

SUMMARY OF COMMENTS/RECOMMENDATIONS

PROPONENT: Rural Municipalities of Arthur, Brenda, & Winchester
PROPOSAL NAME: Arthur, Brenda, & Winchester Regional Water Supply System
CLASS OF DEVELOPMENT: Two
TYPE OF DEVELOPMENT: Transportation/Transmission - Pipelines
CLIENT FILE NO.: 5401.00

OVERVIEW:

The Proposal was received on March 26, 2009. It was dated March 19, 2009. The advertisement of the proposal was as follows:

“A Proposal has been filed by the Manitoba Water Services Board on behalf of the Rural Municipalities of Arthur, Brenda, and Winchester to construct a regional water supply system to provide potable water throughout the RMs, including connections to existing distribution systems in the communities of Napinka, Medora, and Goodlands and the Village of Waskada. Water for the system would be supplied by the Town of Melita’s water treatment plant, which operates with a treatment capacity of 16 L/s. An additional 4 L/s is required to meet community, rural and livestock use in the RMs over a 20 year period, which would be achieved through future plant upgrades. Treated water would be distributed throughout the RMs through distribution pipelines located in road allowances. Existing treatment systems in the communities connecting to the proposed system would be decommissioned. Construction is proposed to occur in 2010.”

The Proposal was advertised in The Melita New Era on April 4 2009. It was placed in the Main, Millennium Public Library, Eco-Network and Border Regional Library (Virden) public registries. The Proposal was distributed to TAC members on April 3, 2009. The closing date for comments from members of the public and TAC members was May 11, 2009.

COMMENTS FROM THE PUBLIC:

R.M. of Albert

The Rural Municipality of Albert would like to voice their concerns regarding the proposed water project. We understand that this is the first process in filing our concern.

It was our understanding through public meetings, meeting with consultants and meetings with the Town of Melita that this initial project was to be ended at Melita and going no further. The new water line that is in place for Melita has been operating for less than a year and there is already a proposal for an extension to provide a new pipeline to furnish three RM’s with treated water.

As we stated in previous letters, the outlying areas in the RM of Albert are serviced with “pockets” of water. It is a well known fact that in dry years, these pockets go dry. Ratepayers that have livestock nearby have concerns of their water supply being depleted without warning and there is no provision for their livelihood in the event this happens.

At present time a community water pipeline is situated at the community of Broomhill on the outer edge of the aquifer and it could easily be depleted in a dry year, this is a known fact because it has already happened in the past.

In closing, we know water is supposed to be shared, but what happens when our community wells go dry for ratepayers that have situated their livelihood around this water.

Yours truly,

Tom Campbell
Reeve, RM of Albert
Trudy Murray
CAO, RM of Albert

Delmer and Michele Jones

We would like to make it known that we have grave concerns about the water pipeline proposed for the RM's of Arthur, Brenda and Winchester. We are residents of the RM of Albert where the pipeline originates in the Oak Lake Aquifer. We along with many other farms depend on this aquifer for our water supply for our livestock operations and homes. Some of us are on the edge of the aquifer or on a finger of it. We are already concerned that the Town of Melita will draw down the aquifer enough so that those farms on the edge of the water source will run out of water. Who will pay for these farms to move their wells or find an alternate water supply should this happen. Adding 1000's of more homes, farms and livestock will put a huge strain on the Oaklake Aquifer. The RM of Albert has no other enterprises but agriculture. If this water supply is depleted, the livelihood of many RM of Albert residents will be threatened. Without agriculture, the RM of Albert will collapse. We realize that we don't own the water, but that doesn't give the Town of Melita nor other municipalities the right to pipe water from our municipality to theirs without any concern for the farmers and residents who live on this water supply and depend on it for their livelihood. Who will be responsible should some farms run out of water? Pastureland without a water supply for it's livestock is of no value. Farms without water have less value. Who will compensate the land owner who may lose a great deal of value in their land and homes? We would greatly appreciate some answers.

Disposition:

These concerns involve impacts on municipal users. Concerns are addressed in the Environment Act Proposal and under the Water Rights Act, and were previously addressed by the proponent for the Town of Melita Water Supply Project (File No.

5177.00).

COMMENTS FROM THE TECHNICAL ADVISORY COMMITTEE:

Sustainable Resource & Policy Management Branch

While the Sustainable Resource and Policy Management Branch does not oppose the proposal, it is recommended that conditions be attached to the license to ensure that installation activities along the proposed water pipeline adjacent to lands of concern to the Protected Areas Initiative do not compromise their natural integrity.

The lands of concern include the designated Gerald W. Malaher (SW 2-4-27W1) and Pierson (SE 29-2-27W1) Wildlife Management Areas (WMAs), and any lands that may be owned by, or under conservation agreement with conservation agencies. It is recommended that development activities along the proposed routes alongside these parcels of land be carried out in a way that preserves the natural values of these lands. Regional staff, staff of Wildlife and Ecosystem Protection Branch or conservation agency staff can advise of any measures that may need to be taken to protect native habitat or species of concern on the adjacent lands.

For the information of the proponent:

Southwest Manitoba retains little Crown land, and supports increasingly threatened grassland, wetland and river bottom forest communities. These threatened communities support a variety of rare species, notably species designated under Manitoba's Endangered Species Act and the federal Species at Risk Act.

While not currently protected, both the Gerald W. Malaher (SW 2-4-27W1) and Pierson (SE 29-2-27W1) Wildlife Management Areas (WMAs) are being considered as candidate protected areas under Manitoba's Protected Areas Initiative (PAI). Protected areas are land, freshwater or marine areas, where logging, mining, hydroelectric development, oil and gas development, and other activities that significantly and adversely affect habitat are prohibited by law.

Conservation agencies have significant land holdings and conservation agreements in south-western Manitoba. The Government of Manitoba has signed Memorandums of Agreement with three conservation agencies through which their private lands that meet Manitoba's standard of protection are added to the protected areas network. Work on completing similar agreements with other conservation agencies is ongoing.

When installing the pipeline along right-of-ways adjacent to these WMAs or lands with conservation agency interests attached, construction activity should remain outside these lands, and be subject to special access and other restrictions to preserve the natural values for which these agreements were developed.

Disposition:

Comments will be forwarded to the proponent for information and can be addressed via 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 a proposal advocates any of the aforementioned activities, an application for a Water Rights Licence to Construct Water Control Works is required. Application forms are available from any office of Manitoba Water Stewardship.
- The proponent needs to be informed that if the proposal in question advocates any construction activities, erosion and sediment control measures should be implemented until all of the sites have stabilized.
- The Department may provide comments pertaining to hazard lands at a later date. Currently, the Department’s hazard land personnel are seconded to the emergency flood coordination efforts.
- The proponent indicates that all water courses containing water will be directionally drilled and the entry and exit points for the drill will be outside of the riparian zones (15 metres is identified in the MWSB guidelines for Water Course Crossings). Any other crossings may be open cut trench and will adhere to an operational statement of the Department of Fisheries and Oceans Canada. Based on the Department’s regional experience, it is our preference that at minimum those crossings with a defined channel and potential to carry water during spring runoff be directional drilled. This is due to the difficulty in stabilizing the sites when open cut trenching is used and the ongoing erosion and sedimentation which results. If there is any intention or need to change from directional drilling to open cut on the larger water courses the proponent should consult with the regional fisheries biologist [Contact given] (Brandon office).

Disposition:

Comments will be forwarded to the proponent for information and can be addressed via licence conditions.

Wildlife and Ecosystem Protection Branch

- 1) A search of the Manitoba Conservation Data Centre (MB CDC) database resulted in no occurrences for the area outlined in the RM of Arthur, Brenda & Winchester regional water supply EA proposal provided for review. It would have made review of this large scale project much easier had shapefiles of the proposed pipelines been included in the package. Because the RMs are in an area of high concentration of rare species, inclusion of shapefiles would have provided for better data being

returned from the CDC. Inclusion of geo-referenced locations for proposed and existing pipeline locations at the outset of the project would benefit the proponent and reviewers. The Water Services Board is encouraged to make this change for future proposals requiring review.

- 2) It is the responsibility of the proponent to inspect all potentially affected sites prior to and during construction to determine if any listed species may be affected. Information from MB CDC is based on minimal survey effort in the study area and it should 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 affected by the development. 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, for species listed under the federal *Species at Risk Act*, the Act prohibits any activities that kill or otherwise harm COSEWIC listed plant or animal species and prohibits destruction of their habitat. If species of concern are present, the proponent must contact the Biodiversity Conservation Section of the Wildlife and Ecosystem Protection Branch (Nicole Firlotte, 945-6998) to discuss possible mitigation options.

Note: all proponents who conduct biological surveys in conjunction with their developments are asked to share that data with the Biodiversity Conservation Section. This will provide important updates to the MB CDC database.

- 3) 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:

Comments will be forwarded to the proponent for information and can be addressed via licence conditions.

Historic Resources Branch

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 will be forwarded to the proponent for information.

Mines Branch

No concerns.

Parks and Natural Areas

The map of the conceptual pipeline layout in accurately labels Turtle Mountain Provincial Park as Turtle Mountain Forest Reserve.

The portion of Turtle Mountain Provincial Park the lies within the RM of Winchester has a protected backcountry land use category, and must be labelled accurately. As the proposed pipeline lies along the highway 450 right-of-way the Branch has no concerns with its placement.

Disposition:

Comments will be forwarded to the proponent for information.

Community Planning Services Branch

1. there have, over time, been a series of water supply dams and water pipeline proposals in the southwest corner of the province
2. this proposal builds off the recently constructed water supply pipeline now bringing municipal water from the Oak Lake Acquirer to the Town of Melita
3. in the areas proposed to be served by this project, a supply of good quality water is hard to find
4. while there are deep wells on some farms, the quality of the well water leaves a lot to be desired
5. the region's geologic underpinning and glacial history do allow a few land owners to tap into small, localized, and shallow sand lenses for a limited supply of good quality water
6. this pipeline proposal offers an alternate water supply which is welcomed news in this region
7. over half of the rural residents in the RM Winchester transport by truck their potable water supply to their farm from the Town of Deloraine water supply system
8. the Deloraine water system, in turn, relies on the surface water supply held by the Turtle Head Creek Reservoir from which water moves by gravity through a pipeline a distance of about 5 miles to Town
9. there are other water pipelines in the region serving rural residences near Waskada and Broomhill
10. the report indicates that local zoning should not be a problem, in part because the proposed water pipeline will be located within provincial or municipal road rights-of-way
11. the Zoning By-laws for RMs of Arthur, Brenda, and Winchester all allow for public utilities such as the proposed water pipeline; the General Provisions Sections (which apply to all zones used in these by-laws) allow for "public utilities and services" such as water distribution facilities
12. the CPS regional office has not identified any land use planning issues which would result from approval of the proposed water supply pipeline project.

Manitoba Infrastructure and Transportation

Some components of the proposed development are located adjacent to PTH 3, 21 and 83. As such, the proponent should be informed that any new, modified or relocated access connections to this highway or its service roads (including the change in the use of an existing driveway) will require a permit from the Highway Traffic Board. A permit will also be required for any change in the use of the land, or to place, construct or alter

any structures within 38.1 m (125 ft). In addition, secure a permit from the Department of Manitoba Infrastructure and Transportation (MIT) for any plantings within 15.2 m (50 ft) from the edge of the PTH 3, 21 and 83 right-of-ways.

A water line agreement will be required from MIT prior to placing any water supply lines within the right-of-way. MIT prefers that an underground agreement be obtained prior to tendering any proposed installation. Detailed design drawings will be required to be submitted for department's review.

If additional information or clarifications on these requirements are needed, the applicant can contact [Contact given] or [Contact given].

Disposition:

Comments will be forwarded to the proponent for information and can be addressed via licence conditions.

Canadian Environmental Assessment Agency

I have completed a survey of federal departments with respect to determining interest in the project noted above. I can confirm that the project information that was provided has been reviewed by all federal departments with a potential interest. I am enclosing copies of all the responses for your file.

Based on the responses of the survey, the Canadian Transportation Agency (CTA) has notified us that an environmental assessment under the *Canadian Environmental Assessment Act* (the Act) may be required with respect to the project. The CTA requires additional information pursuant to the *Canadian Transportation Act* before it can make a determination on its environmental responsibilities under the Act. Specifically the CTA requires information on the status of any agreements relating to any crossings of federally regulated railways (see attached letter). The Canadian Transportation Agency contact for this project is [Contact given].

Western Economic Diversification (WD) is contributing funds under the Communities Component of the Building Canada Fund to a section of the project. As per recent amendments identified in Schedule 4 of the Exclusion List Regulations, 2007, this section of the project is excluded under the Act. Notwithstanding the above, WD continues to have an interest in this project and has requested that the Agency participate in the provincial review as per Clause 62 of the Canada-Manitoba Agreement on Environmental Assessment Cooperation on their behalf. Specifically, the Agency requests copies of any Technical Advisory Committee comments that result from the project review as well as a copy of the finalized Environment Act Licence to be issued.

Please note that while a component of the overall project is excluded from the Act, any necessary federal regulatory requirements will still apply. As such, the CTA may have regulatory responsibilities pursuant to the Canadian Transportation Act for this section of the project.

Please also note the following:

- Fisheries and Oceans Canada (DFO) may provide a Letter of Advice to a Responsible Authority if requested.

- Health Canada (HC) possesses specialist advice that may be relevant to the project, if specifically requested (letter attached).
- Natural Resources Canada (NRCan) may provide pertinent expertise to a Responsible Authority if requested in writing as outlined in the letter attached.

Disposition:

The CTA, WD, and CEAA will be included on the TAC for the project.

ADDITIONAL INFORMATION:

No additional information is required to address TAC comments.

PUBLIC HEARING:

No requests were received for a public hearing. Accordingly, 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 licensed 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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