

**Federal Authority Advice Record (FAAR)****FAAR Response must be submitted by January 28, 2026**

Marshdale Natural Gas Power Generation Facility Project – Independent Energy System Operator – Nova Scotia.

Registry File: [90111](#)

Department/Agency	Fisheries and Oceans Canada
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1. Will your department or agency exercise a **power, perform a duty or function**, or provide **financial assistance**, related to the project to enable it to be carried out in whole or in part?

As relevant,

- a) Specify the power, duty or function, or financial assistance, and the likelihood that it will be required to construct the project, based on the Initial Project Description, as either Required, Potential, Likely, Unlikely or Not Required

Fisheries and Oceans Canada's Fish and Fish Habitat Protection Program (FFHPP) reviews projects under the *Fisheries Act*, the *Species at Risk Act (SARA)*, and the Aquatic Invasive Species Regulations (AISR). The EA was reviewed for potential prohibited effects related to fish and fish habitat (*Fisheries Act* ss. 34.4(1), 35(1)), aquatic species at risk and their critical habitat (*SARA* ss. 32, 33, 58(1)), and the introduction of aquatic invasive species (Aquatic Invasive Species Regulations s. 10). These activities are prohibited unless authorized under the relevant legislation.

Based on the initial project description, a determination cannot be made at this time on whether a *Fisheries Act* authorization under paragraphs 34.4(2)(b) and/or 35(2)(b) will be required. The proponent is encouraged to submit a [request for review](#) to DFO with the final project design and describes any potential for the death of fish by means other than fishing or Harmful Alteration, Disruption or Destruction (HADD) of fish habitat.

- b) Describe any associated Indigenous or public consultation, including timelines

Section 35 of the *Constitution Act*, 1982 recognizes and affirms the existing Aboriginal and treaty rights of the Indigenous Peoples of Canada. The Crown is required to consult with Indigenous Peoples (First Nation, Inuit or Metis Nation) when Aboriginal and treaty rights may potentially be adversely impacted by its decisions, including regulatory decisions under the *Fisheries Act* and *Species at Risk Act*. For more information on the Crown duty to consult please visit DFO's website: <https://www.dfo-mpo.gc.ca/pnw-ppp/reviews-revues/request-review-demande-d-examen-002-eng.html>.

If a *Fisheries Act* authorization is required, DFO encourages the Proponent to begin communications with Indigenous Peoples before submitting an application to DFO, early during the project design phase (including offsetting measures). Engage and work with Indigenous Peoples to identify and address concerns throughout the development of project plans. A co-developed project is ideal. This could reduce the time it takes for DFO to consult with Indigenous Peoples whose Aboriginal and treaty rights may potentially be adversely affected by your project and accommodate where necessary, refer to [Project planning: Applying for a Fisheries Act authorization](#).

- c) Describe any associated information requirements (e.g., alternative means assessment, habitat offsetting), and specify those that may be coordinated with the impact assessment process, if an impact assessment is required

The proponent is encouraged to [request a DFO review](#) of the project if there is uncertainty about whether a *Fisheries Act* authorization may be required once project details are finalized. DFO will identify and help manage potential risks to fish and fish habitat and will advise the proponent if an authorization application is necessary.

Should DFO determine that a *Fisheries Act* authorization be required for the project, the proponent must provide DFO with:

- a completed Application Form for the Issuance of an Authorization under Paragraphs 34.4(2)(b) and 35(2)(b) of the *Fisheries Act* (Non-Emergency Situations) (<http://www.dfo-mpo.gc.ca/pnw-ppe/reviews-revues/request-review-demande-d-examen-005-eng.html>);
- the required information and documentation set out in the Authorizations Concerning Fish and Fish Habitat Protection Regulations (the Regulations) (<http://www.gazette.gc.ca/rp-pr/p2/2019/2019-08-21/html/sor-dors286-eng.html>); and
- an irrevocable letter of credit (for requirements see: <http://www.dfo-mpo.gc.ca/pnw-ppe/reviews-revues/applicants-guide-candidats-eng.html#131>) to cover the cost of offsetting plan, if you are not exempted from providing one as set out in subsection 2(2) of the Regulations.

- d) Identify any associated project-specific guidance or issues of which the proponent should be aware, or information the proponent should provide

The proponent is encouraged to review DFO's projects near water website to determine if there are [codes of practice](#) and/or [measures to protect fish and fish habitat](#) that may apply to their project.

- e) Indicate whether your department or agency has identified any power that it will not be exercising or may not be able to exercise to allow the project to be carried out, in whole or in part.

2. **Using Table 1**, identify project- and context- specific **key issues**, based on the expertise within your mandate<sup>1</sup> and the information in your possession, including the Initial Project Description, any exchanges with the proponent or others related to the project and known means to address the effects of the project. For each key issue:

- a) Specify the key issue (e.g., specific species and location)
- b) Specify the project component or activity linked to the key issue
- c) Explain why it's a key issue based on:
  - i. biophysical effect pathway(s) from the specific project component or activity
  - ii. concern unique to the project or a priority within your mandate
  - iii. the issue being material<sup>2</sup> to decision making under the *Impact Assessment Act*
- d) Identify how the issue could be resolved, including through means other than an impact assessment
- e) Identify additional information the proponent could provide including to give confidence on how the issue can be addressed through other means.

<sup>1</sup> Refer to the [Memoranda of Understanding with IAAC](#).

<sup>2</sup> An issue is material to decision making if its analysis is anticipated to affect the conclusions on (1) whether adverse effects within federal jurisdiction or direct and incidental adverse effects (collectively adverse federal effects) are likely not significant, or of low, medium or high significance; (2) appropriate mitigation measures for significant adverse federal effects; or (3) justification in the public interest.

Colleen Smith, A/Section Head  
Regulatory Reviews

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Name and title of Departmental /  
Agency Responder

January 23, 2026

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Date

**Table 1: Key Issues to inform the impact assessment process**

This table should outline key issues to inform the impact assessment process, including whether an impact assessment is required and, if so, the scope of the assessment and tailoring of the Tailored Impact Statement Guidelines.

Key issues are the major concerns directly related to a project component or activity, the analysis of which is anticipated to be material to decision-making under the *Impact Assessment Act*.

Federal authorities' advice should be guided by the identification and resolution of key issues. If an impact assessment is required, it will be focused on key issues.

Comment ID	a) Key issue	b) Project component or activity	c)(i) Biophysical effect pathway(s)	c)(ii) Concern unique to the project or a priority within your mandate	c)(iii) Material to federal decision-making	d) Means for issue resolution	e) Additional information from the proponent
<p><i>Identify comments by organization and comment number.</i></p> <p><i>e.g.: IAAC-01</i></p>	<p><i>Specify the key issue (e.g., specific species and location).</i></p>	<p><i>Identify the project component or activity linked to the key issue.</i></p> <p><i>Be specific about the nature, scale, novelty and complexity or the component or activity.</i></p>	<p><i>Identify the specific biophysical effect pathway between the project component or activity and the affected environmental or human receptor (including Indigenous Peoples).</i></p>	<p><i>Describe why it's a key issue within the mandate of your department or agency, including in terms of priorities of the federal government and in terms of anticipated likelihood, severity or uncertainty of effects.</i></p> <p><i>Identify if the key issue is common for projects of this nature or in this sector, or whether it's unique to this project due to its complexity, size or novelty; a sensitive or rare receiving environment; and/or proximity of sensitive environmental or human receptors (including Indigenous Peoples).</i></p>	<p><i>Describe why the key issue is material to decision-making as either:</i></p> <ul style="list-style-type: none"> <li>• <i>an adverse effect within federal jurisdiction, or a direct or incidental adverse effect, that may be significant based on available evidence including:</i> <ul style="list-style-type: none"> <li>○ <i>federal experts' knowledge and experience with past project assessments;</i></li> <li>○ <i>presence of sensitive species, habitats or human receptors (including Indigenous Peoples);</i></li> <li>○ <i>novel or complex project activities, components or technologies;</i></li> <li>○ <i>high uncertainties in effects or in the effectiveness of mitigation measures;</i></li> <li>○ <i>unknown or unproven mitigation; or</i></li> </ul> </li> <li>• <i>a factor for the justification in the public interest anticipated to be material to decision-making such as a likely positive effect contributing to sustainability, to Canada's environmental obligations or climate change commitments or in supporting governmental priorities, such as reconciliation with Indigenous Peoples.</i></li> </ul>	<p><i>Describe how the key issue could be resolved or addressed by:</i></p> <ul style="list-style-type: none"> <li>• <i>Any means, including powers, duties, functions, frameworks, policies or guidance that your department or agency has;</i></li> <li>• <i>Any means, including powers, duties, functions, frameworks, policies or guidance from another jurisdiction, including the province;</i></li> <li>• <i>Common, proven, well-understood or standard mitigation measures to mitigate the effect or effect pathway(s); or</i></li> <li>• <i>Commitments made by the proponent (e.g., in the Initial Project Description).</i></li> </ul>	<p><i>Describe information the proponent can provide, or commitments the proponent can make, in their Response to the Summary of Issues that would provide confidence that the issue can be resolved by existing means.</i></p> <p><i>Consider whether information, studies, analyses or collaborative work with other authorities would be required to address the issue beyond existing means.</i></p>
<p>DFO-01</p>	<p>The EA does not provide enough information on how groundwater withdrawal may alter the water table and subsequently affect local surface waters, which could potentially impact fish and fish habitat.</p>	<p>"Water supply and storage – <u>Drilled wells to supply raw water to the site</u>. Raw water will be stored on the site."</p>	<p>Lowering of the water table may reduce groundwater discharge to nearby surface waters, resulting in altered ecological flows.</p>	<p>Because the degree of groundwater-surface water connectivity is uncertain, potential flow reductions remain a priority concern under DFO's mandate.</p>	<p>Any reduction in ecological flows could constitute an adverse effect on fish and fish habitat, which falls under federal jurisdiction. Additional clarity is required to determine whether project activities could result in harmful alteration, disruption, or destruction (HADD) of habitat.</p>	<p>A Water Balance Assessment and hydrologic analysis are important to understand how groundwater withdrawals and changes to the water table may reduce surface water contributions and affect ecological flows that support fish and fish habitat. DFO (2013) provides two guidelines for assessing ecological flow requirements for fish and fish habitat including mean annual discharge and cumulative effects, which are referenced in the following publication: <a href="https://waves-vagues.dfo-mpo.gc.ca/Library/348881.pdf">https://waves-vagues.dfo-mpo.gc.ca/Library/348881.pdf</a></p>	<p>The proponent should submit a <a href="#">request for review</a> to DFO that includes groundwater modelling and hydrologic information quantifying how groundwater withdrawals may alter groundwater levels and surface water flows, particularly during low-flow conditions. The submission should outline model assumptions, predicted flow changes, and proposed monitoring or</p>

							mitigation measures to demonstrate that ecological flows will be maintained and met.

*Please insert additional rows as necessary.*