

SUMMARY OF COMMENTS/RECOMMENDATIONS

PROPONENT: Keeyask Hydropower Limited Partnership
PROPOSAL NAME: Keeyask Infrastructure Project
CLASS OF DEVELOPMENT: 2
TYPE OF DEVELOPMENT: Transportation
CLIENT FILE NO.: 5420.00

OVERVIEW:

The Environment Act Proposal was dated July 31, 2009, was received on July 31, 2009. The advertisement of the Proposal read as follows:

“A proposal has been filed by the Keeyask Hydropower Limited Partnership to construct a 25 kilometre, two-lane, all-weather gravel road from Provincial Road 280 to the north shore of Gull Rapids, approximately 185 kilometres east-northeast of Thompson. The road would provide access for the potential future construction of the Keeyask Generating Station. The project also includes the construction of a 125-person start-up camp for the road construction, the first phase of a 500-person main camp, and wastewater treatment facilities for both camps. Construction is scheduled to begin in November, 2009 and is expected to be complete in May, 2012.”

The proposal was advertised in the Thompson Citizen on Wednesday, August 12, 2009 and in the Winnipeg Free Press on Saturday, August 15, 2009.

Copies of the Proposal were placed in the following Manitoba Conservation Public Registries: Conservation & Environment Library, the Manitoba Eco-Network, the Millennium Public Library, the Thompson Public Library, and Manitoba Keewatinowi Okimakanak Inc. It was also distributed to the “Transportation” and “Waste/Scrap” Technical Advisory Committee (TAC) for comment. All comments were requested by September 16, 2009.

Further to the Environment Act Proposal filed on July 31, 2009, Keeyask Hydropower Limited Partnership (the Partnership) submitted two addendums. Addendum #1, which contained information regarding the Public Information Program and Heritage Resources, was dated August 31, 2009. Addendum #2, dated October 6, 2009, contained information regarding wastewater disposal. Copies of the Addendum #1 were forwarded to the public registries on September 3, 2009 and to TAC on September 4, 2009. Copies of Addendum #2 were forwarded to TAC and the public registries on October 14, 2009.

A technical review meeting relating to Addendum #2 was held on October 13, 2009 between Manitoba Conservation and the Partnership. Manitoba Conservation requested information supplemental to Addendum #2 from the Partnership at the meeting. A document titled “Keeyask Infrastructure Project Environmental Assessment Report North Access Road Start Up Camp Concept Design for Wastewater Disposal Additional Information” dated October 26, 2009, was submitted to Manitoba Conservation in response to this request. Copies of the

document were forwarded to Manitoba Water Stewardship for review on October 27, 2009 and to the public registries on November 5, 2009.

PUBLIC RESPONSE

Following is a summary of correspondence received in response to the advertisement. Copies of the original comments from the public are available in the Public Registries.

Resource Conservation Manitoba

- Believe that a staged approach to licensing is contrary to sound principles of environmental assessment.
- Advance investments in infrastructure create momentum favouring completion of the whole project.
- Approval of the Keeyask Infrastructure Project (KIP) would undermine public confidence in the value and purpose of any subsequent processes assessing the Keeyask generating station (KGS) project as a whole.
- There has been no filing or review of the need for and alternatives to Keeyask (NFAAT) along with an environmental assessment of the entire project, which are required to justify proceeding with KGS and hence to justify proceeding with KIP.
- The proposed bridge crossing at Looking Back Creek should be assessed for both environmental and canoeing impacts, and ensuring adequate clearance.
- Impacts on caribou are a major concern for both the infrastructure project and the generating station project.
- Concerned that the impacts of decommissioning of a road and clearings could not be undone if the KGS does not proceed.
- In summary, RCM recommends that the KIP not proceed until the KGS economic and risk analysis, need for and alternatives to analysis (NFAAT), and environmental assessment have been filed and reviewed.

Disposition:

- The Keeyask Early Infrastructure Project was assessed as a Class 2 development under The Manitoba Environment Act and in accordance with the Federal/Provincial Environmental Harmonization Agreement on Environmental Assessment.
- NFAAT considerations are beyond the scope of *The Environment Act* and are being examined through other concurrent regulatory processes.
- The Looking Back Bridge crossing will has been assessed for environmental impacts and navigation clearances.
- The Licence specifies that clearing and blasting is not allowed within 5 km of caribou calving areas identified in the Environmental Assessment Report or calving areas identified during a survey of the area surrounding the Development that deemed to be acceptable to the Northeast Region of Manitoba Conservation.
- The Environment Act Licence requires the Licencee to file a decommissioning plan for the Development for approval by the Director in the event that generating station does not proceed.

Consumers' Association of Canada (CAC)

- CAC is supportive of the desire of the Keeyask Cree Nations (KCN) to create early employment and business opportunities for their members and to provide KCN businesses more time to develop their management capacities.
- It also recognizes that if the Keeyask Generating Station is built upon a prudent business case with reasonable revenue and cost assumptions then it has the potential to support sustainable economic growth in the Province of Manitoba.
- It is premature to assess the Infrastructure project in the absence of more detailed information regarding the economic, environmental and social impact of the Generating Station project.
- If the Infrastructure project must be decommissioned, it is likely that much of this cost will be borne by Manitoba Hydro ratepayers as the estimated cost of the Infrastructure does not appear to include the complete cost of decommissioning.
- For there to be a full assessment of potential impacts of the project on aboriginal rights, a complete picture of the project and its long term impacts (including its use in the potential future generating station) must be evaluated.
- Assessment of the Infrastructure project may indicate that it has a low impact, but a future assessment of the operation and use of the Infrastructure project may indicate significant potential impact, which would require a higher level of consultation and accommodation.

Disposition:

- The Keeyask Early Infrastructure Project was assessed as a Class 2 development under The Manitoba Environment Act and in accordance with the Federal/Provincial Environmental Harmonization Agreement on Environmental Assessment.
- Economic considerations with respect to decommissioning the road and the construction of the generating station are beyond the scope of *The Environment Act* and are being examined through other concurrent regulatory processes. The Environment Act Licence requires the Licencee to file a decommissioning plan for the Development for approval by the Director in the event that generating station does not proceed.
- Crown consultations of the Keeyask Early Infrastructure Project were undertaken. Any potential accommodations resulting from the consultation exercise were considered during the Environment Act licensing process.
- Additional Crown consultations will be undertaken for the generating station.

Jason Madden, JTM Law – Legal Counsel for the Manitoba Metis Federation (MMF)

The MMF is interested in making a representation on the abovementioned project on behalf of the potentially affected rights-bearing Métis community that lives, uses and relies on the territory in and around the project.

Disposition:

- The issues raised by the MMF are related to Crown consultations. EA&LB referred the matter to the Provincial Aboriginal Consultation Unit and Justice for follow up.

COMMENTS FROM THE TECHNICAL ADVISORY COMMITTEE:

Following is a summary of TAC comments on the Environmental Assessment Report. Copies of the original comments from TAC are available in the Public Registries.

Manitoba Conservation

Wildlife and Ecosystem Protection Branch

- A search of the CDC database resulted in no occurrences for the area outlined in the proposal provided for review. Therefore, there were no specific concerns related to this project.
- Further information about waterbirds noted in Table B3-2 as well as the Rusty Blackbird sighting from 2004/2005 in the same table would be of interest.
- The Proposal refers to revegetation of 'disturbed areas not required for Project infrastructure' frequently as a mitigation measure, this should be done using native species and where possible local materials.
- Given the vulnerability of caribou to hunting, any access to areas used by caribou must be discouraged. If access is gained during construction, then it must be decommissioned once construction is completed.
- Access is the major issue. Restrictions should be placed on access and hunting by employees.
- The Proposal states that potential effects of the project on calving complexes are considered small given the number of potential and verified calving complexes in the surrounding region and the quantity of habitat available in the region. The Proposal does not address why the potential sites are not presently being used if suitable.
- What programs will be put in place to ascertain if predation rates on species at risk rise as a result of the project and what mitigative measures will be considered?
- Borrow pits must be rehabilitated. The overburden removed and used in reclamation.
- During the nesting and dening season, activities around stick nests and active animal dens must be curtailed to mitigate against the species involved abandoning the site.
- There are Forest Practices and Wildlife guidelines for work around eagle nests and other wildlife areas.

Disposition: The majority of comments can be accommodated as licence conditions. Manitoba Conservation met with Manitoba Hydro on October 9, 2009 to discuss these comments.

Forestry Branch

No concerns.

Parks and Natural Areas Branch

No concerns.

Sustainable Resource Management Branch

- The northwest area of the project footprint occurs within Stephens Lake Area of Special Interest (ASI). ASIs are candidate protected areas. Activities adjacent to designated protected areas should not adversely affect habitat of the protected area.
- If this project is to proceed, it is recommended that activities be carried out in a way that minimizes disturbance to the ASI.
- The Environmental Assessment Report could benefit from reference to *Manitoba's Sustainable Development Act (1998)*, specifically regarding socio-economic analysis.

Disposition: The comments were forwarded to the proponent for information. The development area of the project does not overlap the ASI. Construction activities should not adversely affect habitat of the protected area.

Polution Prevention Branch

No concerns.

Aboriginal Relations Branch

- The Crown Consultation process regarding the Keeyask Infrastructure Project must be completed prior to the finalizing and issuance of the Environment Act licence.
- To issue the Environment Act License prior to finalizing a Crown Consultation process could be interpreted negatively by potential affected First Nation and other Aboriginal communities within the identified project area.
- The Government of Manitoba has a duty to consult in a meaningful way with First Nations, Métis communities and other aboriginal communities when any proposed provincial law, regulation, decision or action may infringe upon or adversely affect the exercise of a treaty or aboriginal right of the First Nation, Métis community or other aboriginal community.

Disposition: The Environment Act Licence will not be issued until Crown consultations have been completed.

Northeast Region

- Overall the Region found the EAR to be very thorough and has no major comments/concerns.
- The EAR does not identify the location of the 12 culvert crossings for overland drainage.

Disposition: At a meeting on October 9, 2009, Manitoba Conservation and Manitoba Hydro discussed the Region's concerns.

Manitoba Agriculture and Food and Rural Initiatives

No concerns

Manitoba Science, Technology, Energy, and Trade – Mines Branch

No concerns.

Manitoba Intergovernmental Affairs

It appears the project is located south of the Town of Gillam municipal boundaries and therefore is not included in any of the municipal planning documents.

Manitoba Culture, Heritage and Trade - Historic Resources Branch

No concerns with regard to the project's potential to impact heritage resources.

Manitoba Water Stewardship

- If the proposal advocates any water control works, an application for a Water Rights Licence to Construct Water Control Works is required.
- 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 proponent will require a Water Rights Licence for the water supply system for the construction camp.
- Construction dewatering and the taking of water for road compaction, dust management, and/or rock drilling purposes may require an authorization under *The Water Rights Act*.
- If there are fish that need to be re-located during any of the project works, the proponent is required to apply for a Live Fish Handling Permit, prior to re-locating fish.

Disposition: Comments can be accommodated as conditions of licensing and were forwarded to the Proponent for information.

Manitoba Infrastructure and Transportation

We have no objection regarding the proposed development. However, we would like to raise the following comments for consideration:

1. For any new, modified or relocated access roads connecting to Provincial Road (PR) 280, a permit will be required from Manitoba Infrastructure and Transportation (MIT).
2. A permit will also be required from MIT for any construction (above or below ground level) within 3.8 m (125ft) or for any plantings within 15.2 m (50 ft) from the edge of right-of-way of PR 280.

Disposition: This information was forwarded to the proponent for direct follow up with MIT.

CEAA

Based on responses to the Federal survey, application of the Canadian Environmental Assessment Act will not be required.

Responses from federal departments to CEAA are as follows:

- The bridge over Looking Back Creek requires approval by Transport Canada under the Navigable Waters Protection Act.

- Environment Canada, Indian and Northern Affairs and Fisheries and Oceans Canada have an interest in the project and would like to participate in the provincial review process.
- Health Canada has specialist advice which may not be relevant to the project.

Disposition: Federal comments have been forwarded to the project proponent for follow-up, as appropriate, and in accordance with the requirements of the Canada – Manitoba Agreement on Environmental Assessment Cooperation.

RECOMMENDATION:

A public hearing is not recommended. The TAC comments were forwarded to the Proponent for information or can be accommodated as conditions of licensing as noted above. It is recommended that the Development be licensed under The Environment Act subject to the limits, terms and conditions as described in the attached Draft Environment Act Licence. It is further recommended that the enforcement responsibility of the licence is transferred to the Northeast Region of Manitoba Conservation.

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