

From: Coleman, David (MNR)
Sent: February 27, 2013 1:15 PM
To: 'Andy Shelp'; 'Ron Campbell'
Cc: Martin, Rob (MNR)
Subject: Draft Plan for Enerdu 6262 R6 CL Plan D4

Land ownership discussed in detail

Attachments: 12-11-26-OE8982-FIGURE3- DRAFT Comments (3).pdf; CL 12274.pdf; Rwy_N23-13_part_.pdf

Hi Andrew,

How to get a copy of this?

Thank you for your draft plan submission ([11271-10 Cavanaugh Lt H RP 6262 R6 CL Plan D4-27R 42X24.pdf](#) as of January 21, 2013).

This office, in conjunction with MNR's regional office and Surveyor General Office, has completed a preliminary review of your draft plan submission and can offer the following comments:

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1. Status of the River: As per the rational previously set out in my August 30, 2011 letter, the (natural) river bed is currently unpatented Crown land and any subsequent grants or vesting did not to relinquish the Crown's ownership to the bed of the River. That said the available historical evidence may be sufficient to support an application for quit claim letters patent under the Public Lands Act to the footprint of the structures (and a maintenance allowance) where the structures are located on the Crown river bed.

MNR clearly states that Enerdu do not own the riverbed

2. Registry Office Requirements: The Surveyor General's office has initiated some discussions with Jack Keat, Assistant Examiner of Surveys (MGS). Prior to resubmitting a revised plan, please ensure that you have investigated the requirements of MGS with respect to the necessity of an application to amend the PIN. To this end, please clarify that the correct extent of the PIN labels(only apply to the upland dry- not filled areas) on the face of the plan and in the Parts Schedule.

3. Extent of Crown Lands to be included in the application: In December 2012 MNR previously provided comments on the attached sketch (12-11-26 OE8982 Figure 3). **We note that the recent January re-submission does not reflect the requested revisions.** Please refer to the additional comments shown on the attached sketch.

Can we get these?

- a. CPR Rail Lands: Existing CPR interests will limit the extent of the lands MNR can transfer. Please provide a report detailing (1) the origins of the current ownership, (2) the extent of the rail lands, and (3) the extent of any conflicting rail improvements/occupations at this location. In your report, please consider the information shown on [Plan CL 12274](#) and [MNR plan N23-13](#) (both attached). Please revise your plan to remove any CPR lands/ CPR land under water. Note: Any CPR lands required for this project must be acquired from CPR using a separate reference plan.
- b. Tailrace: The unpatented property labelled as the tail race is open water and is not eligible for a quit claim. This location should be included in green coloured area on your sketch (Crown Land Area).
- c. Head Pond: Open water is not eligible for quit claim. This location should be included in green (Crown Land Area).
- d. Extent of buffer/ maintenance allowance: This is under review by the District. Lands available under the Quit claim process are only eligible if they have been occupied for 60 years quiet adverse possession. Enerdu will be required to submit supporting information with an application for review (see below).

- e. Triangular Area: The enclosed river bed area labelled "Not part of this plan" is effectively sterilized by this application. The area should be included within the adjacent green area and included in Enerdu's application for Crown land. The draft engineering drawings indicate that a portion of the existing weir at this location is to be removed. The applicant should clarify if they still wish to apply for QC patent for this portion of the weir (it will be under water).
- f. Extent of filled lands which may be eligible for a quit claim: These lands are defined as lands that are occupied by Enerdu, and the applicant can provide proof which claims continuous quiet adverse possession of the property. The boundary term "water's edge" will mean that the water side limit of the filled area, once patented, will be ambulatory and move with the natural changes to the water boundary.
- g. Status of island on the right side of the plan: Due to the ambulatory nature of water boundaries and the riparian rights of the adjacent upland owners, MNR will not quit claim ownership of the bed in front of the adjacent patented property for which Enerdu does not have title to without the consent of the upland owner. Confirm the ownership of the island within lot15, concession 9, Ramsay (Part 1 Plan 27R-8490).
- h. Proposed Spillway: The spillway forms part of the adjacent CL 12274 (a portion of Part 5). Please confirm ownership of the spill way? Does it comprise part of the Thoburn Mills claim?
- i. Labelling: The the sketch rename "Quit Claim Lands" and "Potential Crown Land"... either part of a PIN or "Crown".
- j. What is the status of the existing tailrace wall?
- k. Consider adding an explanatory note to the plan with respect to the re-established position of the limit of the upland registered plan (being the limit of Lot 15, Concession 9 Ramsay Township). Consider paragraph 4.3.2 of Instructions Governing Ontario Crown Land Surveys and Plans – November 1, 2010.

Thoburn Mill Quit Claim

MNR clearly stating that Quit Claims and Public Land Acquisition are required by Enerdu

Once the initial title concerns have been addresses MNR will be a better position to detail further requirements. **Please submit a complete Crown land submission in accordance with Instructions Governing Ontario Crown Land Surveys and Plans – November 1, 2010.**

Please be advised the following critical information will be required in order to meet MNR requirements:

1. Enerdu initiate an application to amend the PIN (if required).
2. Enerdu initiate an application for Quit Claim Letters Patent for the lands Enerdu is claiming. MNR will require a complete application with the required supporting documentation that provides evidence to support a Quit Claim Letters Patent which will be reviewed by MNR's Legal Branch staff.
3. Enerdu initiate an application to purchase any additional Public lands which Enerdu requires for this project. A separate Water Power Lease may also eventually be required once title is confirmed through the above processes.
4. Enerdu will also be required to initiate a Market Value Appraisal (Please contact Kemptville District Office prior to contacting an AACI, as a Terms of Reference for a client initiated appraisal, instructions to the applicant and appraiser is required).

I look forward to working with you please let me know if you have any questions.

Best Regards,

David Coleman - Lands and Waters Technical Specialist

Ministry of Natural Resources - Kemptville District

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