



WILDLANDS LEAGUE

A chapter of the Canadian Parks and Wilderness Society

SUMMARY

This is a request, pursuant to subsection 7.2(3) of the Ontario *Environmental Assessment Act (EAA)*, for the Minister of the Environment, Conservation and Parks (**Minister**) to refer matters related to the application for the Wataynikaneyap Phase 1 New Transmission Line to Pickle Lake Project to the Environmental Review Tribunal (**ERT**) for a hearing. The Environmental Assessment and subsequent Ministerial Review failed to adequately consider the project's impacts on caribou and, by relying on non-environmental criteria, failed to adequately assess the environmental impacts of the alternative methods of carrying out the project.

BACKGROUND

Wataynikaneyap Power (the proponent) is proposing the construction, operation and maintenance and retirement of an overhead 300 km, 230 kV electricity transmission line from Dinorwic to Pickle Lake in Northwestern Ontario. The proponent states that the purpose of the proposed undertaking is to provide transmission expansion and reliability to Pickle Lake and to meet one of the priority projects identified in Ontario's Long-Term Energy Plan.

In addition to the 300 km transmission line, the proposed project also includes a 40m wide cleared right-of-way for the transmission line's utility poles and wire; a 2 km wide corridor for the cleared right-of-way and temporary structures need for construction; a connection facility in the Dinorwic area and a transformer station in the Township of Pickle Lake.

As required by the *EAA*, the proponent identified alternative methods to the project. It considered three distinct corridors for its transmission line: a preliminary proposed corridor (**PPC**), a corridor alternative around Mishkeegogamang (**CAAM**), and corridor alternative through Mishkeegogamang (**CATM**).

Wildlands League has been actively involved in the environmental assessment (**EA**) process of this project since 2013. Wildlands League submitted comments in 2013 on the proponent's initial Terms of Reference and again in 2014 with respect to the amended Terms of Reference (**ToR**). Wildlands League also submitted detailed comments during the comment period following the proponent's EA registration in November 2017. On August 3, 2018, the proponent submitted an amended EA to include additional information and commitments in response to the comments received during the EA review process. On August 31, 2018, the Ministry of the Environment, Conservation and Parks (**MECP**) completed its review of the proponent's EA.

Wildlands League has used the available public participation mechanisms throughout the EA process to attempt to resolve its concerns about the various methodologies employed by the proponent in its EA. In particular, Wildlands League provided extensive detailed comments on the inappropriate use of non-environmental criteria in the final corridor routing analysis as well as the deficient boreal caribou assessment, including over 40 pages of written comments on the Final EA Report.

Wildlands League met with the proponent in November 2015 to discuss the overall approach to the EA and to alternatives and the consideration of routing options in this specific project. As we have flagged to the proponent on several occasions, we did not feel that the proponent respectfully engaged with us. Rather, we felt that the proponent dismissed our concerns without giving them full consideration. For example, the proponent's Chair treated our ongoing work to protect caribou in the project area as a nuisance.

Despite this dismissive treatment, Wildlands League attempted to organize a technical meeting with the proponent's EA team in early 2018 to discuss concerns we had raised in written comments. Unfortunately, the proponent declined to meet with us, advising us via email that its technical team was too busy to coordinate a meeting. Rather than meeting to discuss and perhaps resolve our concerns, it advised us that it would respond to our comments in writing "directly to [MECP] as per process requirements."¹

In addition, Wildlands League sought to discuss its concerns about the caribou assessment with Ministry of Natural Resources and Forestry (MNRF) biologists. Unfortunately, a regional MNRF staff member cancelled a scheduled conference call with two biologists on the day of the call. The staff member did not explain the policy basis for this decision to Wildlands League, and simply directed us to speak to the proponent or to MECP. Whatever the reason, the outcome is clear: neither MECP nor the proponent have addressed Wildlands League's outstanding concerns, despite our best efforts to resolve those issues collaboratively.

Although we have scheduled a call with MECP to discuss our concerns, that call will not take place until October 12, after the deadline for requesting a referral to the ERT. The issues we raise in this request remain unaddressed to date.

To date, neither the proponent nor MECP have provided adequate responses that directly address the concerns and/or deficiencies raised by Wildlands League pertaining to the use of weighted non-environmental criteria in an EA or the caribou assessment. MECP very briefly referenced our concerns in the Ministry Review; however, that review does not provide any substantive response to our comments, nor does it explain how they were considered and used to weigh the EA report.

RATIONALE FOR REQUEST

There are two significant outstanding environmental reasons for a hearing:

- a) the proponent failed to properly evaluate alternative methods of carrying out the proposed undertaking, improperly relying on irrelevant criteria to frame the environmental impacts of and final selection its preferred alternative; and
- b) the proponent failed to properly assess the proposed undertaking's impacts on boreal caribou by failing to consider range condition and the undertaking's landscape impact on the ability of the Churchill and Brightsand range populations to recover. In particular, the proponent failed to consider range condition in its criteria and indicators, failed to

¹ Email from Nancy O'Neill to Anna Baggio (February 27, 2018) [Appendix A].

provide a rationale for permitting additional permanent alteration of the Churchill range, which is already non-self-sustaining, and used a flawed scoring system which rendered the assessment of caribou between alternative methods deficient.

Alternative Methods

Wildlands League has raised concerns about the inappropriate use of non-environmental criteria to evaluate alternative methods and select the preferred alternative throughout this EA process. Those concerns raise questions about the validity of this EA, and have not been addressed to date.

Caribou

Similarly, Wildlands League has raised concerns about the proponent's inadequate assessment of boreal caribou impacts throughout the EA – and we are not alone in raising such concerns. A wide range of stakeholders and First Nations² share such concerns, including industry groups.³ A government regulator, MNRF,⁴ has also raised concerns about the proponent's boreal caribou assessment. All of these concerns remain unaddressed.

These outstanding concerns are significant. In deciding whether to approve the EA, the Minister is legally required to use a precautionary, science-based approach to protect human health and the environment.⁵ Likewise, the Minister is legally required to consider cumulative effects and adopt an ecosystem approach to environmental protection and resource management.⁶

The deficiencies associated with the proponent's assessment on boreal caribou affect the overall alternative methods assessment since impact on caribou is one of the aspects of the environment influencing the assessment of alternatives. It is improper for the Minister to approve an EA with such serious outstanding deficiencies and then defer collecting additional information and considering alternative methods of carrying out the undertaking at the permitting stage under the *Endangered Species Act (ESA)*.⁷ Doing so not only carries the risk of a permitting decision that

² Mishkeegogamang First Nation has consistently raised concerns about the impacts of the Preferred Corridor route, including how it would open up new access to its traditional territory with resulting caribou impacts. See, e.g., MISH-05, MISH-07 comments in Table 4, in the *Environmental Assessment Report for the Phase 1 New Transmission Line to Pickle Lake Project Indigenous Community or Group Comments on the Final EA Report*. The Ojibway Nation of Saugeen has also raised concerns (see Table 6, comments: SAUG-06, SAUG-08). The text of these comments are appended to this request [Appendix A].

³ MNRF noted that the EA did not consult adequately with industry groups, particularly on the issue of caribou disturbance and its impact on wood supply levels. MNRF found that the final EA lacked this information: see *Environmental Assessment Report for the Phase 1 New Transmission Line to Pickle Lake Project Government Review Team (GRT) Comments on the Final EA Report August 2018*, MNRF Comment 49434 [Appendix A] [“GRT Comments”].

⁴ GRT Comments, Table 11, MNRF Comments 49551, MNRF-COV-01, 49440.

⁵ *Environmental Bill of Rights, 1993*, SO 1993, c 28, ss 7, 11; Ministry of the Environment, Conservation and Parks Statement of Environmental Values, online: <https://www.ebr.gov.on.ca/ERS-WEB-External/content/sev.jsp?pageName=sevList&subPageName=10001>; *Lafarge Canada Inc v Ontario (Environmental Review Tribunal)*, 2008 CanLII 30290 (Ont Div Ct).

⁶ *Ibid.*

⁷ *Endangered Species Act, 2007*, SO 2007, c 6.

is inconsistent with the EA decision, but is inconsistent with the project management principles related to the coordination of approvals outlined in section 3.2.4 of the MECP's Code of Practice for Environmental Assessment (**Code of Practice**).⁸ Further, the assessment of alternative methods is a key component of the environmental assessment process, as evidenced by the fact that it is a statutory requirement under section 6.1(2) of the *EAA*. Deferring this assessment to the permitting stage under the *ESA* is inappropriate and contrary to section 6.1(2). It also risks ignoring the obligation to consider cumulative effects on caribou at a landscape scale, by focusing only on permit scale impacts. Caribou persistence has been strongly linked to landscape integrity.⁹ Finally, it is inappropriate to defer this assessment to the permitting stage because, as MNRF has acknowledged, "the EA does not demonstrate that there has been adequate Aboriginal consultation to support MNRF permitting and authorizations..."¹⁰

Critically, based on the information currently presented in the final EA, the Minister lacks the necessary information to decide whether approving the project will better the people of Ontario by protecting, conserving, and wisely managing the environment. The Ministerial Review itself acknowledges as much. The lack of a comprehensive assessment of caribou and caribou habitat in the EA was referenced by MNRF in a July 19, 2018 letter to MECP.¹¹ It required this deficiency to be addressed in a Condition of Approval of the EA.

Summary Request

In light of the Minister's obligation to apply a precautionary and science-based approach to this decision, and the purpose of the environmental assessment process as "a planning and decision-making process used to promote environmentally responsible decision making,"¹² the Minister cannot reasonably approve this EA without addressing these two substantial deficiencies. That is particularly so when the existing information available to the Minister, including the proponent's assessment of environmental impacts, supports a finding that the selected route is environmentally inferior to other alternatives.

Accordingly, pursuant to section 7.2(3) of the *EAA*, Wildlands League requests that the Minister refer two matters related to the application to the ERT:

- 1) Whether an environmental assessment that employs "cost and constructability" and "technical" criteria, as applied here by the proponent, against "environmental assessment" criteria is appropriate and consistent with the overall purpose of the *EAA*; and

⁸ Ontario Ministry of the Environment, "Code of Practice: Preparing and Reviewing Environmental Assessments in Ontario" (January 2014) ["Code of Practice"].

⁹ For example: Environment Canada. 2008. Scientific Review for the Identification of Critical Habitat for Woodland Caribou (*Rangifer tarandus caribou*), Boreal Population, in Canada. August 2008. Ottawa: Environment Canada. 72 pp plus 180 pp Appendices.

¹⁰ GRT Comments, Table 11, MNRF Comment MNRF-COV-11.

¹¹ Letter from Londa Mortson (MNRF) to Sasha McLeod (MECP) (July 19, 2018) [Appendix E].

¹² Code of Practice, Introduction.

- 2) Whether the proponent has conducted an adequate assessment of the environmental impact of each alternative on boreal caribou, and if so, whether the weighted scoring system employed by the proponent is appropriate.

COMMENTARY

The use of “cost and constructability” and “technical” criteria is inappropriate and inconsistent with the overall purpose of the EAA

Inclusion and counter-weighting of non-environmental criteria is inappropriate

In evaluating alternative methods of carrying out the proposed undertaking, the proponent considered irrelevant criteria, namely the “cost and constructability” and “technical criteria.”¹³ The Code of Practice clearly requires evaluation criteria to be linked to each component of the environment.¹⁴ The EAA defines the environment broadly, including the social, economic and cultural conditions that influence human life and any building or structure made by humans. However, a proponent’s financial- or business-planning considerations do not fall within this definition; such concerns are not part of the “environment.” Indeed, the proponent acknowledges this distinction by separately limiting EA criteria to those captured by the definition and considering cost and constructability and technical criteria as distinct.¹⁵

Thus, the “cost and constructability and technical criteria” applied by the proponent have no link to the environment as contemplated by the Code of Practice. The requirement that criteria and indicators have a link to an environmental component is consistent with the understanding that the purpose of an environmental assessment is to promote responsible environmental decision-making.

Inclusion of these non-environmental criteria detracts from a proper assessment and evaluation of the alternative methods analysis as it shifts the focus of the inquiry away from an environmental-impact based assessment to one that includes business-planning considerations. Put simply, the inclusion of these two non-environmental criteria precludes a comparative analysis that is focused on the environmental performance of the identified corridor alternatives. Once a weighted award system is applied that includes these additional criteria, a net dilution of the weight of the environmental criteria results, as clearly demonstrated here.

While business-planning considerations such as cost and constructability and technical criteria may be relevant and appropriate in selecting a reasonable range of alternatives at the ToR development stage, such considerations have no place in the final analysis of the alternative methods assessment and consequent selection of the preferred undertaking.¹⁶ It is critical to note that the Code of Practice allows consideration of such criteria exclusively to capture the

¹³ See Golder Associates Ltd, *Wataynikaneyap Power LP: Amended Environmental Assessment Report for the Phase 1 New Transmission Line to Pickle Lake Project* (August 2018) at s 13.1.1: “...the final corridor routing analysis approach ... considers three broad categories for the analysis: 1) Environmental Assessment, 2) Cost and Constructability, and 3) Technical.”

¹⁴ Code of Practice, s 4.2.4.

¹⁵ See *supra* note 14 for example of proponent’s description of the categories of criteria.

¹⁶ Code of Practice, ss 4.2.2, 4.2.4.

practicality of alternatives that might be considered. This is a very precise use of feasibility; neither the Code of Practice nor the *EAA* itself contemplate the broader inclusion of feasibility in the general EA criteria.

In the EA at hand, the inclusion of these two non-environmental criteria on the role of the EA as a planning tool for responsible environmental decision-making has an evident negative impact. This impact is apparent from the conclusion of the final routing corridor analysis. The final EA identifies the proponent's preliminary proposed corridor as the preferred alternative as a result of the inclusion of cost and constructability and technical criteria. Absent the application of the cost and constructability and technical criteria, selection of the preliminary proposed corridor would be unjustifiable as the environmental performance of the preliminary proposed corridor is inferior to one of the other corridor alternatives assessed. In other words, the PPC would not have emerged as the preferred alternative if the alternative methods assessment was conducted strictly based on environmental criteria. The use of these other criteria is therefore central to altering the primary conclusion of the EA, without having anything to do with environmental impact performance - the exclusive purpose of the exercise.

The approved ToR is flawed

Wildlands League predicted this outcome, at the earlier stages of the EA, including in the development of the ToR. Unfortunately, our concerns went unaddressed.

The proponent continues to avoid Wildlands League's concerns related to the selection of the PPC as the preferred alternative despite its poor environmental performance in comparison with the CATM and CAAM. Instead, the proponent simply relies on the approved ToR as a means of validating its final corridor routing analysis.

Yet, throughout its participation in this process, Wildlands League has consistently drawn attention to the inappropriate inclusion of non-environmental criteria in the alternative methods assessment. Respectfully, the Minister's decision to approve the amended ToR as presented by the proponents may have overlooked the impact of the use of these non-environmental criteria on the environmental assessment process. The outcome of the final EA suggests that the ToR was approved in error; the environmental assessment prepared in accordance with the amended ToR is clearly inconsistent with the purpose of the *EAA* and the public interest as it resulted in the advancement of an undertaking that is substantially inferior environmentally to the alternatives identified. In making this request, Wildlands League has both exhausted other means of bringing this deficiency to the Minister's attention and taken the first opportunity available to it to request a formal review.¹⁷

¹⁷ Code of Practice, s 6.4.1: "Any hearing requests received prior to the issuance of the Notice of Completion will be considered premature by the ministry. The requester will instead be encouraged to work further with the proponent to address issues."

The proponent’s boreal caribou assessment is demonstrably inadequate

The EA omits consideration of range condition under its boreal caribou assessment in the selection of alternatives

The EA fails to properly assess the proposed undertaking’s impacts on boreal caribou by:

- 1) omitting range condition in its criteria and indicators,
- 2) failing to provide a rationale for why the non-self-sustaining Churchill range should absorb additional permanent habitat alteration, thereby preventing the range from being restored and moving toward self-sustaining status, and
- 3) employing a flawed scoring system for caribou impact assessment.

Boreal caribou are a key environmental aspect to this project. They are a keystone mammal of this forest ecosystem, a valued species to First Nations, and a noted species at risk. Further, this specific forested region contains several large habitat areas used by caribou populations, or “ranges.” These ranges are already highly disturbed by other undertakings. With many other criteria being more generic in nature, this makes this criterion a key aspect of this particular environmental assessment. In assessing environmental performance here, it could easily be argued that it might be a limiting factor, where other impacts may be in the context of less critically impacted systems (e.g., water quality). The bar for assessing performance of alternatives relative to this criteria should be very high. It should absolutely not have substantial information gaps at this stage.

Range condition refers to the likelihood that a range is able to support a self-sustaining caribou population.¹⁸ It informs the relative tolerance of the range to alteration and the determination of the risk a particular activity would pose for caribou.¹⁹ Range condition is based on four lines of evidence related to population size, population trend, habitat disturbance and the amount and arrangement of habitat.²⁰

The MNRF has previously advised the proponent that “[w]here alternative methods affect different caribou ranges, the range condition will be used as a criterion in the comparative assessment of those methods.”²¹ Range condition is the first indicator of Caribou Habitat and was the first of 13 criteria provided by the MNRF on boreal caribou. Also included, among other criteria, were Cumulative Disturbance at the Range Level (Indicator #2) and Alignment with Existing or Proposed Disturbance (Indicator #3).

¹⁸ MNRF, *Range Management Policy in Support of Woodland Caribou Conservation and Recovery*, (December 2014), online: <https://dr6j45jk9xcmk.cloudfront.net/documents/3945/caribou-range-management-en-final-december-2014.pdf> at 2.

¹⁹ *Ibid* at 9.

²⁰ *Ibid* at 7.

²¹ Letter from John Sills (MNRF) to Allen Eade (Golder Associates) (14 April 2016) at 9 [Appendix C] [“*Sills Letter*”].

Nevertheless, the proponent did not use range condition as a criterion in the comparative assessment of alternative methods. Instead, the proponent omitted it, arguing that it was “not directly linked to the proposed approach.”²² While the proponent described the condition of the ranges in its narrative, when it came to criteria scoring, range condition was noticeably absent.

This omission is just one example of how the approach to caribou in the final EA is flawed; there are several other deficiencies. The absence of consideration of range condition in its criteria and indicators, in turn affects the reliability of the proponent’s assessment of the relative tolerance of the range to alteration and risk of the proposed undertaking to caribou and its habitat.²³

Although the proponent states that it considered range condition as part of the ecological context for predicting the significance of effects from the preliminary proposed corridor and corridor alternatives on caribou ranges, this approach is distinct from and does not satisfy the MNRF’s requirement that range condition be used as a criterion in the comparative assessment of alternative methods. The lack of a comprehensive assessment of caribou and caribou habitat in the EA was referenced by MNRF in a July 19, 2018 letter to MECP. In its letter, MNRF added that the comprehensive assessment “should follow the approach described in their letter to Mr. Eade on April 14th 2016 thereby resulting in a fulsome assessment and documentation of impacts to caribou and caribou habitat.”

If an environmental assessment for a project that might impact caribou included a range condition analysis, as required by MNRF policy,²⁴ the Minister might have the full information necessary to make a decision that satisfies these legal requirements. However, the significant outstanding deficiencies in this EA compromise the integrity, reliability and validity of the proponent’s conclusions in the final EA. The proponent committed to work with the MNRF to develop criteria and indicators, including those related to the natural environment such as species at risk in the amended ToR. Yet, the proponent failed to apply a key criterion (i.e., range condition) as directed by the MNRF in its assessment of alternatives vis-à-vis potential effects on boreal caribou.

MNRF flags this too, acknowledging the poor quality and deficiencies of the EA when it noted that “the EA remains too high level and has been found to contain discrepancies, thus impacting conclusions” and the “information and subsequent assessment is insufficient in many areas to meet requirements associated with subsequent MNRF permitting and authorizations”.²⁵

This is a significant omission in the EA and presents an incomplete assessment; the assessment of disturbance on ranges is only one part of the assessment – a true and accurate assessment of the relative risks of the project on caribou necessarily requires the consideration of disturbance vis-à-vis range condition and the state of the population meaning population condition and trend.

²² Allan Eade, Memorandum to Gillianne Marshall (MNRF) (July 7, 2016) at 3 [Appendix D].

²³ *Sills Letter* at 11 [Appendix C].

²⁴ *Ibid.* Sills Letter states “the criteria and indicators must be applied consistently for the preferred option and all alternatives” at 9.

²⁵ MECP, *Ministry Review of the New Transmission Line to Pickle Lake Project Environmental Assessment (August 2018)* at 108.

In all three ranges, the population trends are declining and range recession has occurred in the Churchill and Brightsand Ranges.

The EA failed to provide a rationale for why Churchill, a non-self-sustaining range, should absorb more permanent alteration of its habitat thereby preventing the range from being restored (and moving to self-sustaining status)

In assessing corridor alternatives, the proponent failed to consider which option among the alternatives would have the least impact on the ability of the Churchill and Brightsand ranges to recover. The proponent's justification for omitting this consideration is premised on the fact that "neither range is self-sustaining at baseline" and as such, "adding this metric to the scoring system would not improve the ability to distinguish effects among the three corridors."

The proponent's justification is unacceptable as the fact that neither range is self-sustaining at baseline does not negate from the fact that the corridor alternatives have varying impacts on the Churchill and Brightsand ranges' ability to recover. The absence of a metric to reflect this difference is another omission in the proponent's scoring system that demonstrates inadequate consideration of the assessment of boreal caribou in assessing alternatives. The proponent was explicitly asked by MNRF to consider activities in ranges that are sufficient to sustain caribou and where it is not feasible to conduct the activity in a range sufficient to sustain caribou, the proponent should provide a rationale as to why this type of alternative cannot occur.²⁶ This did not occur in the EA. In fact, the proponent cannot do so because all three alternatives were determined to be feasible.

The proponent's scoring for permanent disturbance for the corridor alternatives is flawed and failed to reflect key environmental impacts

Based on Wildlands League's analysis of the proponent's final EA, from a landscape disturbance perspective and relative to the alternatives, the PPC permanently disturbs the most habitat in the Churchill and Kinloch Ranges. This fact is not reflected in the scoring as the proponent incorrectly prioritized the minimization of harm to nursery areas over landscape disturbance.

This irregularity was picked up by the Government Review Team from the MNRF. The MNRF commented:

The analysis provided in the EA does not fully assess and compare the potential impacts to wildlife and its habitat associated with a new permanent linear disturbance such as the Preliminary Proposed Corridor compared to a line that parallels an existing permanent linear disturbance such as the Highway 599 alternative. For example, the EA seems to provide an elevated level of importance to certain nursing areas, while omitting or decreasing the importance of other nursery areas; as such, it would appear to favour the preliminary proposed corridor...²⁷

²⁶ Sills Letter at 11 [Appendix C].

²⁷ GRT Comments, Table 11, MNRF Comment MNRF-COV-09.

Wildlands League also raised similar comments in its February 2018 comments on the Final EA Report.²⁸ Among other issues, these comments raised the highly relevant issue of scale. Nursing areas is a finer-scale assessment. This does not address the highly relevant landscape-scale, which provides many more lifecycle needs, and general refuge values. It is a nitty-gritty resolution issue. In comparison to range condition, nursing areas has more relevance to siting scale consideration. Range condition is the information that should be the last to be deferred, as it represents the most predictive tool at hand for guiding key decisions such as the corridor routing question that this EA is intended to answer.

Overall, the scoring system for caribou is flawed and the selection of the PPC as the preferred alternative with respect to the caribou assessment is highly questionable as the only metric that the PPC scores higher on is with respect to nursery areas. The PPC scores lower on winter use areas and permanent disturbance when compared to the alternatives, CATM and CAAM.

Further, in the context of the flawed criteria being employed in the final weighted conclusions of this EA, these caribou related criteria have been set up as being directly counterweighted by factors such as counts of the number of transmission towers that might need to be built. This is clearly not in keeping with the spirit and intention of the *EAA*.

CONCLUSION & REQUEST

It is Wildlands League's position that the approved ToR was flawed in that it permitted the use of non-environmental criteria such as cost and constructability and technicality to be considered in the final corridor routing analysis.

While the impact of the inclusion of these out-of-scope criteria may not have been apparent when the Minister approved the ToR, the conclusions in this EA demonstrate how the inclusion of these criteria have compromised the reliability and quality of the EA. With hindsight, it is clear that an EA prepared with the inclusion of these out-of-scope criteria would not be consistent with the purpose of the *EAA* and the public interest.

The propriety of including the cost and constructability and technical criteria in the ToR is a matter related to the application and as such, falls within the purview of the Minister's power of referral under section 9.2 of the *EAA*.

Furthermore, it is clear that the proponent has not adequately addressed the impact of the project on boreal caribou. There are clear gaps in the proponent's assessment of this particular aspect. The scoring system employed by the proponent in identifying a preferred corridor based on impact to caribou is also flawed in that there is no clear, logical and traceable assessment that leads to selection of the PPC as the preferred alternative.

As such, pursuant to section 7.2(3) of the *EAA*, Wildlands League requests, that a referral to the ERT in accordance with section 9.2 be made on the following issues:

²⁸ Wildlands League, *Submission – Wildlands League comments on Watay Power Final EA* (February 9, 2018). Available at <http://wildlandsleague.org/media/Wildlands-comments-on-W-Power-final-EA-Feb-9-2018-final-correct-labels.pdf>.

1. Whether an alternative methods assessment that includes “cost and constructability” and “technical” criteria, as applied by the proponent, is appropriate and consistent with the overall purpose of the *EAA*; and
2. Whether the proponent has conducted an adequate assessment of the environmental impact of each alternative on boreal caribou, and if so, whether the scoring system employed by the proponent is appropriate.