

Comments on Notice of Environment Act Proposal and Draft Scoping Document

Public Comments: none received.

Technical Advisory Committee Comments:

Manitoba Conservation: Sustainable Resource and Policy Management Branch, June 10, 2009

Manitoba Culture, Heritage, Tourism and Sport: Historic Resources Branch, June 16, 2009

Manitoba Water Stewardship: Planning and Coordination Branch, June 16, 2009

Manitoba Conservation: Aboriginal Relations Branch, June 12, 2009

Manitoba Science, Technology, Energy and Mines: Mines Branch, June 12, 2009

Manitoba Conservation: Parks and Natural Areas Branch, June 10, 2009

Canadian Environmental Assessment Agency, June 16, 2009

Blunt, Bryan (CON)

From: McRobbie, Karen (CON)
Sent: Wednesday, June 10, 2009 3:58 PM
To: Blunt, Bryan (CON)
Subject: EA Proposal: EAST SIDE AUTHORITY INC - ALL SEASON ROAD FROM PROVINCIAL ROAD 304 TO THE COMMUNITY OF BERENS RIVER (FILE:5388.00)

Bryan, the Sustainable Resource & Policy Management Branch has no concerns regarding the above licence proposal.

DATE: June 16, 2009

TO: Bryan Blunt
Environmental Officer
Manitoba Conservation
Suite 160-123 Main Street
Winnipeg MB

FROM: Gordon Hill
Impact Assessment
Archaeologist
Historic Resources
Branch
Main Floor 213 Notre
Dame Avenue
Winnipeg MB
R3B 1N3
PHONE NO: (204) 945-7730

SUBJECT: ENVIRONMENT ACT PROPOSAL DRAFT

YOUR FILE: 5388.00

EAST SIDE ROAD AUTHORITY INC.
ALL SEASON ROAD
FROM PR 304 TO BERENS RIVER

I have reviewed the above-noted Environmental Assessment Draft Scoping document.

Section 7.4 Human Environment: Heritage Resources indicates that the Environmental Impact Statement will include information regarding archaeological, culturally significant and known burial sites. The Historic Resources Branch requests that specific locations of these sites not be included in the EIS in order to protect them.

C. Gordon Hill



DATE: June 16, 2009

Memorandum

TO: Bryan Blunt
Environment Officer
Environmental Assessment and
Licensing Branch
Manitoba Conservation
123 Main Street, Suite 160
Winnipeg, Manitoba R3C 1A5

FROM: William Weaver, M.Sc.
Environmental Review Officer
Manitoba Water Stewardship
200 Saulteaux Crescent, Box 14
Winnipeg, Manitoba R3J 3W3

TELEPHONE: 945-6395

FACSIMILE: 945-7419

CC: Geoff Reimer
Laureen Janusz

**SUBJECT: ENVIRONMENT ACT PROPOSAL FILE: 5388.00
ENVIRONMENTAL ASSESSMENT DRAFT SCOPING DOCUMENT
EAST SIDE ROAD AUTHORITY INC. - ALL SEASON ROAD FROM
PROVINCIAL ROAD 304 TO THE COMMUNITY OF BERENS RIVER**

Manitoba Water Stewardship has reviewed the referenced file, forwarded for comment on May 19, 2009. The Department has the following comments:

- *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 Environmental Assessment Draft Scoping Document does not indicate a need to conduct "site specific" fish collections. Given the relative proximity of many of the crossings to Lake Winnipeg, unless the proponent is assuming that all the rivers and creeks provide some form of seasonal or year round habitat and/or for the most part

Date: June 16, 2009
Subject: *Environment Act* Proposal File 5388.00
Environmental Assessment Draft Scoping Document
East Side Road Authority Inc. - All Season Road from Provincial Road 304
to the Community of Berens River

they are intending to install clear span bridges, fish passage would need to be provided for, if more site specific fish information is not being collected to determine otherwise.

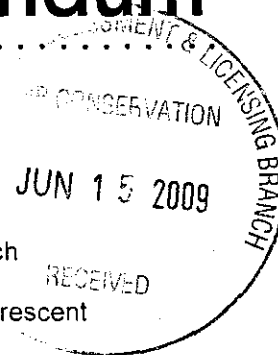
- A good understanding of river/creek hydrology (particularly spring/high precipitation event flows) will be necessary to ensure that water course crossings will not be washed out.
- The Department noted in an earlier review that there is the potential for increasing the risk of introducing non-native species to these rivers/ creeks as they will now be more accessible. Will this be addressed in an Environmental Impact Statement?

William Weaver, M.Sc.

DATE: June 12, 2009

TO: Bryan Blunt
Environmental Assessment
& Licensing Branch
160 – 123 Main Street
Winnipeg, MB R3C 1A5

FROM: Ron Missyabit
Director
Aboriginal Relations Branch
Manitoba Conservation
Box 26 – 200 Saulteaux Crescent
Winnipeg, MB R3J 3W3



PHONE NO.: 945-7088

SUBJECT: **East Side Road Authority Inc.
All Season Road From Provincial Road 304 To The Community of Berens River**

The Aboriginal Relations Branch has reviewed the documentation with respect to the above and has the following concerns to register.

As previously stated in our March 5, 2009 response, it is beneficial that East Side Road Authority (ESRA) is engaging the communities in a dialogue about their proposed project. A positive and effective relationship between the ESRA and First Nations, Métis Communities and Aboriginal Communities will also be beneficial to an efficient Crown Consultation process. The ESRA must understand that these discussions are independent of the Government of Manitoba's duty to consult.

The Constitutional duty to consult is for the Government of Manitoba to fulfill. Therefore the following questions must be answered:

1. Is the ESRA a Crown entity?
2. Can the ESRA consult on behalf of the Government of Manitoba?
3. Will the ESRA consult? If not it will have to be determined who is responsible for the Government of Manitoba's obligation to meaningfully consult.

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.

If you should have any questions, concerns or would like to discuss the contents of this memo please do not hesitate to contact, Ramona Bird-Billy at 945-7388.

Milgutch.

Blunt, Bryan (CON)

From: Jones, Chuck (STEM)

Sent: Friday, June 12, 2009 10:06 AM

To: Blunt, Bryan (CON)

Cc: Miskimmin, Barb (STEM)

Subject: East Side Road authority Inc.- All Season Road From Provincial Road 304 to The Community of Berens River

Mines Branch has reviewed the above and has no concerns.

Blunt, Bryan (CON)

From: Elliott, Jessica (CON)
Sent: Wednesday, June 10, 2009 9:08 AM
To: Blunt, Bryan (CON)
Subject: East Side Road Authority Inc. - all season road from PR 304 to the Community of Barrens river (File # 5388)

Parks and Natural Areas has reviewed the environmental assessment draft scoping document provided by the East Side Road Authority Inc for the all season road from PR 304 to the Community of Barrens river (File # 5388) and has no comments to offer.

Jessica

Jessica Elliott
Ecological Reserves and Protected Areas Specialist
Parks and Natural Areas Branch
Manitoba Conservation
Box 53, 200 Saulteaux Cres., Winnipeg, MB, R3J 3W3
phone: 204-945-4148
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Canadian Environmental
Assessment Agency

101 - 167 Lombard Avenue
Winnipeg, Manitoba R3B 0T6

Agence canadienne
d'évaluation environnementale

167, avenue Lombard, bureau 101
Winnipeg (Manitoba) R3B 0T6

June 16, 2009

CEAA File No.: MP2008-078

MC File No.: 5388.00

Mr. Bryan Blunt
Manitoba Conservation
Environmental Assessment and Licensing Branch
160 - 123 Main Street
Winnipeg, Manitoba R3C 1A5

Dear Mr. Blunt:

SUBJECT: Draft EA Scoping Document - All-Season Road from Provincial Road 304 to the Community of Berens River

I am responding to the letter of May 19, 2009 from Tracey Braun, Director, Environmental Assessment and Licensing Branch, Manitoba Conservation to Dan McNaughton, Director, Canadian Environmental Assessment Agency (the Agency) regarding the **Draft Scoping Document** for the environmental assessment of the project identified above.

This document was circulated to the federal departments with an interest in this project as determined through our federal coordination exercise. The Departments of Fisheries and Oceans (DFO), Indian and Northern Affairs (INAC), and Parks Canada (PC) have offered comments as outlined in the attached letters. Environment Canada (EC) and Transport Canada (TC) will provide any comments as soon as possible.

Please note that there are still several outstanding information requirements from DFO, INAC, and TC that will need to be fulfilled before they can make their specific determination of interest in the project under the *Canadian Environmental Assessment Act*.

If you require further information please contact me at (204) 983-4194 or by e-mail at: kris.frederickson@ceaa-acee.gc.ca.

Regards,

Kris Frederickson, MSc, PEng.
Senior Program Officer

Encl.

c.c.: D. McNaughton, CEAA
K. Cumming, PC
R. Drummond, DFO
R. Grabowecy, HC
Z. Mohammed, TC
R. Ejeckam, EC
D. Benoit, INAC

Comments on the Draft Scoping Document from Fisheries and Oceans

1. Section 7.2, subset 3, states "Fish collections will not be conducted, but anecdotal fish presence data may be collected through visual observations." As you are aware, DFO recently held a meeting with the ESRA and we have specifically indicated to the proponent that the level of detail initially provided may dictate if additional information will be required to complete our review. DFO is of the opinion that all sites that may impact fish and fish habitat should have an acceptable assessment conducted. The more detailed and complete the submission is in relation to DFO interests as per our mandate under the *Fisheries Act*, the more efficient and timely our assessment has the potential to be.

2. The above is also applicable to the detail of information that will be provided on each stream crossing with proposed structures (including causeways), engineered drawings and fish habitat assessments.

3. DFO has also already advised the ESRA to provide the following:

- For proposed culvert crossings where fish passage is required, calculations showing that water velocities are acceptable will be necessary;
- The right of way width and amount of riparian vegetation that will be removed to accommodate stream crossings;
- Detailed information on erosion and sediment control measures for road building practices are required to ensure sediment laden water does not enter watercourses;
- A detailed compensation plan for any proposed Harmful Alteration, Disruption, or Destruction (HADD);
- Assessment on the potential impacts to aquatic species at risk, as prohibited under Section 32, 33 or 58 of the *Species at Risk Act*.



Indian and Northern Affairs Canada Affaires indiennes
et du Nord Canada

200 - 365 Hargrave Street
WINNIPEG, Manitoba
R3B 3A3

May 26, 2009

Your file / Votre référence

Our file / Notre référence
WIN-E 5010
CIDM# 688586

Kris Frederickson, MSc., P.Eng.
Senior Program Officer, Prairie Region
Canadian Environmental Assessment Agency
101 - 167 Lombard Avenue
Winnipeg, MB
R3B 0T6

Dear Mr Frederickson,

RE: MP2008-078 East Side Road - Provincial EA Scoping Document from the East Side Road Authority

After having reviewed the latest rendition of the "Provincial Road 304 to Berens River: All Season Road, Environmental Assessment Scoping Document" as well as the earlier "Environment Act Proposal Notification Document", I have the following questions and comments:

1. It is unclear whether the road will be built on Reserve Lands and if so, what type of road it will be. This is important as there may be an additional trigger under CEAA, which is a section 35 uptaking of land under the Indian Act.
2. Regarding section 7.4 of the scoping document, the proponent should, in collecting and reporting on ATK, traditional practices and usages of the land, keep the First Nation and Metis community data separate so that the usages and effects on both groups peoples can be determined.
3. If the intention is to have other subsequent proposals to build roads linking the communities or for the purposes of resource extraction, then these need to be identified

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and contemplated under cumulative effects. Likewise, if there is any possibility of Bipoles III and IV being built in the future, now is the time to assess them and deal with them in cumulative effects. These comments are in keeping with section 8.3 "...reasonably foreseeable future projects in the study area..." of the scoping document.


4. Forestry Canada conducted a study in the early 1990s about the non-timber valuation of recreational canoeing in the study area, and based on canoeists reasons for choosing wilderness rivers over developed area rivers, there may be effects on recreational values by these river crossings. Consideration should be given to this.

5. Concerning Aboriginal peoples, the scope of who they will consult with should not be confined to who lives within the project area, but who uses the area and may be affected by the project.

6. Finally, in addition to contacting First Nation Chief and Councils, the proponent should also contact the Manitoba Metis Federation and its Locals, Regions and Home Office.

If you have any questions, please contact me at Tel: (204) 983-4886, Fax: (204) 983-3629, E-mail: Daniel.Benoit@inac.gc.ca

Yours sincerely,



Dan Benoit
Senior Environmental Specialist
Lands- Environmental Planning and Management Unit
Indian and Northern Affairs Canada- Manitoba Region



Parks Canada Parcs
Canada Canada

145 McDermot Ave
Winnipeg, MB
R3B 0R9

May 25, 2009

Kris Frederickson
Canadian Environmental Assessment Agency
123 Main St.
Winnipeg, MB
R3C 4W2

Subject: East Side Road – Provincial EA Scoping Document (MP2008-078)

Dear Frederickson,

I have reviewed the scoping document for the proposed road on the East Side of Lake Winnipeg and identified one deficiency. The document fails to ask the proponent to identify the potential impacts of the proposed project on the heritage values associated with the Bloodvein River Canadian Heritage River. I recommend this be included in the scoping document.

If you have any further questions, please feel free to contact me.

Thank you,

Sincerely,
Katherine Cumming
Environmental Assessment Scientist

Canada



Fisheries and Oceans
Canada

Pêches et Océans
Canada

Freshwater Institute
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501 University Crescent
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Institut des eaux douces
Secteur des Prairies, District du Manitoba
501 University Crescent
Winnipeg, (Manitoba)
R3T 2N6
(204) 983-5163

Your file / Votre référence

Our file / Notre référence
09-HCAA-CA1-0095

June 9, 2009

Doug Peterson
East Side Road Authority
200-155 Carlton Street
Winnipeg, MB R3C 3H8

Dear Mr. Peterson:

Subject: East Side All Season Road – Provincial Road 304 to Berens River

This letter is follow-up to the recent meeting held at the Freshwater Institute between representatives of the East Side Road Authority (ESRA) and Fisheries and Oceans Canada (DFO), on May 11, 2009 regarding the ESRA's proposed all season road, Provincial Road 304 to Berens River.

In our letter dated April XX, 2009 (see attached) DFO advised that the information provided thus far is not sufficient or detailed enough for DFO to determine if an environmental assessment under the *Canadian Environmental Assessment Act* (CEAA) will be required. You were also advised that DFO requires a detailed project proposal describing potential impacts to fish and fish habitat and anticipated mitigation measures to make a determination.

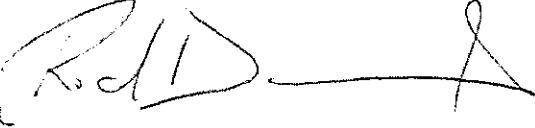
Based on the May 11, 2009 discussion, DFO understands that once remaining field surveys are completed this summer, the ESRA will submit the final project description and its environmental impact assessment (EIA) that will include a detailed assessment on the potential of the project to impact fish and fish habitat. Specific to the fish habitat assessments being completed by your consultant, DFO indicated that the level of detail provided may dictate if additional information is required to complete our review. DFO is of the opinion that all sites that may impact fish and fish habitat should have an acceptable assessment conducted. The attached "Proponents Guide to Information Requirements under the Habitat Provisions of the *Fisheries Act*" describes the information needed for habitat assessment. DFO indicated that further information requests may occur if acceptable information is not provided. The more detailed and complete your submission is in relation to DFO interests as per our mandate under the *Fisheries Act*, the more efficient and timely our assessment has the potential to be. Without sufficient information, DFO will conclude that the works at all crossings are a HADD.

While you are in the early stages of your field season, DFO would like to meet with you to identify areas that may require additional detail or information. DFO believes that the sooner ESRA and DFO have a clear understanding of each party's needs and interests, the more efficient the environmental assessment process can be. Please call to arrange a meeting as soon as possible.

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In the interim, DFO is available to discuss any questions you may have pertaining to the environmental assessment process and fish habitat provisions of the *Fisheries Act* as executed through *The Policy for the Management of Fish Habitat*. If you have questions or concerns, please do not hesitate to contact me at (204) 983-2632.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Loriena Melnick', with a long horizontal line extending to the right.

For
Loriena Melnick
Fish Habitat Biologist
Environmental Assessment for Major Projects
Central and Arctic Region
Fisheries and Oceans Canada

cc: R. Drummond (Fisheries and Oceans Canada)
Z. Mohammed (Transport Canada)
K. Frederickson (Canadian Environmental Assessment Agency)
T. Braun (Manitoba Conservation)

Attachments: DFO Letter dated April 29, 2009
Proponents Guide to Information Requirements under the Habitat Provisions
of the *Fisheries Act*



Fisheries and Oceans
Canada

Pêches et Océans
Canada

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Winnipeg, (Manitoba)
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(204) 983-5163

29 April 2009

Your file Votre référence

Our file Notre référence
09-HCAA-CA1-00953

Doug Peterson
East Side Road Authority
200-155 Carlton Street
Winnipeg, MB R3C 3H8

Dear Mr. Peterson:

Subject: East Side All Season Road – Provincial Road 304 to Berens River

Fisheries and Oceans Canada (DFO) received a project notification from the Manitoba Floodway Authority to construct an all season road to be reference as “East Side Road” on February 16, 2009. It is our understanding that the proposed all season road will be constructed along the east side of Lake Winnipeg from Provincial Road 304 to Berens River, Manitoba.

DFO strives to have proponents avoid causing a harmful alteration disruption or destruction (HADD) of fish and fish habitat through appropriate design of their project and the implementation of mitigation measures. However in the event that a HADD cannot be avoided DFO may consider issuing an authorization. If an authorization is likely to be issued for a project under the *Fisheries Act*, then DFO must ensure that an assessment under the *Canadian Environmental Assessment Act* (CEAA) is completed and require that the proponent meet our policy objective of no net loss in the productive capacity of fish habitat as well as compliance under the *Species at Risk Act* (SARA)

Your project notification has been reviewed to determine whether it is likely to result in impacts to fish and fish habitat. Currently, DFO has not been provided with sufficient information to make a determination if an environmental assessment under *Canadian Environmental Assessment Act* will be required.

In order to provide our advice with respect to the impact to fish and fish habitat or determine our potential role related to your environmental assessment, we require a detailed project proposal that contains, at a minimum, the following additional information on impact to fish and fish habitat:

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- Detailed information on each stream crossing with proposed structures (including causeways), engineered drawings and fish habitat assessments;
- For proposed culvert crossings where fish passage is required, calculations showing that water velocities are acceptable will be necessary;
- The right of way width and amount of riparian vegetation that will be removed to accommodate stream crossings;
- Detailed information on erosion and sediment control measures for road building practices are required to ensure sediment laden water does not enter watercourses;
- A detailed compensation plan for any proposed Harmful Alteration, Disruption, or Destruction (HADD);

Of particular concern is the potential for your proposal to result in:

- The harmful alteration, disruption or destruction of fish habitat, which is prohibited under Section 35 of the *Fisheries Act*.
- Impacts to aquatic species at risk, which are prohibited under Section 32, 33 or 58 of the *Species at Risk Act*. Impacts to aquatic species at risk can only be permitted where it can be proven that they will not jeopardize the survival or recovery of the species.

As you most likely aware Lake Sturgeon, Carmine Shiner, Mapleleaf (freshwater mussle) and Lake Winnipeg Physa reside in a variety of watercourses in the vicinity of the East Side Road project. Their populations in this area have been assessed as endangered by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and are currently under consideration for listing as "Endangered" in Schedule 1 under the *Species at Risk Act* (SARA). The Carmine Shiner is currently protected under the SARA. If you would like more information about these species please visit the *Species at Risk Act* Public registry at www.sararegistry.gc.ca.

During the days of May 8 to May 15, 2009 DFO is available to meet with the East Side Road Authority to discuss in detail the information requirements necessary for DFO to provide advice with respect to the impact to fish and fish habitat or determine our potential role in relation to your environmental assessment. DFO would appreciate a response to our meeting request by May 6, 2009 to help ensure the assessment of the East Side Road is conducted as efficiently as possible. If you have any questions or would like to schedule the arrangement of such a meeting please contact Loricna Melnick at (204)983-2632, or by email at Loricna.Melnick@dfo-mpo.gc.ca.

For more information on those sections most relevant to the review of development proposals, including 20, 22, 32 and 35 of the *Fisheries Act* and sections 32, 33 and 58 of the *Species at Risk Act*, please visit www.dfo-mpo.gc.ca. Please be advised that if you proceed with your project without first obtaining a *Fisheries Act* authorization and impacts occur to fish and/or fish habitat, that corrective action such as enforcement could be taken. The attached Proponent's Guide to Information Requirements for Review



Under the Fish Habitat Protection Provisions of the Fisheries Act outlines further information necessary for project review.

DFO looks forward to further discussions with East Side Road Authority respecting the potential impacts of the East Side Road on fish and fish habitat. Should you have any questions or comments, please do not hesitate to contact Lorienna Melnick at your convenience to discuss the proposed project.

Yours sincerely,

Margaret Keast
District Manager
Manitoba District
Central and Arctic Region
Fisheries and Oceans Canada

Bev Ross
Regional Manager,
Environmental Assessment
for Major Projects
Central and Arctic Region
Fisheries and Oceans Canada

Att: Proponent's Guide to Information Requirements for Review Under the Fish Habitat Protection Provisions of the Fisheries Act

c.c.: Rod Drummond (Fisheries and Oceans Canada)
Lorienna Melnick (Fisheries and Oceans Canada)
Ernie Gilroy (Manitoba Floodway Authority)
Kris Frederickson (Canadian Environmental Assessment Agency)
Dave Block (Manitoba Infrastructure and Technology)
Tracy Braun (Manitoba Conservation)
Zeena Mohammed (Transport Canada)