

## **SUMMARY OF COMMENTS/RECOMMENDATIONS**

**PROPONENT:** Under the Hill Farms Ltd.  
**PROPOSAL NAME:** Under the Hill Farms West Irrigation Project  
**CLASS OF DEVELOPMENT:** Two  
**TYPE OF DEVELOPMENT:** Transportation/Transmission - Pipelines  
**CLIENT FILE NO.:** 5343.00

### **OVERVIEW:**

The Proposal was received on May 9, 2008. It was dated May 9, 2008. The advertisement of the proposal was as follows:

“A Proposal has been filed by Under the Hill Farms Ltd to irrigate up to 342 ha (845 acres) annually in rotation on a land base of 800 ha (1979 acres). The project land is located west of Glenboro and mostly south of Stockton in the Rural Municipality of South Cypress. Approximately 611 dam<sup>3</sup> (495 acre-feet) of water would be applied annually, using groundwater obtained from existing and new wells on the Assiniboine Delta Aquifer near the irrigated fields. ”

The Proposal was advertised in the Baldur Glenboro Gazette on Tuesday, May 27, 2008. It was placed in the Main, Millenium Public Library, Eco-Network and Western Manitoba Regional Library (Brandon) public registries, and in the R. M. of South Cypress office as a public registry location. The Proposal was distributed to TAC members on May 21, 2008. The closing date for comments from members of the public and TAC members was June 25, 2008.

### **COMMENTS FROM THE TECHNICAL ADVISORY COMMITTEE:**

**Sustainable Resource Management Branch** It is noted that parcel SE 26-07-15W1 (proposed for pivot irrigation) occurs adjacent to several parts of the protected Assiniboine Corridor Wildlife Management Area (WMA). Consideration should be given to these adjacent lands during constructing and use of the irrigation system. Please mitigate any potential impacts which may affect the protected surrounding lands.

The legal descriptions of the adjacent protected Assiniboine Corridor WMA parcels are as follows:

NW 26-07-15 W1  
SW 26-07-15 W1  
NW 25-07-15 W1  
NW 24-07-15 W1

Disposition:

These comments can be addressed through licence conditions.

**Parks and Natural Areas Branch**

No concerns.

**Environmental Services Branch**

No concerns.

**Aboriginal Relations Branch**

It is identified that Manitoba Water Stewardship decisions regarding water licensing requirements and details are pending. If it is decided that a water permit and/or licence is required, Manitoba Water Stewardship must undertake a scoping exercise to determine whether or not the proposed project infringe(s) the exercise of a Treaty or Aboriginal right.

If so, the Government of Manitoba must undertake Crown Consultation with First Nation or Aboriginal communities to learn and understand how this proposed amendment may infringe upon the exercise of a Treaty or Aboriginal right.

As Manitoba Conservation is aware, if a thorough, adequate consultation is not completed by the Government of Manitoba, the possibility of a successful legal challenge from First Nation and Aboriginal communities is significantly increased. The claim could be based on an unjustified infringement(s) of a Treaty or Aboriginal right.

If you have any questions, concerns or would like to discuss the contents of this memo please do not hesitate to contact (Contact was provided).

Disposition:

Consultation will be undertaken by Manitoba Water Stewardship if necessary.

**Wildlife and Ecosystem Protection Branch**

The proposal is requesting approval to develop an irrigation system to service cropland in the RM of South Cypress with water drawn from the Assiniboine Delta Aquifer.

- A search of the Conservation Data Centre (CDC) data base showed that several provincially rare or uncommon species may occur in the project area. Any areas of native vegetation or natural habitat that may be negatively impacted by this development (*e.g.* as a results of land clearing, installation of pipeline, or potential groundwater drawdown) should be surveyed to determine if species of concern are present, the degree to which they may be impacted, and how such impacts will be mitigated.

- The proponent should be aware that since many areas of the province have not been thoroughly surveyed, the absence of data in the CDC database in any particular geographic area does not necessarily mean that species or ecological communities of concern are not present. The information provided by the CDC should therefore not be regarded as a final statement on the occurrence of any species of concern nor can it substitute for on-site surveys for species that will be impacted by the development. It is the responsibility of the proponent to inspect the project area prior to and during construction to determine if any rare or endangered species may be impacted. The proponent needs to be aware that if rare or endangered species are present, removal or destruction of individuals or their habitat may be in contravention of Subsection 10(1) “Prohibition” of *The Endangered Species Act* (Manitoba). In addition, the federal Species at Risk Act prohibits any activities that kill or otherwise harm COSEWIC-listed plant or animal species and prohibits destruction of habitat for these species. If species of concern are present, the proponent must contact the Biodiversity Conservation Section of the Wildlife and Ecosystem Protection Branch to discuss possible mitigation options well in advance of any disturbance.
- The proponent should also be aware that killing or harming migratory birds and disturbance, destruction or taking of their nests or eggs is prohibited under the Migratory Birds Convention Act. The proponent is responsible for ensuring that no migratory birds will be harmed and no active nests of migratory birds will be destroyed as a result of the development. If migratory birds or their nests may be harmed by this development, the proponent must contact the Canadian Wildlife Service for further direction.

Disposition:

These comments can be addressed through licence conditions.

**Manitoba Water Stewardship**

- *The Water Rights Act* indicates that no person shall control water or construct, establish or maintain any “water control works” unless he or she holds a valid licence to do so. “Water control works” are defined as any dyke, dam, surface or subsurface drain, drainage, improved natural waterway, canal, tunnel, bridge, culvert borehole or contrivance for carrying or conducting water, that temporarily or permanently alters or may alter the flow or level of water, including but not limited to water in a water body, by any means, including drainage, OR changes or may change the location or direction of flow of water, including but not limited to water in a water body, by any means, including drainage. If the proposal in question advocates any of these activities, application for a Water Rights Licence to Construct Water Control Works is required.
- Section 5.1 refers to a “Manitoba Conservation” monitoring network. It appears this is an error, Manitoba Water Stewardship’s well network should be noted.

- The Department concurs that the location of the proposed wells UH12 and UH13 should be situated as far as possible from Oak Creek within the available land to minimize any potential water level impacts on the creek.
- Groundwater modeling undertaken by the proponent indicates that groundwater drawdown is not expected to have any significant impact on domestic wells or Oak Creek. However the modeling predictions have not been verified. The Department recommends to establish a minimum of one long-term groundwater level monitoring station to confirm the modeling predictions. If only one monitoring station is established, its preferred location would be within the predicted drawdown cone in the vicinity of Oak Creek. The proponent should also be required to complete an assessment of the measured and predicted drawdown results.
- Section 3.5.2, page 16 of the *Environment Act* Proposal notes that fertigation is used:
  - The proponents should be reminded that under the Nutrient Management Regulation (MR 62/2008), no application of nutrients is allowed on class 6, 7, or unimproved organic soils.
  - Fertigation through irrigation or nutrient applications would not be allowed on class 6 soils on SW19-7-15W, NE17-7-15W and SE26-7-15W.
  - Oak Creek is classed as fourth order drainage and is in close proximity to the southwest corners of SE8-7-15W and SW9-7-15W.
  - Nutrient applications cannot occur within 3 metres of the creek if there is permanent vegetation in the buffer setback or 8 m if there is no permanent vegetation.
  - Fertigation through irrigation equipment cannot occur where irrigation spray would impact upon these areas.
- During construction of the development, erosion and sediment control measures should be implemented until all of the sites have stabilized.
- Establish and maintain a 30-metre riparian area (where the fields are adjacent to the river/creek), with undisturbed native vegetation, from the high water mark adjacent to the river/creek:
  - A purpose of a riparian area is to establish a functioning riparian area of undisturbed native vegetation which helps stabilize banks, provides aquatic and wildlife habitat and protects water quality. In circumstances where native vegetation is limited or absent, re-establishment of this vegetation should occur through natural succession or assisted through planting of vegetation native to the area;

- Alteration within this riparian area is limited to a maximum of 25 % of the shoreline length (for example: 25 metres per 100 metres of shoreline length) of each lot for a boat house, path, dock, etc.; and,
- Alteration within this riparian area (including the removal of near shore or stream aquatic habitat) shall not occur unless an activity conforms to a Department of Fisheries and Oceans Canada Operational Statement or an activity is reviewed by the Department of Fisheries and Oceans Canada.

Disposition:

Some comments can be addressed through licence conditions. Other comments were forwarded to the proponent for information. The requirements for groundwater monitoring should be addressed by the Water Rights Licence.

**Historic Resources Branch**

The Historic Resources Branch has no concerns with regard to this project's potential to impact heritage resources.

If at any time however, significant heritage resources are recorded in association with these lands during development, the Historic Resources Branch may require that an acceptable heritage resource management strategy be implemented by the developer to mitigate the affects of development on the heritage resources.

Disposition:

Comments were forwarded to the proponent for information.

**Mines Branch**

No concerns.

**Highway Planning and Design Branch**

Based on the assessment, some components of the proposed project may impact PTH 2 and PR 675 (Stockton Access Road). In this regard, we would like to submit the following comments and concerns:

- All structures, wells etc. within the control zone parallel to PTH 2 and PR 675 (Stockton Access Road) will require a permit from the Highway Traffic Board and our Department respectively.
- All permits and agreements for the installation of the proposed or future waterlines through the highway right-of-way (R.O.W) are required. MIT prefers that an underground agreement be obtained prior to tendering any proposed installation.
- If the drainage structures on PTH 2 or PR 675 require upgrading as a result of this project, the applicant will be responsible for all the cost.

For your reference, provided herewith are the Statutory Regulations pertaining to the conditions mentioned above:

*The proposed development is located adjacent to Provincial Road (PR) 675, as such the proponent should be informed that any new, modified or relocated access connection onto PR 675 requires a permit from Manitoba Infrastructure and Transportation. A permit is also required from our department for any construction above or below ground level within 38.1 m (125 ft) and for any planting placed within 15.2 m (50 ft) from the edge of the right-of-way of this highway.*

*PTH 2 is a Limited Access Highway under the jurisdiction of the Highway Traffic Board. Under the Highway Protection Act any new, modified or relocated access to this highway may require a permit from the Highway Traffic Board. A permit may also require form the Highway Traffic Board for any changes in land use, construction or structures and objects (i.e including erection of signage) within 76.2 from the edge of the right-of-way. A permit may also be required from MIT for any planting placed within 15.24 from the edge of the right-of-way of this highway.*

For further information regarding the Accesses and Structures within Highway and Control Areas, you may contact:

(Contact was provided)

Likewise, for the Highway Right-of-Way, the contact persons are the following:

(Contacts were provided)

Kindly ensure that the proponent of the project is informed with these requirements and conditions. If you have other concerns and clarifications, please do not hesitate to contact us.

Disposition:

Comments were forwarded to the proponent for information and can be addressed through licence conditions.

### **Community Planning Services Branch**

Municipal Approvals - The proponent should obtain the approval of the R.M. of South Cypress with respect to the following:

- a) Installation of any portions of water supply pipeline which are to be located within the rights-of-way of municipal roads, as they represent a structure located in the right-of-way which is under municipal jurisdiction.
- b) According to Policy 7 of PART I of the Cypress Planning District

Development Plan and Part III Policy 8.(5) of the South Cypress Zoning By-law, the proponent is required to obtain a development permit for the installation of irrigation facilities from the local development officer (based in Carberry).

- c) According to Part III policy 8.(6) of the South Cypress Zoning By-law, the proponent is required to obtain a development permit for clearing of native woody vegetation and drainage of water bodies. If either activity is required to prepare any of the proposed irrigation sites, or any future fields to be added to the project, a development permit may be obtained from the local development officer (based in Carberry).

**Monitoring** - This project is located within the Assiniboine Delta Aquifer. Based on the sensitivity of the soil and groundwater conditions in this area, I would suggest that a fairly comprehensive program for monitoring any emerging impacts to the local groundwater should be considered, so that remedial action might be undertaken in a timely manner if problems emerge. (Note that this is similar to a recommendation made by Ron Tompkins (retired) for previous proposals in this municipality – client file no. 5125.00, 5134.00 and 5271.00)

If the appropriate authorities are satisfied that this proposal will be sustainable over the long term, and will not have a significant detrimental effect on regional water quality and water quantity, then I would have no concern with the issuance of a license.

Disposition:

Information on municipal requirements was provided to the proponent for information. The requirements for groundwater monitoring should be addressed by the Water Rights Licence.

**Medical Officer of Health – Assiniboine and Brandon RHAs** Monitoring of groundwater and surface water is addressed in Section 5.0. Should **domestic wells** be located in proximity of the proposed irrigation site, monitoring should be included in the proposal as well.

Disposition:

Comments were forwarded to the proponent for information.

**Canadian Environmental Assessment Agency** I have undertaken a survey of federal departments with respect to determining interest in the project noted above. I can confirm that the project information provided has been distributed to all federal departments with a potential interest. I am enclosing copies of the relevant responses with this letter.

Based on the responses to the federal survey, the application of the Canadian Environmental Assessment Act (CEAA) will not be required for this project.

Please also note the following:

- **Agriculture and Agri-Food Canada:** AAFC does not have an EA responsibility for the project but wishes to participate in the ongoing review.
- **Environment Canada (EC):** EC notes that implementation of the proposed mitigation measures will address its concerns.

Disposition:

AAFC and CEAA will be included on the TAC for the project.

**PUBLIC HEARING:**

As no public concerns were identified, a public hearing is not recommended.

**RECOMMENDATION:**

All provincial comments received on the Proposal can be addressed as licence conditions, or have been forwarded to the Applicant's representative for information. Therefore, it is recommended that the Development be licenced under The Environment Act subject to the limits, terms and conditions as described on the attached Draft Environment Act Licence. It is further recommended that enforcement of the Licence be assigned to the Western Region.

PREPARED BY:

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July 4, 2008

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