - (b) request an update to the Environmental Effects Determination Report.
- (2) To decide whether the environmental assessment is acceptable, the Council shall have before it:
  - (a) the Environmental Review Report;
  - (b) the Environmental Effects Determination Report;
  - (c) a summary of any Community and public comments on the Environmental Review Report or the Environmental Effects Determination Report received in conjunction with Phase 1; and
  - (d) any report of the EA Peer Reviewer or other expert and any material recommendations or changes to the Environmental Review Report or the Environmental Effects Determination Report and any updates (as such may result from the technical review), or the results of any further Community input with respect to such updates.
- (3) Subject to subsection (5), Council shall make a decision whether the environmental assessment is acceptable within 15 days of receipt of the EA Peer Reviewer's report (or any other report of the technical review).
- (4) In deciding whether the environmental assessment is acceptable, Council may waive any procedural defects or irregularities in the environmental assessment process which in its opinion are not relevant to assessing the significance of adverse environmental effects likely to be caused by the T-Line.
- (5) Council shall not decide that the T-Line environmental assessment is acceptable unless Council concludes it is satisfied:
  - (a) with opportunities provided for Community consultation on the environmental assessment;
  - (b) with the technical review of the environmental assessment;
  - (c) that the environmental assessment process and resulting report(s) conform to this Land Law; and



- (d) that, taking into account mitigation and other information before Council through the environmental assessment process,
  - (i) the T-Line is not likely to cause significant adverse environmental effects; or
  - (ii) the significant adverse environmental effects likely to be caused by the T-Line are justified in the circumstances.
- (6) Where Council decides that the environmental assessment is complete and the conditions of Section I.1 (5) have been satisfied, it shall issue a Band Council Resolution confirming completion of the environmental assessment and approval of the Environmental Review Report and the Environmental Effects Determination Report (including any recommendations or any changes made in conjunction with the technical review) or any report created in conjunction with the environmental assessment (collectively the "Approved EA Report").

## **J. ISSUANCE OF ENVIRONMENTAL PERMIT**

J.1 Where Council has confirmed completion of the environmental assessment, it shall:

- (a) issue, by Band Council Resolution, the Environmental Permit authorizing HIW to proceed to pre-construct, construct, operate and decommission the T-Line (without further notice to the Community); and
- (b) notify Canada that the environmental assessment for the T-Line has been completed by Council and the Approved EA Report is available for use by all federal authorities for any decisions made on matters related to the T-Line.

## **PART 3. ENVIRONMENTAL PROTECTION**

### **A. ENVIRONMENTAL PROTECTION PRINCIPLES**

A.1 Where Council has issued an Environmental Permit for the T-Line, the following principles apply to the interpretation of the Environmental Permit and the enforcement of the Environmental Permit terms and conditions under this Land Law:

- (1) Adherence to the Relationship Principles and protection of the environment for present and future generations of the Magnetawan First Nation are the fundamental objectives of this Land Law.
- (2) Environmental protection is provided through:
  - (a) the requirements and Terms under PART 3 and PART 4 that must be met by the T-Line;



- (b) Council's powers and duties set out in PART 5 to appoint personnel to inspect T-Line construction and operations for compliance with the standards under Part 3, take appropriate action from a range of options to address non-compliance; and
  - (c) Council's powers and duties set out in PART 6 to reach agreement with Ontario or otherwise authorize appointed personnel to initiate penal proceedings, including proceedings to impose appropriate punishments for non-compliance; and
  - (d) interpreting and administering this Land Law consistent with the provisions set out in Part 7.
- (3) Together PART 3 and PART 4 contain all the environmental requirements and standards of the Magnetawan FN for the pre-construction, construction, operation and decommissioning of the T-Line.
- (4) The aim of PART 5 and PART 6 are to ensure that environmental protection is administered and enforced in a manner that is:
  - (a) proportional, by providing that for any instance of non-compliance with the Terms, any resulting enforcement decision or action is commensurate to the risk to the environment presented by the non-compliance, the compliance history, and the response of the violator to the incident;
  - (b) just, by providing several means of dispute resolution, including negotiation, arbitration, and, where required, proceedings before courts; and
  - (c) fair, by providing means for Magnetawan FN to recover the full costs of any action required beyond abatement to protect the environment in compliance with the Terms.
- (5) This Land Law provides Magnetawan FN stewardship over the environmental protection of Reserve Lands by ensuring that Council retains ultimate authority to make decisions and take actions where necessary to address or justify activities that are contrary to the Terms and risk causing adverse effects to these lands.
- (6) The powers and responsibilities under this Land Law are comparable to the environmental protection laws of other jurisdictions such that any punishments imposed for non-compliance with the Terms:
  - (a) have been harmonized by Magnetawan FN with federal environmental protection regimes and processes and Ontario's environmental protection regimes and processes, to promote effective and consistent environmental protection and avoid uncertainty and duplication; and
  - (b) are at least equivalent in their effect to standards established and punishments imposed by the laws of Ontario.



## **B. ENVIRONMENTAL PROTECTION STANDARDS**

### **B.1**

- (1) Subject to subsection (2), the standards of environmental protection applicable to the T-Line on Reserve Lands are set out in the Terms.
- (2) For greater certainty and in accordance with the Lease, HIW is prohibited from constructing or operating the T-Line except in compliance with all terms and conditions hereunder.
- (3) If, for any reason, this Land Law is determined to be of no force or effect, HIW shall have no authority to, as applicable, construct or operate the T-Line until Council has amended the Land Law to authorize the T-Line.

## **C. PROHIBITIONS AND DUTIES**

- C.1 Notwithstanding any other provision of this Land Law, no person acting under the authority of the Environmental Permit shall discharge or cause or permit the discharge of a contaminant into the natural environment, if the discharge causes or may cause an adverse effect.
- C.2 Every person acting under the authority of the Environmental Permit that discharges or causes or permits the discharge of a contaminant into the natural environment shall forthwith notify the Commissioner if the discharge is out of the normal course of events and causes or is likely to cause an adverse effect.
- C.3 Without limiting the generality of Section C.1 and notwithstanding any other provision of this Land Law, no person acting under the authority of the Environmental Permit shall discharge or cause or permit the discharge of any material of any kind into or in any waters or on any shore or bank thereof or into or in any other place where the material is likely to enter water if the material may impair the quality of the water of any waters.
- C.4 Every person acting under the authority of the Environmental Permit that discharges or causes or permits the discharge of any material of any kind, and such discharge is not in the normal course of events, or from whose control material of any kind escapes, into or in any waters or on any shore or bank thereof or into or in any other place where the material is likely to enter water if the material may impair the quality of the water of any waters, shall forthwith notify the Commissioner of the discharge or escape, as the case may be.
- C.5 No person acting under the authority of the Environmental Permit shall cause or permit any waste generated in conjunction with the installation, construction, operation or decommissioning of the T-Line to be permanently stored on Reserve Lands.
- C.6
  - (1) No person acting under the authority of the Environmental Permit shall:



- (a) kill, harm, harass, capture or take a living member of a species that is listed as extirpated, endangered or threatened pursuant to the Canadian *Species at Risk Act*;
- (b) kill, harm, harass, capture or take a living member of a species that is listed as endangered or threatened pursuant to the Ontario *Endangered Species Act, 2007*;
- (c) damage or destroy the residence of species listed as endangered, threatened or extirpated (if a recovery strategy has recommended reintroduction of the species into the wild in Canada), pursuant to the Canadian *Species at Risk Act* or destroy any part of the critical habitat of a species listed as endangered, threatened or extirpated (if a recovery strategy has recommended reintroduction of the species into the wild in Canada), pursuant to the Canadian *Species at Risk Act*;
- (d) damage or destroy the habitat of a species listed as extirpated, endangered or threatened pursuant to the Ontario *Endangered Species Act, 2007*;

except in accordance with this Land Law, the Approved EA Report and any authorization under the Canadian *Species at Risk Act*.

#### **PART 4. ENVIRONMENTAL PERMITTING - TERMS AND CONDITIONS**

##### **A. GENERAL TERMS AND CONDITIONS**

###### **A.1**

- (1) HIW shall only pre-construct, construct, install, use, operate, maintain and decommission the T-Line in accordance with:
  - (a) all applicable laws, regulations, rules, ordinances, orders, directions, legal requirements, and legal rulings related to the environment, whether of Canada, the Province of Ontario or of any competent Federal or Provincial authority or agency as in effect or promulgated during the duration of this Land Law;
  - (b) all terms and conditions, including any mitigation, monitoring and contingency measures, of the Approved EA Report, as applicable to the Leased Lands;
  - (c) any permits, authorizations or approvals issued by Canada or the Province of Ontario with respect to the T-Line on the Reserve Lands; and
  - (d) the terms and conditions of this Land Law and in accordance with the schedules attached hereto, which are incorporated as part of this Land Law:
    - Schedule A – T-Line Description



- Schedule B – Physical Activities by Phase
- Schedule C – Waste Management Measures

- A.2 By undertaking any activity authorized by the Lease and this Land Law, HIW accepts and acknowledges the jurisdiction of Ontario courts where recourse to Ontario courts is provided for in PART 5 of this Land Law.
- A.3 Where this Land Law requires mitigation measures or plans to be developed after the date this Land Law is issued or Council or the Commissioner have approved mitigation measures, the mitigation measure or plans shall form part of this Land Law.
- A.4 The physical activities, buildings and structures permitted for each phase of the T-Line are set out in Schedule B to this Land Law and any modifications thereto.
- A.5 HIW shall provide the Commissioner at least ten (10) days written notice of the following:
- (a) the commencement of any Pre-Construction Activities for the T-Line;
  - (b) the commencement of any Construction Activities for the T-Line;
  - (c) the completion of the Construction Activities for the T-Line; and
  - (d) the commencement of operation of the T-Line.
- A.6 HIW shall ensure a copy of this Land Law, including schedules, is:
- (a) posted on HIW's publicly accessible website within five (5) business days of enactment of this Land Law; and
  - (b) accessible at all times by HIW staff operating the T-Line.

## **B. IN-WATER WORKS DURING CONSTRUCTION**

- B.1 Activities requiring In-Water Works shall not contravene section 35 of the *Fisheries Act*, R.S.C., 1985, c. F-14.

## **C. FOUNDATION DEWATERING**

- C.1 Prior to any foundation dewatering, if the amount of water to be discharged is in excess of 50,000 L per day to facilitate the Construction Activities, HIW shall prepare and submit to the Commissioner, at least two weeks prior to the commencement of any such groundwater takings in excess of 50,000 L per day, a dewatering plan which employs best management practices. HIW shall not commence any foundation dewatering in excess of 50,000 L per day until such dewatering plan has been approved in writing by the Commissioner (such approval not to be unreasonably delayed).
- C.2 During construction, HIW shall implement the dewatering plan.



**D. WASTE**

D.1 HIW shall implement the waste management mitigation measures set out in Schedule C.

**E. BLASTING**

E.1 HIW shall prepare and submit to the Commissioner, at least two weeks prior to the commencement of any blasting in conjunction with Construction Activities, a blasting plan which employs best management practices for drilling and blasting, including site security and safety and hazard mitigation. HIW shall not commence blasting until such plan has been approved in writing by the Commissioner (such approval not to be unreasonably delayed).

E.2 During construction, HIW shall implement the blasting plan.

**F. ENDANGERED SPECIES**

F.1 For each of the pre-construction, construction, operation and decommissioning phases of the T-Line, set out in Schedule B, HIW shall implement any mitigation, monitoring and contingency measures, with respect to a species that is listed as (i) extirpated, endangered or threatened pursuant to the Canadian *Species at Risk Act*, S.C. 2002, c. 29 or (ii) endangered or threatened pursuant to the Ontario *Endangered Species Act, 2007*, S.O. 2007, c. 6, in accordance with the Approved EA Report and any permit issued with respect to the T-Line in the Leased Lands pursuant to the *Species at Risk Act*.

F.2

(1) If a species that is extirpated, endangered or threatened, other than a species listed in the Approved EA Report or any authorization under the Canadian *Species at Risk Act*, is encountered by HIW on the site of the T-Line, HIW shall immediately:

- (a) cease any activity that may adversely affect the species;
- (b) contact the Commissioner immediately to discuss how and when activities shall resume; and
- (c) provide a report of such encounter, including the date, time and location of observation, a description of the species, its behaviour and any noted features of surrounding habitat as well as actions taken to minimize or mitigate adverse effects, if any, as developed in accordance with Section F.3 of this Part.

F.3 No activity requiring authorization under the Canadian *Species at Risk Act* may proceed unless the necessary authorizations have been obtained by HIW. HIW shall ensure compliance with any authorization under the Canadian *Species at Risk Act*.



## **G. NATURAL HERITAGE**

- G.1 For the pre-construction, construction, operation and decommissioning phases of the T-Line set out in Schedule B, HIW shall implement the mitigation measures set out in the Approved EA Report for that respective phase, to the extent such apply to the Leased Lands.

## **H. ENVIRONMENT AND CLIMATE CHANGE CANADA**

- H.1 To the extent Environment and Climate Change Canada requires HIW to make commitments with respect to exceptional weather events, HIW shall enter into the necessary arrangements with Environment Canada.

## **I. ARCHAEOLOGICAL AND OTHER GA-ZHII-TA-BII-DOOS-SIIN**

- I.1 HIW shall not pre-construct, construct, install, use, operate, maintain, decommission or conduct any other physical activity in the areas of Ga-zhii-ta-bii-doos-siin except in accordance with the Approved EA Report.

### **I.2**

- (1) Should any previously undocumented archaeological resources be discovered at any time in the course of pre-constructing, constructing, operating or decommissioning the T-Line, HIW shall:

- (a) cease all alteration of the area in which the archaeological resources were discovered immediately;
- (b) notify Council and the Commissioner as soon as reasonably possible;
- (c) engage a consultant archaeologist to:
  - (i) carry out the archaeological fieldwork necessary to further assess the area in accordance with the Ontario Ministry of Tourism, Culture and Sport's Standards and Guidelines for Consultant Archaeologists;
  - (ii) propose a plan to protect the archaeological resources; and
- (d) if Council requests one or more Community meetings to discuss the archaeological find(s) and the proposed Archaeological Resources Protection Plan, arrange and participate in such meeting(s).

- I.3 No further alteration of the area shall proceed until such time as Council is satisfied that an appropriate plan is in place that will ensure the protection of the previously undocumented archaeological resources.



- I.4 All archaeological and other Ga-zhii-ta-bii-doos-siin are the property of Magnetawan FN and shall not be removed from the Leased Lands without the written authorization of Council.

**J. OPERATIONS AND MAINTENANCE**

- J.1 HIW shall implement the operations and maintenance procedures set out in the Approved EA Report, as applicable to the Leased Lands.

**K. EMERGENCY RESPONSE**

- K.1 HIW shall comply with and implement any emergency response measures required under the Approved EA Report, to the extent applicable to the Leased Lands.

**PART 5. ENVIRONMENTAL PROTECTION - ENFORCEMENT**

**A. ENVIRONMENTAL PROTECTION ENFORCEMENT - GENERAL**

**A.1**

- (1) Council shall ensure that, at all material times, there are qualified personnel in place to address all requirements set out in this Land Law to administer and enforce the Terms.
- (2) To administer and enforce, the Council will appoint and retain a Commissioner throughout the duration of the Lease.
- (3) To assist in the administration and enforcement of the Lease and the Terms, the Commissioner shall retain an abatement Officer.
- (4) To investigate potential violations of the Lease and the Terms, the Commissioner may retain an enforcement Officer.
- (5) At no time shall the Commissioner appoint the same individual as the abatement Officer and enforcement Officer.
- (6) The Commissioner may retain technical experts to provide technical advice on matters related to the administration, modification or enforcement of the Terms.

**A.2**

- (1) HIW shall ensure that it provides the Commissioner concurrently with an electronic copy of all documents prepared by it in response to requirements of the Terms.
- (2) All documents, records, or things provided to or prepared by an Officer or Commissioner are owned by Magnetawan FN and shall be maintained in an electronic and physical manner to ensure convenient access by Council.



- (3) No Officer or Commissioner has any authority to destroy or remove from convenient access by Council any document, record, or thing owned by Council except in accordance with express written direction of Council.

### A.3

- (1) Despite any other provision in this Land Law, where the Commissioner finds that there is an exceptional circumstance that has resulted, will result or is likely to result in an adverse environmental effect that was not identified in the Approved EA Report or not assessed as likely to occur, Council may conclude by Band Council Resolution that:
  - (a) the exceptional circumstance is not likely to cause a significant adverse environmental effect or is not likely to cause a significant adverse environmental effect with additional mitigation and may deem the effect to be compliant with the Terms; or
  - (b) the exceptional circumstance is likely to cause a significant adverse environmental effect, but the significant adverse environmental effect is justified in the circumstances, and may deem the effect to be compliant with the Terms, and take any action consistent with its conclusion, including requiring additional mitigation.
- (2) Before enacting a Band Council Resolution pursuant to subsection (1), Council shall:
  - (a) ensure that it has before it information on the potential environmental effects of the exceptional circumstance, the significance and likelihood of any adverse environmental effect, and any measures proposed by HIW to avoid or mitigate the adverse environmental effect; and
  - (b) prior to amending the Terms, obtain Community input in the manner prescribed for a Land Law under the Land Code with such procedural modifications as Council deems appropriate.
- (3) Any conclusion, decision, or action taken by Council under subsection A.3(1) is not subject to review by an Officer or Commissioner.

## B. IMPLEMENTATION OF EPP LAND LAW

### B.1

- (1) Where the Commissioner or Council requests of HIW:
  - (a) information regarding implementation of this Land Law, including without restriction, detailed information regarding the implementation of mitigation measures and plans; or



- (b) one or more site visits or meetings to review implementation of this Land Law;

HIW shall comply with the Commissioner's request in a timely manner.

- B.2 Where the Commissioner on reasonable grounds is of the opinion that guidance is needed to ensure that the mitigation measures and plans required under this Land Law are implemented so as to ensure significant adverse environmental effects are unlikely, the Commissioner may provide directives to HIW with respect to the implementation of such mitigation measures and plans, provided that no directive may add to, remove or alter the mitigation measures and plans required by this Land Law.
- B.3 Directives issued by the Commissioner pursuant to Section B.2 of this Part shall be implemented by HIW.
- B.4 The Commissioner's directives are not modifications for the purposes of Section E of this Part.

### **C. RECORD CREATION AND RETENTION**

- C.1 HIW shall create any operations log required in accordance with the Approved EA Report, to the extent applicable to the Leased Lands.
- C.2 HIW shall create a record of any complaint alleging an Adverse Effect caused by the pre-construction, construction, installation, use, operation, maintenance or decommissioning of the T-Line.
- C.3
  - (1) A record described under Section C.2 of this Part shall include a description of the complaint that includes as a minimum the following:
    - (a) the date and time the complaint was made;
    - (b) the name, address and contact information of the person who submitted the complaint;
    - (c) a description of each incident to which the complaint relates that includes as a minimum the following:
      - (i) the date and time of each incident;
      - (ii) the duration of each incident;
      - (iii) the ID of the equipment involved in each incident at the time of each incident;



- (d) the location of the person who submitted the complaint at the time of each incident; and
- (e) a description of the measures taken to address the cause of each incident to which the complaint relates and to prevent a similar occurrence in the future.

C.4 HIW shall retain, for a minimum of five (5) years from the date of their creation, all records described in Section C.2 and C.3 and make these records available for review by the Commissioner upon request.

#### **D. NOTIFICATION OF COMPLAINTS**

D.1 HIW shall notify the Commissioner of each complaint within two (2) business days of the receipt of the complaint.

D.2 HIW shall provide the Commissioner with the written records created under Sections C.1 and C.2 within eight (8) business days of the receipt of the complaint.

#### **E. MODIFICATIONS OF THE ENVIRONMENTAL PERMIT**

##### **E.1**

- (1) Subject to the conditions below, the Commissioner may, without the approval of Council, modify the Approved EA Report or the Terms by modifying the Environmental Permit, with respect to the following:
  - (a) modifications necessary to achieve minimum compliance with an authorization under the *Canadian Species at Risk Act*, *Fisheries Act* or *Migratory Birds Convention Act, 1994*, S.C. 1994, c. 22, or an order of any Federal or Ontario Court of competent jurisdiction.
  - (b) modifications to refine mitigation, monitoring and contingency measures under the Approved EA Report;
  - (c) modifications to refine reporting requirements; and
  - (d) modifications to clarify the wording of this Land Law or its schedules, the Approved EA Report or the Environmental Permit where such clarifications are in keeping with the intent of this Land Law.

##### **E.2**

- (1) The Commissioner shall not modify the Environmental Permit unless the Commissioner determines that the modifications:
  - (a) do not reduce the level of protection provided to the environment, archaeological resources or other Ga-zhii-ta-bii-doos-siin by this Land Law;



- (b) are not likely to result in increased adverse environment effects; and
- (c) do not conflict with Canadian *Species at Risk Act*, *Fisheries Act* or *Migratory Birds Convention Act, 1994*, or any authorization issued thereunder.

E.3 Where, pursuant to Section E.1(1), a modification is necessary in order to achieve minimum compliance with an authorization under the Canadian *Species at Risk Act*, *Fisheries Act* or *Migratory Birds Convention Act, 1994* or an order of any Federal or Ontario Court of competent jurisdiction, conditions under Section E.2 shall be deemed to have been met.

E.4

- (1) The modifications may be proposed by the Commissioner, or at the written request of HIW, as follows:
  - (a) Where modifications are proposed by either the Commissioner or HIW, the Commissioner shall provide reasonable notice to Council. Except where the Commissioner has proposed the modification pursuant to Section E.1(1)(b) of this Part, Council shall have an opportunity to make written submissions regarding the proposed modifications.
  - (b) Where modifications are proposed by the Commissioner, the Commissioner shall provide to HIW reasonable notice and an opportunity to make written submissions.
  - (c) Where modifications are proposed by HIW, the Commissioner may require a report demonstrating that the proposed modifications meet conditions under Sections E.2(1)(a)-E.2(1)(c).
  - (d) Where the Commissioner approves a modification, written notice is to be given to HIW. Where the Commissioner proposed and approves a modification pursuant to Sections E.1(1)(b) or E.1(1)(d), HIW may appeal the modification to Council, subject to the following:
    - (i) HIW shall provide written notice of the grounds of appeal to the Commissioner and Council within 30 days of the day HIW first received written notice of the Commissioner's decision to approve the modification;
    - (ii) in the case of E.1(1)(d), an appeal may be initiated on the basis that a modification is inconsistent with the wording or intent of this Land Law;
    - (iii) the Commissioner and HIW may make submissions to Council; and



- (iv) Council may only allow the appeal where it has determined that the modification is not necessary to avoid a significant adverse environmental effect.

- E.5 No modification made by the Commissioner pursuant to Section E.1 is effective unless it is proposed in writing and approved in writing.
- E.6 Changes to equipment location otherwise authorized by this Land Law, including pursuant to the Approved EA Report, are not modifications pursuant to Section E.1.

## **F. CHANGE IN OWNERSHIP**

### **F.1**

- (1) HIW shall notify the Commissioner in writing, and forward a copy of the notification to the Commissioner, within thirty (30) days of the occurrence of any of the following changes:
  - (a) the ownership of the T-Line;
  - (b) the operator of the T-Line;
  - (c) the address of HIW;
  - (d) the partners, where HIW is or at any time becomes a partnership and a copy of the most recent declaration filed under the *Business Names Act*, R.S.O. 1990, c. B.17, as amended, shall be included in the notification; and
  - (e) the name of the corporation where HIW is or at any time becomes a corporation, and a copy of the most current information filed under the *Corporations Information Act*, R.S.O. 1990, c. C.39, as amended, shall be included in the notification.

## **G. ENVIRONMENTAL PROTECTION ENFORCEMENT – INSPECTIONS**

### **G.1**

- (1) For the administration of this Land Law on Reserve Lands, the abatement Officer may, without a warrant or court order, at any time and with any reasonable assistance make an inspection regarding compliance with the conditions of the Terms.
- (2) HIW is required to provide all reasonable assistance, including the provision of reasonably requested information, to enable the abatement Officer to carry out his or her duties and functions under this Land Law.



- (3) HIW is prohibited from preventing or interfering with an inspection carried out by the abatement Officer, including the provision of false information to an abatement Officer, acting in accordance with this section.
- (4) An inspection may include:
  - (a) entering any part of the environment to ascertain the extent, if any, to which contaminants released by the T-Line are contrary to the prohibitions hereunder, the causes of any release contrary to the prohibitions hereunder, and how any release that is contrary to the prohibitions hereunder may be prevented, eliminated, or ameliorated and the environment restored;
  - (b) entering any place in which the abatement Officer reasonably believes can be found anything that is governed or regulated under this Land Law or anything the dealing with which is governed or regulated under this Land Law;
  - (c) entering any place in or from which the abatement Officer reasonably believes a Contaminant is being, has been, or may be discharged into the environment contrary to the prohibitions hereunder;
  - (d) entering any place that the abatement Officer reasonably believes is, or is required to be, subject to or referred to in the Terms, agreement, order or otherwise governed under this Land Law;
  - (e) stopping, re-routing or detaining any conveyance which the abatement Officer reasonably believes may contain anything that is governed or regulated under this Land Law or that is related to an offence under this Land Law; and
  - (f) entering any place where a contaminant is spilled contrary to the prohibitions hereunder.
- (5) During an inspection under subsection (1), the abatement Officer may take any action or require that an action be taken by HIW or others under conditions specified by the abatement Officer in order to assist the inspection, including:
  - (a) make necessary excavations;
  - (b) require that anything be operated, used, or set in motion under conditions specified by the abatement Officer;
  - (c) take samples for analysis;
  - (d) conduct tests or take measurements;
  - (e) examine, record, or copy any document or data, in any form, by any method;



- (f) record the condition of a place or the environment by means of photograph, video recording, or other visual recording;
  - (g) require the production of any document or data, in any form, required to be kept under this Land Law and of any other document or data, in any form, related to the purposes of the inspection;
  - (h) remove from a place documents or data, in any form, produced under clause (g) for the purpose of making copies; and
  - (i) make reasonable inquiries of any person, orally or in writing.
- (6) The abatement Officer shall not remove any document or data under subsection (5) without giving a receipt for it or them and shall promptly return the document or data to the person who produced them.
- (7) The abatement Officer who exercises the power set out in subsection (5) may exclude from the questioning any person except counsel for the individual being questioned.
- (8) During an inspection under this Section, an abatement Officer may, without a warrant or a court order, seize anything that is produced to the abatement Officer or is in plain view, if,
  - (a) the abatement Officer reasonably believes that the thing will afford evidence of an offence under this Land Law;
  - (b) the abatement Officer reasonably believes that the thing was used or is being used in connection with the commission of an offence under this Land Law and that the seizure is necessary to prevent the continuation or repetition of the offence; or
  - (c) the thing is discharging or is likely to discharge a contaminant into the natural environment and an adverse effect has resulted or is likely to result from the discharge.
- (9) An abatement Officer who seizes a thing under subsection (8) may remove the thing or detain it in the place where it is seized.
- (10) An abatement Officer shall not seize anything without providing a written receipt for same.
- (11) The Commissioner may order that a thing seized under subsection (9) be forfeited to the Magnetawan FN.
- (12) The abatement Officer engaged in an inspection shall prepare and complete forthwith a written report describing all material actions undertaken, information gathered and items seized from the inspection and relating these actions,



information, and items to compliance with the terms and conditions of this Land Law.

- (13) On completion of an inspection report, the abatement Officer shall provide the report to the Commissioner.

## **H. ENVIRONMENTAL PROTECTION ENFORCEMENT - ORDERS**

### **H.1**

- (1) The Commissioner may issue a notice of contravention of or non-compliance with this Land Law to HIW or to any person that the Commissioner reasonably believes is or has contravened or not complied with this Land Law and such notice may direct action to achieve compliance under this Land Law and prevent continuation of such contravention or non-compliance.
- (2) When a copy of an order is served upon any person, that person:
  - (a) shall comply with the order forthwith; or
  - (b) shall, if the order sets out a future date by which it is to be complied with, comply with the order on or not later than such future date.

### **H.2**

- (1) When the abatement Officer completes an inspection report or an enforcement Officer completes an investigation report that contains a finding that a contaminant has been or is being discharged into the natural environment in contravention of this Land Law, the Officer shall provide a copy of the report to the Commissioner forthwith.
- (2) On receipt of a report under subsection (1), the Commissioner may issue a control order directed to:
  - (a) HIW as owner of the source of contaminant;
  - (b) a person who is or was in occupation of the source of contaminant; or
  - (c) a person who has or had the charge, management, or control of the source of contaminant.
- (3) No order shall be issued under subsection (2) as a result of a finding that a contaminant is being discharged in contravention of this Land Law unless the contravention causes or is likely to cause an adverse effect.
- (4) Where the Commissioner concludes that a control order is appropriate and prepares such an order for issuance, the Commissioner shall seek to ensure that the order



will be sufficient in scope to redress non-compliance, and is otherwise appropriate and proportional in relation to the non-compliance.

- (5) Where the Commissioner proposes to issue a control order, the Commissioner shall serve notice of its intention, together with written reasons therefore and a copy of the report of the Officer or other person upon which the reasons are based, and shall not issue the control order until 15 days after the service thereof.
- (6) On receipt of a notice under subsection (5), the person receiving the control order may make submissions to the Commissioner at any time before the control order is issued.
- (7) The Commissioner shall give notice of the control order to Council and the Community in such manner as the Commissioner considers appropriate.

### H.3

- (1) When the Commissioner, upon reasonable and probable grounds, is of the opinion that a source of contaminant is discharging into the environment any contaminant in contravention of this Land Law and that constitutes, or the amount, concentration, or level of which constitutes, an immediate danger to human life, the health of any persons, or to property, the Commissioner may issue a stop order directed to:
  - (a) HIW as owner of the source of contaminant;
  - (b) a person who is or was in occupation of the source of contaminant; or
  - (c) a person who has or had the charge, management, or control of the source of contaminant.
- (2) Where the Commissioner concludes that a stop order is appropriate and prepares such an order for issuance, the Commissioner shall seek to ensure that the scope of the order appropriately and proportionately reflects the scope of non-compliance.
- (3) The Commissioner shall give notice of the stop order to Council and to the Community in such manner as the Commissioner considers appropriate.

H.4 Where any person causes or permits the discharge of a contaminant into the natural environment in contravention of this Land Law which is likely to have an adverse effect, the Commissioner may issue an abatement order to the person to:

- (a) repair the injury or damage; or
- (b) prevent future injury or damage.

### H.5



- (1) The Commissioner may, where authorized by this Land Law to issue an abatement order to a person, include in that order the following additional requirements:
  - (a) to stop, limit, or control the rate of discharge of the contaminant into the environment in accordance with the directions set out in the order;
  - (b) to comply with any directions set out in the order relating to the manner in which the contaminant may be discharged into the environment;
  - (c) to ameliorate the adverse effects of the discharge and to restore the environment to its pre-discharge condition;
  - (d) to comply with any directions set out in the order relating to the procedures to be followed in the control or elimination of the discharge of the contaminant into the environment;
  - (e) to install, replace, or alter any equipment or thing designed to control or eliminate the addition, emission, or discharge of the contaminant into the environment;
  - (f) to monitor and record, both in the manner specified in the order, the discharge into the environment of the contaminant specified in the order and to report thereon to the Commissioner;
  - (g) to study and to report to the Commissioner upon,
    - (i) measures to control the discharge into the environment of the contaminant specified in the order,
    - (ii) the effects of the discharge into the environment of the contaminant specified in the order,
    - (iii) the environment into which the contaminant specified in the order is being or is likely to be discharged; and
  - (h) to report to the Commissioner in respect of fuel, materials, and methods of production used and intended to be used, and the wastes that will or are likely to be generated.
- (2) Where an order subject to Section H.5 includes the requirement under subsection (g) to study and to report to the Commissioner on a matter, the person subject to the order shall report to the Commissioner in the manner, at the times, and with the information specified by the Commissioner in the order.

#### H.6

- (1) When a copy of an order is served upon any person, that person:



- (a) shall comply with the order forthwith; or
- (b) shall, if the order sets out a future date by which it is to be complied with, comply with the order on or not later than such future date.

H.7 The Commissioner may, by a further order, amend, vary, or revoke an order made under this Land Law and in each case shall cause a copy of the order to be served upon the person subject to the original order and HIW.

H.8 An order under this Part takes effect immediately upon service of the order in accordance with this Part.

## **I. ENVIRONMENTAL PROTECTION ENFORCEMENT - ACCIDENT AND EMERGENCY POWERS**

### **I.1**

- (1) Where an Officer or the Commissioner identifies on Reserve Lands an accident or an emergency that, in his or her opinion, requires immediate attention in order to:
  - (a) prevent or minimize a breach of this Land Law that may cause an adverse effect; or
  - (b) prevent or minimize an adverse effect to Reserve Lands or the T-Line, the Officer or the Commissioner may cause to be done anything required by him or her to prevent or minimize that adverse effect.
- (2) The Officer shall make reasonable efforts to give immediate notice to HIW and the Commissioner of his or her intention to take action under subsection (1).
- (3) A person other than the Commissioner who receives a notice under subsection (2) shall not take the action referred to in the notice without the permission of the Commissioner.

## **J. ENVIRONMENTAL PROTECTION ENFORCEMENT – RECOVERY OF COSTS**

### **J.1**

- (1) Where an Officer or the Commissioner takes action or causes action to be taken under this Land Law, other than an inspection, in respect of a breach of this Land Law (including the Terms), the Commissioner may issue an order to pay costs to any person considered by the Commissioner on reasonable grounds to be responsible, in whole or in part, for the action or costs.
- (2) An order to pay costs shall include:
  - (a) a description of the action that the Commissioner or Officer caused to be done under this Land Law;



- (b) a detailed account of the costs incurred in taking the action; and
  - (c) a direction that the person to whom the order is issued pay the costs to the Commissioner.
- (3) An order under subsection (1) to pay costs shall also include a brief statement of the circumstances giving rise to the decision to take or cause action.
- (4) To the extent persons not responsible were required to take action by the Officer or Commissioner, the Commissioner may use payments made in accordance with this section to reimburse any such person for expenses incurred in taking such action.
- (5) Where two or more persons are liable to pay costs pursuant to an order under subsection (1), they are jointly and severally liable to the Council.
- (6) Where the Commissioner has authority to issue an order to two or more persons under subsection (1), as between themselves, in the absence of an express or implied contract, each of those persons is liable to make contribution to and indemnify the other in accordance with the following principles:
  - (a) Where the Commissioner is entitled to issue an order to two or more persons under subsection (1) in respect of costs and one or more of them caused or contributed to the costs by fault or negligence, such one or more of them shall make contribution to and indemnify,
    - (i) where one person is found at fault or negligent, any other person to whom the Commissioner is entitled to issue an order under subsection (1), and
    - (ii) where two or more persons are found at fault or negligent, each other and any other person to whom the Commissioner is entitled to issue an order under subsection (1) in the degree in which each of such two or more persons caused or contributed to the costs by fault or negligence.
  - (b) For the purpose of subsection (6)(a)(ii), if it is not practicable to determine the respective degrees in which the fault or negligence of two or more persons to whom the Commissioner is entitled to issue an order under subsection (1) caused or contributed to the costs, such two or more persons shall be deemed to be equally at fault or negligent.
  - (c) Where no person to whom the Commissioner is entitled to issue an order under subsection (1) caused or contributed to the costs by fault or negligence, each of the persons to whom the Commissioner is entitled to issue an order under subsection (1) is liable to make contribution to and indemnify each other in such degree as is determined to be just and equitable in the circumstances.



- (7) The right to contribution or indemnification under subsection (5) may be enforced by an action or application in a court of competent jurisdiction in Ontario.
- (8) Wherever it appears that a person not already a party to an action under subsection (6) may be a person to whom the Commissioner is entitled to issue an order under subsection (1) in respect of the costs, the person may be added as a party to the action on such terms as are considered just or may be made a third party to the action in the manner prescribed by the Ontario Rules of Civil Procedure for adding third parties.
- (9) In considering whether to issue an order under subsection (1), the Commissioner shall consider:
  - (a) whether a person other than an Officer or Commissioner could have been ordered to do the action that was taken by the Officer or Commissioner; and
  - (b) whether to order the withdrawal of any monies from funds created for the T-Line under the Lease.

## **K. ENVIRONMENTAL PROTECTION ENFORCEMENT - DISPUTE RESOLUTION**

### **K.1**

- (1) Any disputes, disagreements, controversies, questions, or claims arising out of or relating to this Land Law including, without limitation, their formation, execution, validity, application, interpretation, performance, breach, termination, or enforcement (collectively, "Disputes"), will be determined in accordance with this Part which sets out the exclusive procedure for the resolution of Disputes.
- (2) All processes to resolve Disputes shall be carried out expeditiously and subject to the following timetable:
  - (a) Step 1 - initiating a Dispute and negotiation: within 15 days of the decision or event giving rise to the Dispute, provide Notice of Dispute and, in conjunction with the provision of such notice, initiate negotiations;
  - (b) Step 2 – where the Dispute has not been resolved, a mediation may be commenced within 30 days of the delivery of the Notice of the Dispute;
  - (c) Step 3 - where the Dispute has not been resolved, an appeal under Section K.6 of this Part or an arbitration under Section K.7 of this Part may be commenced within 30 days of Step 2 having been completed; and
  - (d) Step 4 - in the case of arbitration, the arbitration shall be completed within 4 months of the receipt of the Notice of Dispute.
- (3) Where there is a Dispute about requirements that have caused or may cause an adverse effect, the Commissioner and HIW (for the purposes of this Section, the



"Party" or collectively the "Parties") agree that, subject to subsection (4), dispute resolution shall be carried out in a way that does not cause or increase an adverse effect.

- (4) Where there is a Dispute and the Parties cannot agree on how to carry out dispute resolution in a way that does not cause or increase an adverse effect, either Party may apply to a court of competent jurisdiction in Ontario for an order that addresses how dispute resolution may occur in the circumstance of avoiding or minimizing an adverse effect.

K.2 The Commissioner or HIW will give notice of a Dispute by delivering a written notice of dispute (the "Notice of Dispute") to the other Party (the "Respondent").

K.3 The Notice of Dispute will include:

- (a) the full names, descriptions, and addresses of the Parties;
- (b) a general description of the Dispute; and
- (c) the relief or remedy sought.

K.4 In conjunction with the provision of a Notice of Dispute, the Parties will give first priority to resolve the Dispute by negotiation and will participate in negotiations in good faith before any initiation of mediation under Step 2 under Section K.1(2)(b).

K.5 Where all issues have not been resolved within 30 days of the delivery of the Notice of Dispute, either of the Parties may initiate a non-binding and without prejudice mediation by providing written notice to the Commissioner. Within seven days of such notice being given, the Parties shall jointly appoint a person generally recognized as having expertise in the matter which is the subject of the Dispute as the mediator. Mediation rules shall be determined by the mediator, with the agreement of the Parties. The mediator shall promptly mediate the Dispute and shall render its recommendations in writing to the Parties within 30 days of being appointed. Within five days of issuance of the mediator's recommendations, each Party shall provide notice in writing to the other Party of its acceptance or rejection of such recommendations. The Parties may extend the time for the mediation by mutual written agreement.

K.6

- (1) Within 30 days of the completion of Step 2 under Section K.1(2)(b), where all issues have not been resolved, any person subject to an order, notice of contravention or notice of non-compliance issued under this Land Law may, with written notice to the Commissioner, appeal such order, notice of contravention or notice of non-compliance to the Ontario Superior Court of Justice.
- (2) The Parties may by mutual written agreement extend the time for Appeal provided under subsection (1) above.



- (3) The Superior Court of Justice may set aside, confirm or vary the order, notice of contravention or notice of non-compliance, or may remit it to the Commissioner for reconsideration with such directions as the Court deems proper.
- (4) An appeal under subsection (1), and any subsequent appeal from the order of the Superior Court of Justice, shall be governed by the Ontario Courts of Justice Act and the Rules of Civil Procedure enacted thereunder.
- (5) The Commissioner may retain a lawyer to respond to an appeal under subsection (1).

#### K.7

- (1) Upon completion of Step 2 under section K.1(2)(b), where all issues have not been resolved, a Party may require that the Parties submit to arbitration under this Part with respect to any unresolved issues by delivering a written notice of arbitration ("Notice of Arbitration") to the other Party, The Notice of Arbitration will include:
  - (a) the full names, descriptions, and addresses of the Parties;
  - (b) a demand that the Dispute be referred to arbitration under this section;
  - (c) a general description of the Dispute;
  - (d) the relief or remedy sought;
  - (e) the proposed location of the arbitration; and
  - (f) the name of the person whom the Commissioner, HIW, or Disputant (the "Applicant") nominates as an arbitrator.
- (2) The Parties may by mutual written agreement extend the time for the delivery of the Notice of Arbitration provided under subsection (1) above.
- (3) Arbitrations will be conducted in Ontario in accordance with the *Arbitration Act*, SO 1991. Chapter 17.
- (4) The arbitrator nominated by the Applicant will be the single arbitrator (the "Single Arbitrator") to resolve the Dispute unless, within 5 days of service of the Notice of Arbitration on the Respondent, the Respondent, by notice to the Applicant, appoints a second arbitrator to serve on the panel of Arbitrators who will resolve the Dispute, and the arbitrator nominated by the Applicant will be deemed to have also been so appointed.

#### K.8



- (1) A Party may not proceed with both an appeal under Section K.6 and an arbitration under Section K.7 with regard to the same order, notice of contravention or notice of non-compliance.
- (2) The Commissioner may retain a lawyer to respond to an arbitration under Section K.7.
- (3) If the Respondent has appointed a second arbitrator under this section, then, within 5 days of that appointment, the appointees of the Applicant and Respondent will, by notice to the Parties, appoint a third and final arbitrator to act as chair of the Arbitrators, failing which a chair will be appointed by a judge of the Superior Court of Justice of Ontario on the application of any Party on notice to all other Parties.
- (4) Subject to the *Arbitration Act*, and this Land Law, the Arbitrators may conduct the arbitration in the manner the Arbitrators consider appropriate. The Parties or, as applicable, the Commissioner and Disputant intend and will take such reasonable action necessary or desirable to ensure that there be a speedy resolution to any Dispute, and the Arbitrators will conduct the arbitration of the Dispute with a view to making a determination and written, reasoned order as soon as possible.

K.9 As provided for by Section 50 of the *Arbitration Act*, the Party entitled to enforcement of an arbitral award made pursuant to this section may make an application to the court to that effect.

K.10 Notwithstanding any other remedy available under this Part, if, following the Commissioner's notice to HIW of non-compliance or notice of contravention with the Terms, the non-compliance or contravention persists and presents a risk of harm to the environment or human health, the Commissioner has authority to initiate judicial proceedings for injunctive and other relief to provide compliance.

K.11

- (1) An order to pay costs under this Part may be filed with a local registrar of the Superior Court of Justice and enforced as if it were an order of the court.
- (2) Section 129 of the *Courts of Justice Act* applies in respect of an order filed with the Superior Court of Justice under subsection (1) and, for the purpose, the date of filing shall be deemed to be the date of the order.

K.12 Where an order to pay costs under this Part: is directed to a person who has given a deposit or financial assurance under the Terms for the lease of Reserve Lands, the deposit or financial assurance may be used to recover amounts specified in the order to pay costs.

K.13 No aspect of this Part is intended to affect the exclusive jurisdiction of the Federal Courts of Canada under the Federal Courts Act, as amended.

## **PART 6. PENAL ENFORCEMENT**



**A. PENAL ENFORCEMENT - GENERAL**

- A.1 Where the Commissioner obtains information which provides the Commissioner with reasonable and probable grounds for believing that there is non-compliance with this Land Law or any order under this Part and the Commissioner determines that civil means of dispute resolution available under this Part are not adequate to appropriately resolve matters relating to the non-compliance, the Commissioner may retain an enforcement Officer, pursuant to PART 5, Section PART 5.A.1(4) for the purpose of investigating whether a person has committed an offence.

**B. PENAL ENFORCEMENT BY ONTARIO**

**B.1**

- (1) Council may reach agreement with the Province of Ontario to:
  - (a) provide penal investigation or enforcement of non-compliance with this Land Law, for some or all of the offences under this Part, including use of Ontario laws for, among other things, investigations, offences, prosecution, and punishments; or
  - (b) avoid double enforcement by Magnetawan FN and the Province of Ontario where the same acts or omissions give rise to an offence under Ontario law and under this Land Law.
- (2) Where, consistent with subsection (1)(a). Council has reached agreement on penal enforcement with the Province of Ontario, the Commissioner may, for the purpose of ensuring compliance with the Terms, refer the non-compliance to enforcement personnel at the Province of Ontario in accordance with the terms of the agreement.

**C. PENAL ENFORCEMENT - INVESTIGATION OF OFFENCES**

**C.1**

- (1) The Commissioner, or an enforcement Officer retained under PART 5, Section PART 5.A.1(4) may, for the purpose of ensuring compliance with the Terms, enter on or into any land or place without an order if:
  - (a) the entry is made with the consent of an occupier or owner of the land or place; or
  - (b) the delay necessary to obtain an order would result in,
    - (i) danger to the health or safety of any person,
    - (ii) impairment or serious risk of impairment of the quality of the environment for any use that can be made of it, or



- (iii) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.
- (2) Where subsection (1) does not apply, an application by the Commissioner or the enforcement Officer to a court of competent jurisdiction of Ontario may be brought on the basis of evidence under oath demonstrating reasonable grounds for the belief that entry on land or into or on a place is necessary for the purpose of ensuring compliance with the Terms and such court may issue an order authorizing the Commissioner or the enforcement Officer to make the entry and do the thing.
- (3) An order issued under subsection (2) shall:
  - (a) specify the times, which may be 24 hours each day, during which the order may be carried out; and
  - (b) state when the order expires.
- (4) Before or after the order expires, the court may renew the order for such additional periods as it considers necessary.
- (5) The Commissioner or the enforcement Officer authorized under subsection (1)(b) or (2) to enter land or a place for the purpose of ensuring compliance with this Land Law may call on police officers as necessary and may use force as reasonably necessary to make the entry and do the thing.
- (6) The Commissioner or the enforcement Officer named in an order issued under subsection (2) may call on any other persons he or she considers advisable to execute the order.
- (7) An application for an order or renewal of an order under this section may be made without notice to the owner or occupier of the land or place.
- (8) On the request of an owner or occupier of the land or place, the Commissioner or the enforcement Officer who exercises a power conferred under subsection (1) or (2) shall identify himself or herself and shall explain the purpose of the entry.
- (9) During an investigation under this part, the Commissioner or an enforcement Officer may, without a warrant or a court order, seize anything that is produced or is in plain view, if,
  - (a) the Commissioner or enforcement Officer reasonably believes that the thing will afford evidence of an offence under this Land Law;
  - (b) the Commissioner or enforcement Officer reasonably believes that the thing was used or is being used in connection with the commission of an offence under this Land Law and that the seizure is necessary to prevent the continuation or repetition of the offence; or



- (c) the thing is discharging or is likely to discharge a contaminant into the natural environment and an adverse effect has resulted or is likely to result from the discharge.
- (10) The Commissioner or an enforcement Officer who seizes a thing under subsection (9) may remove the thing or detain it in the place where it is seized.
- (11) The Commissioner or an enforcement Officer shall not seize anything without providing a written receipt for same.
- (12) Pursuant to this Part, the Commissioner may order that a thing seized under subsection (9) be forfeited to the Magnetawan FN.
- (13) The Commissioner or the enforcement Officer engaged in an investigation shall prepare and complete forthwith a written report, an investigation report, describing all material actions undertaken, information gathered and items seized from the investigation and relating these actions, information and items to compliance with the terms and conditions of this Land Law.
- (14) On completion of an investigation report by the enforcement Officer, the Officer shall provide the report to the Commissioner.

#### **D. OFFENCES**

##### **D.1**

- (1) It is an offence for:
  - (a) any person to breach this Land Law, an order made by the Commissioner or a notice of contravention or notice of non-compliance issued by the Commissioner; or
  - (b) any person who is a director or officer of a corporation to fail to take all reasonable care to prevent the corporation from:
    - (i) a breach of an order made by the Commissioner or a breach of a notice of contravention or notice of non-compliance issued by the Commissioner, or
    - (ii) discharging a contaminant to the environment in contravention of this Land Law or failing to notify the Commissioner of such a discharge.
- (2) For the purposes of this Land Law, an act done or omitted to be done by an officer, official, employee, or agent of a corporation in the course of his or her employment or in the exercise of his or her powers or the performance of his or her duties shall be deemed to also be an act done or omitted to be done by the corporation.



- (3) Where the Commissioner prepares or receives an investigation report under Section C.1(13) of this Part, the Commissioner may conclude that the person has committed an offence under this Land Law.
- (4) Within 60 days of the Commissioner reaching a conclusion that a person has committed of an offence under this Land Law, the Commissioner shall deliver notice of offence to that person.

## **E. PROSECUTION OF OFFENCES**

E.1 Prosecution under this Land Law will be conducted through courts of competent jurisdiction of the Province of Ontario, pursuant to section 24(5) the FNLMA.

- (1) Such prosecutions, including any appeals, shall be conducted in a manner consistent with Part XXVII of the Criminal Code.
- (2) Prosecutors shall be appointed in accordance with section 22(3) of the FNLMA, and may be:
  - (a) retained by the Commissioner,
  - (b) appointed pursuant to an agreement between Magnetawan FN and the federal and provincial governments for the use of provincial prosecutors, or
  - (c) appointed pursuant to an agreement with the federal government for the use of agents engaged by the federal government.
- (3) The Commissioner shall not initiate any prosecution under this Land Law more than 2 years after the date on which evidence of the offence first came to the attention of the Commissioner.

## **E.2**

- (1) In respect of federally protected species at risk the Commissioner shall not prosecute a person:
  - (a) where a prosecution is proceeding for an offence under the Canadian *Species at Risk Act* in respect of the same act or omission by the same person;
  - (b) the charges under the *Species at Risk Act* have not been withdrawn; and
  - (c) the essential elements of the offense under this Part and the Canadian *Species at Risk Act* are the same.
- (2) Where subsection (1) applies, and charges under the Canadian *Species at Risk Act* have subsequently been withdrawn, the limitation period under Section E.1(3) shall



be tolled for a period equal to the period for which the prosecution under the Canadian Species at Risk Act proceeded before it was withdrawn.

## **F. PUNISHMENTS FOR BREACH OF EPP LAND LAW**

### **F.1**

- (1) Where the Commissioner has delivered a notice of offence to a person for breach of the Terms and the offence does not involve harm or possible harm to the environment, that person is liable on conviction to a fine of not more than \$25,000.00 on a first conviction and \$50,000.00 on each subsequent conviction.
- (2) Where the Commissioner has delivered a notice of offence to a person for breach of the Terms and the offence does involve harm or possible harm to the environment, that person is liable on conviction:
  - (a) in the case of a corporation, other than a non-profit corporation, to a fine of not more than \$1,000,000.00, for each day or part of a day on which the offence occurs;
  - (b) in the case of a non-profit corporation, to a fine of not more than \$250,000.00, for each day or part of a day on which the offence occurs; and
  - (c) in the case of any other person, to a fine of not more than \$250,000.00, for each day or part of a day on which the offence occurs or to imprisonment for a term of not more than one year, or to both.
- (3) The penalties set out under subsection (2) are commensurate with those imposed under section 40 of the *Endangered Species Act, 2007* and shall automatically increase in accordance with any increase in the relevant penalties under that legislation.
- (4) Where a person in receipt of a notice of offence has been previously convicted of an offence for breach of the Terms, that person is liable on conviction to a fine that is double the fine available on a first conviction.
- (5) In addition to being subject to any fine payable under subsections (2) or (3), a person guilty of an offence may be subject to an order to pay:
  - (a) reasonable expenses incurred by the Commissioner to respond to any damage caused by the commission of the offence; and
  - (b) an amount equal to the amount of monetary benefit acquired by or that accrued to the person as a result of non-compliance with the Terms.
- (6) Any fine payable under this Land Law shall be payable to Magnetawan FN.

## **PART 7. INTERPRETATION AND ADMINISTRATION OF EPP LAND LAW**



**A. COMING INTO FORCE**

- A.1 PART 1, PART 2 and PART 7 of this EPP Land Law shall come into force upon enactment by Council immediately following ratification by the Community. Any activities carried out under 2 in advance of such Part coming into force are deemed to have been conducted in accordance with this Land Law.
- A.2 PART 3, PART 4, PART 5 and PART 6 of this EPP Land Law shall come into force when Council issues the Environmental Permit by Band Council Resolution.
- A.3 The Environmental Permit shall come into force when the T-Line Lease is in effect and Council's obligations under Part 5A.1 of this Land Law have been satisfied.

**B. SERVICE OF DOCUMENTS**

- B.1 Any document given or served under this Land Law is sufficiently given or served if it is,
- (1) delivered personally;
  - (2) sent by mail addressed to the person to whom delivery or service is required to be made to the last address for service provided by the person or, if no such address has been provided, to the person's last known address;
  - (3) if the person consents, by emailing a copy of the document to the person; or
  - (4) on application without notice, a court of competent jurisdiction in Ontario, on being satisfied that service cannot be made effectively in accordance with subsections (1) to (3), may by order authorize another method of service that has a reasonable likelihood of coming to the attention of the person.
- B.2 A document is delivered personally:
- (1) to a corporation, by delivering the document personally to the manager, secretary or other officer of the corporation or to a person apparently in charge of a branch office of the corporation; or
  - (2) to a partnership or sole proprietorship by delivering the document personally to a partner or the sole proprietor, or to a person apparently in charge of the office or the partnership or sole proprietorship.
- B.3 Service is deemed to be effective:
- (1) in the case of personal delivery, at the time of delivery;
  - (2) in the case of service by mail, on the fifth day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control receive the notice or order until a later date; or



- (3) in the case of service by email, at the time the person receiving the email acknowledges and accepts receipt.

## **C. EXPIRY OF LAND LAW**

### **C.1**

- (1) Construction and installation of the T-Line must be completed within four (4) years of the later of:
  - (a) the date this Land Law is issued; or
  - (b) if there is a hearing or other litigation in respect of the issuance of this Land Law, the date that this hearing or litigation is disposed of, including all appeals.

- C.2 This Land Law ceases to apply in respect of any portion of the T-Line not constructed or installed before the later of the dates identified in Section C.1.

## **D. AMENDMENT**

- D.1 Council shall consult with Members at a Meeting of Members conducted pursuant to subsection 13.1 of the Land Code prior to amending this Land Law.
- D.2 Council may amend the Environmental Permit by a Band Council Resolution.
- D.3 Where Council is considering amending this Land Law or the Environmental Permit, Council shall provide notice in writing to HIW of the proposed amendment at least 10 days in advance of deciding whether to approve the amendment.

## **E. INTERPRETATION**

- E.1 Headers are a part of this Land Law.
- E.2 Where this Land Law uses a term defined in the Land Code, the Land Code definition applies.
- E.3 Where there is a conflict between the provisions of this Land Law and any document submitted by HIW in relation to the EA Application, the provisions of this Land Law and Regime shall take precedence.
- E.4 Where there is a conflict between the text of this Land Law and the schedules attached hereto, the text of this Land Law shall prevail.
- E.5 Any ambiguity in this Land Law shall be resolved in favour of the interpretation that is most protective of the environment and Ga-zhii-ta-bii-doo-siin.



**SCHEDULE A**

**LEASED LANDS**

The lands described in Schedule A of the T-Line Lease.

## **SCHEDULE B**

### **PHYSICAL ACTIVITIES BY PHASE**

#### **PRE-CONSTRUCTION PHASE**

##### **PART 1. THE FOLLOWING PHYSICAL ACTIVITIES ARE PERMITTED DURING THE PRE-CONSTRUCTION PHASE:**

1. Site Preparation and Land Clearing:
  - (i) Geotechnical sampling
  - (ii) Delineation of work area
  - (iii) Vegetation clearing
  - (iv) Delineation and preparation of temporary work areas

#### **CONSTRUCTION PHASE**

##### **PART 2. THE FOLLOWING PHYSICAL ACTIVITIES ARE PERMITTED DURING THE CONSTRUCTION PHASE:**

1. Construction of access roads and laydown areas:
  - (i) Construction of access roads as required (including blasting)
  - (ii) Installation of temporary facilities including laydown yards
2. Transportation of *equipment* and material:
  - (i) On-site delivery of construction vehicles, *equipment*, and materials
3. Foundation excavation and construction.
4. Transmission line installation:
  - (i) Installation of above and/or below ground electrical collector lines
  - (ii) Installation of transmission infrastructure
5. Construction completion
  - (i) Reclamation of temporary construction areas
  - (ii) Demobilization of construction works
6. Power connection and commissioning

7. Construction phase *mitigation* measures and monitoring

## **OPERATIONS AND MAINTENANCE**

### **PART 3. THE FOLLOWING PHYSICAL ACTIVITIES ARE PERMITTED DURING THE OPERATING PHASE OF THE *T-LINE*:**

1. Transmission system, road and crossing repair/maintenance:
  - (i) Preventative and unplanned maintenance of *T-Line* components (includes accessing such components)
  - (ii) Maintenance of the transmission system (includes accessing such components)
  - (iii) Access road maintenance
2. *Mitigation* measures and monitoring

## **DECOMMISSIONING**

### **PART 4. THE FOLLOWING PHYSICAL ACTIVITIES ARE PERMITTED DURING THE DECOMMISSIONING PHASE OF THE *T-LINE*:**

1. Power disconnection and decommissioning of service:
  - (i) Disconnection of transmission system
2. Transportation of materials:
  - (i) On-site delivery of decommissioning vehicles and *equipment*
  - (ii) Removal of *T-Line* components and infrastructure from site
3. Disassembly and removal of transmission system components:
  - (i) Disassembly and removal of transmission infrastructure
4. Decommissioning completion:
  - (i) Reclamation of disturbed areas (includes reclamation of access roads)
  - (ii) Demobilization of decommissioning works
  - (iii) *Mitigation* measures and monitoring

**SCHEDULE C**  
**WASTE MANAGEMENT MEASURES**

| Waste                                                                       | Management Protocol                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| All waste                                                                   | <p>Waste will be stored so as to prevent leaks or spills.</p> <p>There will be no permanent storage of waste on site.</p> <p>Temporary storage will be either (a) permitted during the Pre-construction, Construction and Decommissioning phases until the completion of such phase or 90 days thereafter; or (b) permitted during Operation Activities for up to 90 days.</p> <p>Disposal (following any temporary storage, as above) will be arranged at off-site, licensed facilities.</p> <p>Transportation off-site will be by licensed haulers with appropriate manifests, in accordance with applicable provincial or federal regulations.</p> |
| Potentially hazardous waste                                                 | Stored temporarily in containment systems (labelled, sized to provide a minimum impoundment of 100% of the volume of the largest tank/drum plus 10% of the aggregate volume of all remaining tanks/drums).                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Domestic solid waste (e.g., garbage, cardboard, plastics and organics)      | Collected and permanently disposed of at offsite licensed facility.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Surplus excess impacted soil (topsoil and subsoil)                          | If soil impacted with contaminants is encountered during course of excavations, removal offsite, disposed will be arranged at offsite, licensed facilities as appropriate (in accordance with applicable provincial or federal regulations).                                                                                                                                                                                                                                                                                                                                                                                                          |
| Wood waste                                                                  | Removed from site and recycled.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Construction waste and debris                                               | <p>Collected by licensed operator and disposed of at licensed facility.</p> <p>All reasonable efforts will be made to recycle materials.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Packing frames for WTG components and cabling spools                        | Returned to their respective vendors or will be recycled.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Plastics from other containers and packaging                                | Disposed of through offsite disposal and recycling facilities, where appropriate.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Construction materials and scrap metals (e.g., copper wiring and conductor) | Where not saleable/reusable, recycle or permanently dispose of at offsite licensed facility.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Spent welding rods used during Construction Activities                      | Disposed of by licensed contractor at licensed offsite facility.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

|                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| Oils, fuels and lubricants used in maintenance and operation of equipment or machinery                                                                                                                                                    | Stored temporarily in containment systems (labelled, sized to provide a minimum impoundment of 100% of the volume of the largest tank/drum plus 10% of the aggregate volume of all remaining tanks/drums) and subsequently removed and disposed of off-site.                                                                                                                                                                                                                                                  |
| Surplus lubricating oils, grease, rags, batteries and filters used in maintenance during Operation Activities                                                                                                                             | Stored temporarily in accepted containment systems (labelled, sized to provide a minimum impoundment of 100% of the volume of the largest tank plus 10% of the aggregate volume of all remaining tanks) and subsequently removed and disposed of at off-site, licensed disposal and/or recycling facility.                                                                                                                                                                                                    |
| Cleaning of concrete trucks and cement construction materials                                                                                                                                                                             | Will occur at designated areas, located greater than 30 m from water features<br><br>Ensure wash water used for cleaning of cement construction materials does not come in contact with ground and deposit waste water in concrete washout container that allows evaporation and hardening for easier disposal or recover and recycle wash water back into cement truck.                                                                                                                                      |
| Sanitary sewage (O&M building washroom facilities)                                                                                                                                                                                        | Transported to an off-site, licensed facility by hauler, as needed.                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Some packing-material waste                                                                                                                                                                                                               | All recyclable materials will be separated from non-recyclable materials and both streams will be removed from site and disposed of at licensed facility.                                                                                                                                                                                                                                                                                                                                                     |
| Impacted soil from accidental spills or releases of contaminants (i.e., fuel, lubricating oils and other fluids)                                                                                                                          | During Construction Activities, spills to be cleaned up as soon as possible, with soils impacted with contaminants to be removed off-site, to a licensed disposal site if required (in accordance with applicable provincial or federal regulations).<br><br>During Decommissioning Activities, in event any soils are impacted with contaminants, impacted soils will be removed offsite and disposed of at licensed facility if required (in accordance with applicable provincial or federal regulations). |
| Any soil encountered during Construction or Operation Activities that has visual staining or odours, or contains rubble, debris, cinders or other visual evidence of impacts or contaminants identified during Decommissioning Activities | Soils impacted with contaminants to be removed to off-site, to an offsite licensed disposal site where required (under applicable provincial or federal regulations).<br><br>Soils impacted with contaminants identified at Decommissioning phase will be removed off site and disposed of at off-site, licensed facility where required (under applicable provincial or federal regulations).                                                                                                                |
| Dismantled turbine generators, pad-mounted transformers, access roads, overhead collector lines, transformer                                                                                                                              | Efforts will be made to re-use equipment and salvage parts; otherwise, removed components will be disposed off-site at licensed waste facility, scrap metal yard or recycling facilities.                                                                                                                                                                                                                                                                                                                     |

|                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                             |
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| stations, meteorological towers and O&M building – includes removed concrete including any rebar or steel anchor bolts, removed granular base material/crushed gravel from access roads and metal and wood components | Granular base material and crushed gravel used to construct access roads will be removed from site. At the request of Magnetawan FN, all or portions of access roads may be left in place for future use. Culverts installed during Construction Activities will also be removed from the site unless otherwise requested by Magnetawan FN. |
| Stripped chemically-treated exterior of dismantled monopoles of overhead collection lines                                                                                                                             | Monopoles will be removed and disposed of at off-site, licensed facility.                                                                                                                                                                                                                                                                   |
| Geotextile fabric removed during Decommissioning Activities                                                                                                                                                           | Will be removed and disposed of at off-site, licensed facility.                                                                                                                                                                                                                                                                             |