



Ontario Energy Board Commission de l'énergie de l'Ontario

DECISION AND ORDER

EB-2018-0191

IAMGOLD CORPORATION

Côté Gold Project

BEFORE: Emad Elsayed
 Presiding Member

December 6, 2018

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1 INTRODUCTION

IAMGOLD Corporation (IAMGOLD) applied to the Ontario Energy Board (OEB) under sections 92, 97 and 101 of the *Ontario Energy Board Act, 1998* (OEB Act) for approvals that would allow IAMGOLD to construct approximately 44 kilometres of 115 kilovolt electricity transmission line from the Hydro One Network Inc. (HONI) transmission system at Shining Tree Junction to the Côté Gold Mine (Mine) located approximately 20 km southwest of Gogama, Ontario (the Project).

Specifically, IAMGOLD is seeking the following orders:

- a) Under section 92 of the OEB Act, leave to construct the Project
- b) Under section 97 of the OEB Act, approval of the proposed form of easement agreement
- c) Under section 101 of the OEB Act, authority to construct works upon, over or under a highway, utility line or ditch

Providing power to the Mine also requires an upgrade to an existing transmission line owned by HONI. In a separate application,¹ HONI is asking the OEB for permission to upgrade one circuit of a 115 kilometre idle 115 kilovolt electricity transmission line and at the same time, refurbish the adjacent transmission circuit. HONI is also asking permission to upgrade associated station facilities from Timmins Transformer Station to Shiningtree Junction.

A map showing the location of the Project as well as the existing HONI transmission line is attached as Schedule A to this Decision and Order.

The OEB examined all aspects of this leave to construct application and is satisfied that the Project is in the public interest. Leave to Construct the Project is granted subject to the Conditions of Approval attached as Schedule B to this Decision and Order (Conditions of Approval). The OEB also approves the proposed form of easement agreement and grants IAMGOLD the authority to construct works upon, over or under a highway, utility line or ditch.

¹ EB-2018-0257, HONI Côté Lake Mine Connection Project, filed with the OEB on August 30, 2018.

2 PROCESS

IAMGOLD filed its application on July 11, 2018. IAMGold requested a written hearing and a decision no later than December 31, 2018. Construction is scheduled for the summer of 2019 in order to meet the Mine's operational date in the first quarter of 2021.

A Notice of Hearing (Notice) was issued on September 7, 2018. The Independent Electricity System Operator (IESO) and Mattagami First Nation (MFN) applied for intervenor status and were approved by the OEB.

Letters of support for the Project were filed with the OEB by the Corporation of the City of Timmons, the Mayor of Greater Sudbury, and the MPPs of the provincial electoral districts of Algoma Manitoulin, Nickel Belt, Sudbury and Timmins.

The OEB proceeded by way of a written hearing. In accordance with procedural order No.1 issued on October 4, 2018, the interrogatory phase was completed on October 29, 2018. MFN and OEB staff filed written submissions on November 8, 2018. IAMGOLD filed its reply submission on November 19, 2018.

3 OEB'S JURISDICTION

The OEB's power to grant an applicant leave to construct transmission facilities arises from subsection 92(1) of the OEB Act which states:

92. (1) No person shall construct, expand or reinforce an electricity transmission line or an electricity distribution line or make an interconnection without first obtaining from the Board an order granting leave to construct, expand or reinforce such line or interconnection.

In discharging its duties in this proceeding, the Board is also bound by the provisions of section 96 of the OEB Act which states:

96. (1) If, after considering an application under section 90, 91 or 92 the Board is of the opinion that the construction expansion or reinforcement of the proposed work is in the public interest, it shall make an order granting leave to carry out the work.

(2) In an application under section 92, the Board shall only consider the following when, under subsection 1, it considers whether the construction, expansion or reinforcement of the electricity transmission line or electricity distribution line or the making of the interconnection, is in the public interest:

1. The interests of consumers with respect to prices and the reliability and quality of electricity service.
2. Where applicable and in a manner consistent with the policies of the government of Ontario the promotion of the use of renewable energy resources.

In a 2012 leave to construct application, the OEB explained how section 96(2) limits its review of leave to construct applications:

In enacting section 96(2) of the Act, the Legislature has clearly demonstrated its intention to exclude from the Board's purview any matters other than those directly associated with the interests of consumers with respect to price and the reliability and quality of electricity service, or the promotion of the Government's renewable energy policies.

Other issues, including environmental impacts, have been expressly excluded from the Board's jurisdiction.²

In addition, section 97 of the Act states:

97. In an application under section 90, 91 or 92, leave to construct shall not be granted until the applicant satisfies the Board that it has offered or will offer to each owner of land affected by the approved route or location an agreement in a form approved by the Board.

Section 101 of the Act provides that "... if after the hearing the Board is of the opinion that the construction of the work upon, under or over a highway, utility line or ditch is in the public interest, it may make an order authorizing the construction upon such conditions as it considers appropriate."

² EB-2012-0082, Decision and Order, November 8, 2012, p. 12; see also EB-2009-0120, Decision on Questions of Jurisdiction and Procedural Order No. 4, November 18, 2009, pp. 8-11.

4 PRICES

In determining whether the Project is in the public interest in terms of the interests of consumers with respect to prices, the OEB has examined the need for the Project, its alternatives, and its economics.

4.1 PROJECT NEED AND ALTERNATIVES

The Mine will require approximately 72 MW of power. There are no electricity transmission or distribution facilities located near the Mine with sufficient capacity to meet its requirements.

IAMGOLD considered an approximately 160 km long 230 kV line extending from the City of Timmins to the Mine. Based on feedback from government regulators, technical experts, local stakeholders and Indigenous communities during the environmental assessment process, the current proposal for 44 km of new 115 kV line to be constructed by IAMGOLD and the proposed re-conductoring by HONI became the preferred alternative.

IAMGOLD and HONI discussed the possibility of HONI owning the Project, but it was determined that it was in IAMGOLD's interest to retain ownership.

Findings

The Project is the only facility near the Mine with sufficient capacity to meet its power requirement. The OEB finds that the Project is needed. The OEB also finds that IAMGOLD explored other transmission alternatives to the Project before determining that the Project is the preferred alternative.

4.2 PROJECT ECONOMICS

IAMGOLD will finance 100% of the construction, operation and decommissioning of the proposed Project. IAMGOLD will pay a capital contribution to HONI pursuant to a Customer Connection and Cost Recovery Agreement with HONI, which will be in accordance with the requirements of the OEB's *Transmission System Code (TSC)*.

IAMGOLD will retain ownership of the Project and be an "unlicensed transmitter" as defined in the TSC and will not transmit electricity other than for its own use. Unlicensed transmitters are not rate-regulated by the OEB.

Findings

The OEB finds that IAMGOLD meets the criteria for being an unlicensed transmitter as it will be transmitting electricity only for its own consumption. As a result, IAMGOLD will not be rate regulated by the OEB. IAMGOLD intends to finance 100% of the construction, operation and decommissioning of the proposed Project. Therefore, there will be no adverse impact on other ratepayers and the Project economics are not relevant under these circumstances.

5 RELIABILITY AND QUALITY OF SERVICE

In determining whether the Project is in the public interest in terms of the interests of consumers with respect to reliability and quality of service, the OEB has examined the purpose of the project, the potential impact on the integrated power system as described in the System Impact Assessment (SIA), and the potential impact on the Hydro One system and customers as described in the Customer Impact Assessment (CIA).

IAMGOLD noted that the purpose of the Project is to serve the Mine, and as such it is in their best interest to ensure reliability and quality of service.

The IESO concluded in its SIA that the proposed connection of the Project is expected to have no material adverse impact on the reliability of the integrated power system.

Hydro One concluded in its CIA that the Hydro One system and customers will not be adversely impacted by the connection of the Mine.

IAMGOLD has committed to meeting the requirements of the Final SIA and the Final CIA.

In its submission, the MFN stated that it is among the Indigenous communities most affected by the Project. MFN is supplied electricity by Shining Tree DS, which is supplied by T61S, a 115kV transmission line running parallel to circuit T2R connecting to Timmins TS. MFN focused its attention on two considerations:

- a) Will the Project increase the probability that MFN will experience lower reliability in the near-term?
- b) Can the Project be optimized to increase reliability for MFN in the long-term?

MFN's assessment of the evidence concluded that the Project is not expected to reduce the reliability of electricity supply to its community; in fact, the Project as proposed may slightly increase reliability. Notwithstanding this improvement, MFN identified additional equipment design opportunities that could improve reliability of supply upstream of the Project and therefore reliability of service to its community.

In its reply submission, IAMGOLD noted that the additional opportunities identified by MFN are more relevant to the HONI leave to construct application. IAMGOLD has offered to contribute up to \$50,000 to assist MFN and HONI analyze the opportunities as long as there are no adverse impacts on Project costs, timelines, or third parties.

Findings

The OEB finds that IAMGOLD has demonstrated that the Project will have no adverse impacts on the reliability and quality of service experienced by other electricity consumers. This was the conclusion reached as a result of the Final SIA and the Final CIA. IAMGOLD has committed to meeting the requirements of the Final SIA and the Final CIA.

The OEB accepts IAMGOLD's reply submission that the MFN's proposal to increase reliability of supply upstream of the Project is more relevant to HONI's leave to construct application, rather than this application. IAMGOLD offered a financial contribution to support the feasibility analysis of this technical proposal by HONI and the MFN. This issue is beyond the scope of this proceeding and should be addressed by IAMGOLD, HONI and the MFN.

6 LAND

The proposed route for the Project is primarily located in an existing, but abandoned, right-of-way from HONI's existing Shining Tree JCT to the proposed Mine. The balance of the route located west of Highway 144 and entering the Mine will be in a new corridor.

A land use permit will be required from the Ministry of Natural Resources and Forestry for areas where the Project crosses Crown Land.

The Project will cross roads, including Highway 144, and an existing CNR railway. Road and rail negotiations have not occurred yet, and are likely to occur in the early part of 2019.

Although it is not anticipated that there will be a need for easement agreements with private landowners, IAMGOLD has filed the form of land use agreement it would offer to any private landowner should the need arise. OEB staff reviewed the form of land use agreement and submitted that it should be approved by the OEB for use by IAMGOLD, if required.

Findings

OEB's leave to construct is subject to the necessary easements and land use permits that must be acquired by IAMGOLD. The OEB approves the proposed form of land use agreement.

7 OTHER MATTERS

7.1 ENVIRONMENTAL

The Ministry of Environment, Conservation and Parks (MECP)³ granted approval of the Côté Gold Project Environmental Assessment (EA) on December 22, 2016.

Through interrogatories, MFN asked IAMGOLD to produce a number of documents relating to the EA. IAMGOLD provided the requested information, but questioned its relevance given the OEB's jurisdiction as described in Section 3 of this Decision and Order.

Findings

Although the OEB does not have authority to review or approve environmental issues related to electricity transmission as part of its mandate, the OEB notes that the MECP granted approval of the Project EA.

The OEB finds that the EA-related documents provided by IAMGOLD to the MFN as part of the interrogatory process are not relevant to this proceeding because the environmental issues are beyond the scope of the OEB's jurisdiction.

³ Formerly the Ministry of the Environment and Climate Change.

8 CONDITIONS OF APPROVAL

The OEB's Conditions of Approval are attached as Schedule B to this Decision and Order.

The OEB finds that IAMGOLD's compliance with the Conditions of Approval will ensure that the requirements of other approvals, permits, licences, and certificates are fully addressed.

9 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. IAMGOLD Corporation is granted leave, pursuant to subsection 92 of the OEB Act, to construct the Project as described in its application.
2. The OEB approves the proposed form of easement agreement that IAMGOLD Corporation has offered or will offer to each owner of land affected by the approved pipeline route for the Project.
3. Leave to construct is subject to IAMGOLD Corporation complying with the Conditions of Approval set forth in Schedule B.
4. The Mattagami First Nation shall file with the OEB and forward to IAMGOLD Corporation its cost claim in accordance with the OEB's *Practice Direction on Cost Awards* on or before December 13, 2018.
5. IAMGOLD Corporation shall file with the OEB and forward to the Mattagami First Nation any objections to the claimed costs on or before December 20, 2018.
6. If IAMGOLD Corporation objects to the Mattagami First Nation's costs, the Mattagami First Nation shall file with the OEB and forward to IAMGOLD Corporation any responses to any objections for cost claims on or before January 4, 2019.
7. IAMGOLD Corporation shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

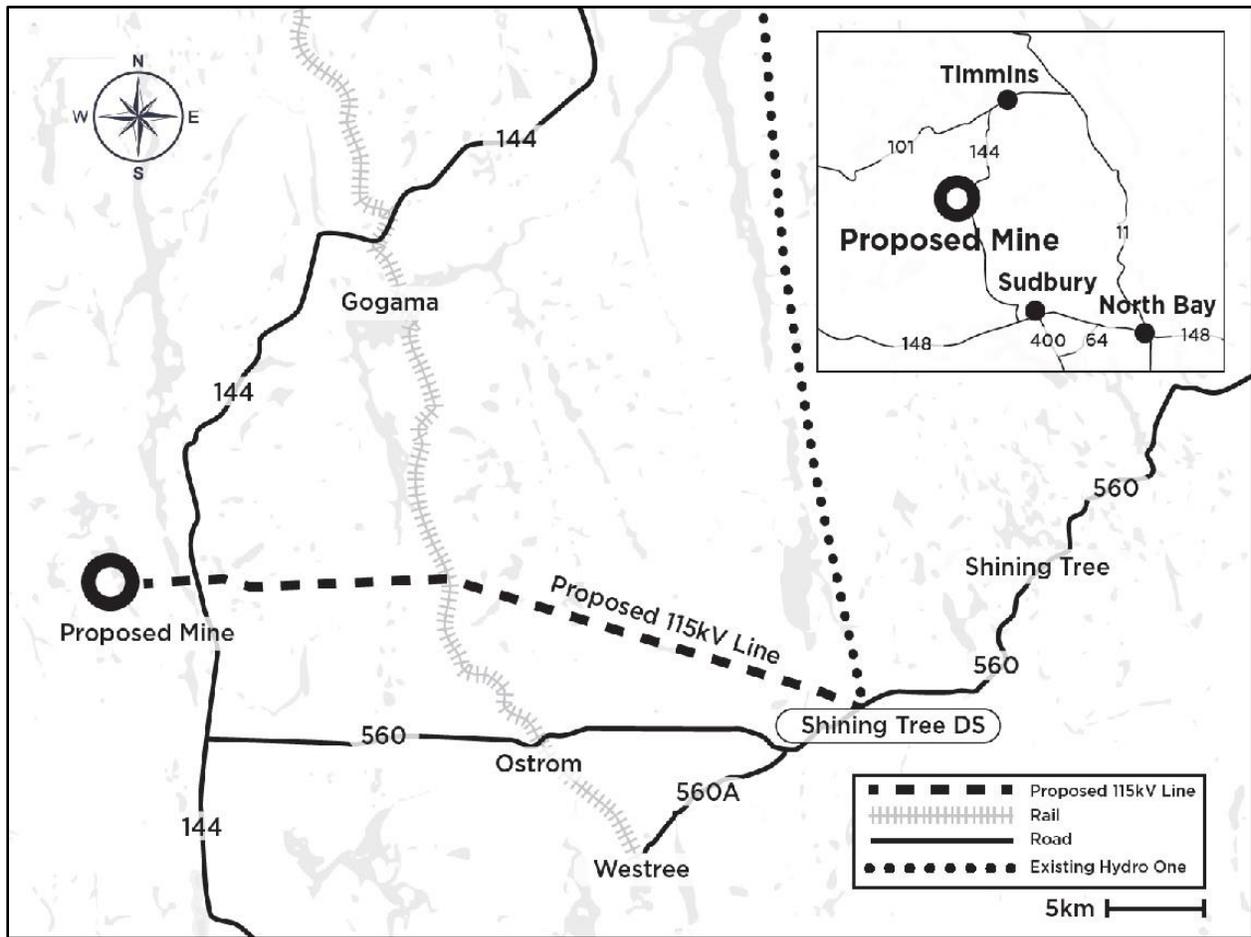
DATED at Toronto December 6, 2018

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

SCHEDULE A - MAP



SCHEDULE B – CONDITIONS OF APPROVAL

Application under Section 92 of the OEB Act

IAMGOLD Corporation

EB-2018-0191

1. IAMGOLD Corporation is granted leave pursuant to section 92 of the Act to construct the proposed Project in accordance with the OEB's Decision and Order in this proceeding and subject to fulfillment of the requirements of the SIA and CIA and all other necessary approvals, permits, licences and certificates required to construct, operate and maintain the proposed facilities.
2. Unless otherwise ordered by the OEB, authorization for Leave to Construct to IAMGOLD Corporation shall terminate 12 months from the date of this Decision and Order, unless construction has commenced prior to that date.
3. IAMGOLD Corporation shall advise the OEB of any proposed material change in the Project, including but not limited to changes in: the proposed route, construction schedule or the necessary environmental assessment approvals, and all other approvals, permits, licences, certificates and rights required to construct the proposed facilities.
4. IAMGOLD Corporation shall submit to the OEB written confirmation of the completion of Project construction. This written confirmation shall be provided within one month of the completion of construction.