Saskatchewan refuses approval after first wind energy project Environmental Impact Assessment

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On September 19, 2016, the Saskatchewan Minister of the Environment refused [PDF] environmental approval for the Chaplin Energy Project (Project). The proposed Project is a 177 megawatt (MW) wind facility that is located near the Rural Municipality of Chaplin, 200 kilometres west of Regina. This was the first Environmental Impact Assessment (EIA) for a wind project in Saskatchewan.

Saskatchewan Power Corporation (SaskPower) is the province’s power utility and principal supplier of electricity. Windlectric Inc. (Windlectric), a subsidiary of Algonquin Power Co., was successful under SaskPower’s 2012 Request for Proposal process and the parties signed a 25-year power purchase agreement to build a wind-power generation facility. Windlectric’s proposed Project included a maximum of 79 wind turbines and related ancillary installations over 19,000 hectares consisting of private and Crown land.

ENVIRONMENTAL ASSESSMENT PROCESS

The Environmental Assessment Act [PDF], c. E-10.1 SS (the Act) requires prior ministerial approval for a “development”, which is defined in the Act as any project that may have prescribed significant effects on the environment or cause widespread public concern because of potential environmental changes. If the project is found to be a “development” under the Act then the proponent must conduct an EIA and submit an Environmental Impact Statement (EIS) regarding the development to the Minister. Once the requirements of the Act are satisfied, the Minister can either approve the development to proceed, with any necessary conditions, or refuse to approve the development pursuant to section 15 of the Act.

In July 2013, Windlectric submitted a proposal for the Project to the Saskatchewan Environmental Assessment Branch. The proposal for the Project was sent to the Saskatchewan Environmental Assessment Review Panel (SEARP), a group of technical and regulatory experts from across the Government of Saskatchewan. Following the SEARP’s internal technical review, the proposed Project was determined to be a “development” under the Act. Therefore, an EIA was required and Windlectric was required to submit an EIS.

Windlectric finalized its EIS for the Project in in September 2015, after addressing deficiencies identified...
in its initial March 2015 EIS by the SEARP. The Minister of the Environment conducted a public review of the EIS pursuant to sections 11 and 12 of the Act and received 137 responses. The key concern identified through public consultation was the Project’s siting north of Chaplin Lake, which is in proximity to designated Important Bird Areas and along a known migratory corridor.

After considering the EIS, technical review and public review, the Minister refused to approve the Project pursuant to section 15(1)(b) of the Act. In his reasons, the Minister concluded that:

- The unique nature of the Project area and importance to the sustainability of populations of migratory shorebirds and waterfowl in Saskatchewan and the Western Hemisphere makes the protection of these sites critical;
- Throughout the EIA for the Project, concerns were raised regarding the Project location and the potential for mortality of migratory birds including Species at Risk and disruption to migratory flyways;
- The proponent’s bird mortality risk assessment model was inherently uncertain, as a result the potential for Project-related migratory bird mortality may have been underestimated; and
- None of the proposed mitigations to individual components (e.g. setback distances, burying collector lines, turbine layout and reactive mitigation) could satisfactorily address the potential effects of the Project within a known migratory corridor.

The Project may not proceed without the Minister’s approval for the development under the Act.

**IMPACTS FOR WIND ENERGY DEVELOPERS IN SASKATCHEWAN**

The decision illustrates the potential risks in regulatory approval of wind energy projects in Saskatchewan and is particularly notable given SaskPower’s commitment to increase its installed generation capacity from renewable sources, including wind, solar, biomass, geothermal and hydro, from 25% to 50% by 2030. SaskPower announced that it will procure 100 MW of wind generation in 2016 and will develop up to 1,600 MW of new wind generation between 2019 and 2030.

Interestingly, Saskatchewan issued new siting guidelines for future wind and other renewable energy generation projects on September 19, 2016—the same day as its Chaplin decision. The guidelines include a five-kilometre buffer zone around designated environmentally-sensitive avoidance areas. The siting guidelines also state that siting wind energy projects at higher risk sites could result in approval delays, operational restrictions and higher environmental assessment costs. The Minister of the Environment said that the experience gained during the review of the Chaplin Project was invaluable in the development of new siting guidelines for future wind and other renewable energy generation projects. It remains to be seen whether Saskatchewan’s EIA process and new siting guidelines are sufficient to both attract substantial investment that is required to meet the province’s renewable energy goals and to protect the environment.
Saskatchewan refuses approval of wind project

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