

## **SUMMARY OF COMMENTS/RECOMMENDATIONS**

**PROPONENT:** Tundra Energy Marketing Limited  
**PROPOSAL NAME:** Two Creeks Pipeline Project  
**CLASS OF DEVELOPMENT:** 2  
**TYPE OF DEVELOPMENT:** Transportation and Transmission – Pipe lines  
>10km or in sensitive areas  
**CLIENT FILE NO.:** 5809.00

### **OVERVIEW:**

An Environment Act proposal (EAP) has been filed by Tundra Energy Marketing Limited (TEML) for the Two Creeks Pipeline Project consisting of approximately 20 km of a new 6 inch steel pipeline in the RM of Wallace from an existing Elcano Exploration Inc. battery facility at 34-12-27 WPM to the TEML Virden Pipeline System at 6-11-26 WPM.

The proposal was distributed to the "Transmission" Technical Advisory Committee (TAC) for review. It was also placed in the public registries and advertised in the Crossroads This Week and the Virden Empire Advance on January 15, 2016.

### **COMMENTS FROM THE PUBLIC:**

No public comments were filed for this project.

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

The following is a summary of TAC comments received pertaining to the EAP. Copies of the original comments from TAC are available in the Public Registries.

#### **Canadian Environmental Assessment Agency**

The proposed 20 km pipeline does pass through a wildlife area or migratory bird sanctuary and is less than 75 km in length, therefore it is not a designated activity under CEAA 2012. Therefore the Agency will not be participating further in this review.

#### *Disposition:*

No action needed.

#### **Manitoba Conservation and Water Stewardship – Climate Change and Air Quality**

Air Quality Section has reviewed the above proposal and provides the following comments:

- The project is not expected to have a significant impact on air quality and noise level provided that the control measures cited are implemented.
- The noise clause is suggested to be included in the License.

*Disposition:*

Comments regarding noise nuisance can be accommodated as a licence condition

**Manitoba Conservation and Water Stewardship – Office of Drinking Water**

The proponent states in general that there will be no significant impact to surface water and briefly states there will be no significant impact to groundwater. As noted in previous reviews of hydrocarbon pipeline EAP, Office of Drinking Water would like to see more detailed review of potential impacts upon aquifers which are used as sources of drinking water for communities in the vicinity of the proposed pipeline. This is an issue which generally receives limited attention in EAPs.

Apart from this point, the Office of Drinking Water has no other concerns respective to drinking water safety or quality with the EAP or Proposed development.

*Disposition:*

Comments regarding additional detail on aquifers can be addressed on a case-by-case basis where there is insufficient information to assess the potential impacts of future projects. No further information is required for this project.

**Manitoba Conservation and Water Stewardship – Environmental Compliance and Enforcement**

During construction any wastewater generated at work locations is required to be managed according to the Onsite Wastewater Management Systems Regulation MR 83/2003 (OWMS). This includes but is not limited to the registration of any OWMS systems pursuant to MR 83/2003.

During construction any petroleum storage systems on site are required to be permitted and follow legislation under the Petroleum Storage Tank Regulation (MR 188/2001).

*Disposition:*

Comments can be accommodated as licensing conditions.

**Manitoba Conservation and Water Stewardship – Lands Branch**

Review of the location of the study area indicates that it does not cross any Crown land parcels, therefore, no concerns identified.

*Disposition:*

No action needed.

## **Manitoba Infrastructure and Transportation – Environmental Services**

MIT has reviewed the Environment Act proposal and provide the following comments:

- The proposed project may require a permit, if access is from PTH 83. Under the Highways Protection Act, a permit will be required from Highway Traffic Board for PTH's. A permit may also be required for:
  - Any modifications, relocations or a change in use to an existing access;
  - Any construction (above or below ground level) within 38.1 m (125 ft);
  - Any plantings within 15.2 m (50 ft) from the edge of the right of way of PTH 83; or
  - Discharge of water or other liquid materials into the ditch on PTH 83.
- Where the proposed oil pipelines will cross under PTH 83 at NW 7-12-26WPM to NE 12-12-27 WPM, an underground utility agreement has already been secured with the Region.

### *Disposition:*

These comments were forwarded to the proponent for information.

## **Manitoba Conservation and Water Stewardship – Parks and Protected Spaces Branch**

Some of the private lands crossed by the proposed right-of-way have been identified as having intact or modified native habitat including grasslands and wetlands. While the proposal confirms that none of these lands are owned by Manitoba Habitat Heritage Corporation (MHHC), some of the private landowners may have entered into a Conservation Agreement with MHHC or another conservation agency (ie Nature Conservancy of Canada or Ducks Unlimited Canada) for these lands.

Pipeline construction and operation activities may adversely affect lands put under conservation agreement for conservation purposes, including protection from habitat alteration. It is recommended that the proponent confirm existence of conservation agreements and that, where they exist, the appropriate conservation agency staff be contacted for information on siting, special access, and other restrictions that may be required to comply with the purpose of the Conservation Agreement.

The Government of Manitoba has signed Memorandums of Agreement with three conservation agencies to ensure that their private lands meet Manitoba's standard of protection. Work on completing similar Agreements with other conservation agencies, including MHHC is ongoing. These lands are of great benefit to the network of protected areas as these agencies have significant land holdings in south-western Manitoba which support increasingly threatened grassland, wetland, and river bottom forest communities.

Protected areas are legally protected from logging, mining, hydro electric development, oil and gas development, peat exploration and harvesting, and any other activities that may significantly or adversely affect habitat.

*Disposition:*

Comments regarding conservation agreements were forwarded to the proponent for further information. (see ‘Request for Additional Information’ section below).

**Manitoba Conservation and Water Stewardship – Water Control Works and Drainage Licensing Section**

- All works are constructed in accordance with Fisheries and Oceans Canada - Operational Statements.
- The construction schedule avoids critical fisheries time periods of April 15th to June 15th.
- The timing of construction is aimed at eliminating, reducing, or preventing erosion.
- Construction activities are suspended during wet conditions, and performed only during low or no-flow periods.
- It is also suggested that where practical significant wetlands, waterways, and water bodies be avoided.
- Please remind the proponent that any water control works (drains, culverts, dykes, dams, etc.) that may be associated with this project will require licensing under the Water Rights Act – an application is attached for the proponent’s convenience. Any inquiries in this regard may be directed to the local Water Resource Officer. Their contact information may be found at: [http://www.gov.mb.ca/conservation/waterstewardship/licensing/pdf/officer\\_areas\\_of\\_focus\\_30mar2015.pdf](http://www.gov.mb.ca/conservation/waterstewardship/licensing/pdf/officer_areas_of_focus_30mar2015.pdf).

*Disposition:*

Comments regarding construction activities within waterways can be accommodated as licence conditions. Proponent forwarded information regarding licensing pursuant to *The Water Rights Act*.

**Manitoba Conservation and Water Stewardship – Water Use Licensing Section**

No concerns.

*Disposition:*

No action needed.

**Manitoba Conservation and Water Stewardship – Wildlife and Fisheries Branch**

- Section 2.2 states “*It is anticipated that construction will begin in December, 2015, if all approvals and clearances are in place. Construction is anticipated to be completed, with the exception of final clean-up and reclamation, by March 15, 2016.*”

The Wildlife and Fisheries Branch would like clarification on whether or not

construction is currently occurring, pre-licence? If construction is delayed, will it be postponed until winter 2016/17 or into spring 2016. If construction will be occurring past March 15<sup>th</sup> into spring 2016, then we will likely have additional concerns regarding disturbance to wetlands, native grasslands, and the sharp-tailed grouse lek observed in SW-13-012-27W1.

- Section 5.5.4 states *“the one Class IV wetland that will be directly crossed will be bored to minimize impact”* and Section 5.6.2.3 states that *“in some instances a boring method will be used to cross under the wetland to prevent impacts to the wetland community and surface hydrology.”*

The Wildlife and Fisheries Branch appreciates this mitigation tactic for the wetland identified (ID# 87), however Table 1 currently states that the mitigation required for this wetland be “construction under dry or frozen conditions or bore”. Given that Figure 15 shows that the preferred ROW directly intersects a wetland of this size and classification, we’d suggest that a condition be added to the licence that specifically requires directional boring under wetland #87.

Furthermore, we suggest that directional boring also be mandatory under all of the seasonal waterways that will be impacted (#’s 13, 15, 16, & 21) and Scallion Creek (#67).

- Section 6.4.2.3 states *“suitable compensation ratio for lasting impacts to wetlands, if any, will be determined in consultation with the MHHC, Manitoba Conservation and others, as required”* and Section 8.5.4 states *“Under the direction of a qualified specialist, TEML will conduct a post-construction reclamation assessment program to assess the reclaimed disturbances in wetlands and waterways along the pipeline RoW. The qualified specialist will determine if additional reclamation treatments are required beyond the first year after reclamation.”*

The results of this monitoring should be reported to Manitoba Conservation and Water Stewardship to determine if compensation is required, as per the above statement. Please note that MCWS is currently developing a no-net-loss of wetlands policy where landowners and industry may be required to provide compensation for loss of wetland area and/or function. Depending on the issue date of this license, compensation may need to be added as a specific condition in the license.

*Disposition:*

Questions and comments regarding updated construction schedule have been forwarded to the proponent for additional information (see ‘Request for Additional Information’ section below) and can be addressed as a licence condition. Comments related to directional drilling of selected seasonal waterways and wetlands and wetland compensation can also be accommodated as a licence condition.

## **Manitoba Health – Public Health**

No concerns.

### *Disposition:*

No action needed.

## **REQUEST FOR ADDITIONAL INFORMATION:**

Environmental Approvals Branch contacted the proponent with questions from TAC members and the public concerning the project on February 26, 2016. A submittal in response to comments was received on October 28, 2015 and included the following response:

- 1. Please provide an update on construction schedule. If construction is planned to extend beyond March 15<sup>th</sup>, as originally proposed, Wildlife Branch may have additional concerns regarding disturbance to wetlands, native grasslands, and the sharp-tailed grouse lek observed in SW-13-012-27W1.**

Due to delays, the project has been postponed. The current plan will be to complete construction next fall and through the winter in an effort to mitigate potential wildlife and wetland issues. We will be conducting a follow up inspection prior to construction in all wetland crossing to determine if the original wetland mitigation is sufficient, or if conditions require different mitigation. If construction is to be scheduled prior to September 1, a new species at risk/wildlife assessment will be completed prior to construction.

- 2. Has the proponent received all landowner agreements for the project? If not, will a change in proposed alignment be required?**

There are still a couple landowners that have not signed. If the route needs to be changed, an assessment will be completed, and the findings and mitigation for that section will be sent for your review prior to construction.

- 3. Some of the private landowners may have entered into a Conservation Agreement with Manitoba Habitat Heritage Canada (MHHC) or another conservation agency (ie Nature Conservancy of Canada or Ducks Unlimited Canada) for lands required for the project. Please confirm existence of conservation agreements and that, where they exist, the appropriate conservation agency staff be contacted for information on siting, special access, and other restrictions that may be required to comply with the purpose of the Conservation Agreement.**

There are no habitat agreements in place along the route (i.e. none that were registered on title at the time of assessment, and none identified by Manitoba Conservation Data Centre).

**PUBLIC HEARING:**

The technical issues surrounding the project are sufficiently understood and can be addressed by the proposed mitigation measures identified in the EAP or addressed through licence conditions and as such a public hearing for this project was not recommended

**CROWN-ABORIGINAL CONSULTATION**

The Petroleum Branch concluded that there will be no potential adverse effects on aboriginal or treaty rights that would necessitate initiating any consultation with First Nations, Métis communities or other aboriginal communities before making a decision about the application of TEML under subsection 149(2) of The Oil & Gas Act for a pipeline construction permit.

**RECOMMENDATION:**

The comments received on the Proposal can be addressed as conditions of licensing for the project, or have been forwarded to the Proponent for their information. Therefore, it is recommended that the Development be licensed under The Environment Act subject to the limits, terms, and conditions as described in the attached Environment Act Licence. It is further recommended that enforcement of the Licence be assigned to the Western Regions prior to construction.

**PREPARED BY:**

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