



Conservation

Climate Change and Environmental Protection Division
Environmental Assessment and Licensing Branch
123 Main Street, Suite 160, Winnipeg, Manitoba R3C 1A5
T 204 945-7100 F 204 945-5229
www.gov.mb.ca/conservation/eal

August 8, 2011

To: Public Distribution List (Enclosed)

Re: Rettie Boat Access Project - Environment Act Licence No. 2971 - Client File: 5486.00

Environment Act Licence No. 2971 has been issued for the above noted project, following a lengthy environmental assessment and licensing process. A copy of the Licence is enclosed for your information. This licensing decision has been made recognizing that numerous concerns about the project have not been resolved to the satisfaction of many local residents and other members of the public who identified their concerns about the project during the environmental assessment process. I am taking this opportunity to provide some additional information to you to put the licensing decision in context.

Why the project requires an Environment Act Licence: Projects that require environmental assessment and licensing in Manitoba are listed in the Classes of Development Regulation under the *Environment Act*. The Rettie project requires environmental assessment and licensing because it affects fish habitat and fish mobility, and this is because of the connection of the channel with the Beaconia Marsh. An isolated channel would not require environmental assessment and licensing. Consequently, the channel as constructed during the winter of 2009-2010 did not affect fish habitat at the time of its construction, and would not have affected fish habitat if the plug constructed at the end of the channel remained intact. The plug washed out on several occasions in 2010, but was restored in compliance with Department of Fisheries and Oceans requirements. The channel was flooded from the marsh both through its mouth and overland, but this flooding was accidental and not caused by the deliberate actions of the owner. By leaving the plug in place until an Environment Act Licence has been obtained, we are satisfied from a legal perspective that the owner has made every effort to comply with *Environment Act* requirements.

Land ownership: Concerns about land ownership have been discussed with Crown land managers in Manitoba Conservation. We are satisfied that the large majority of the channel is located on privately owned land. The exception is the area where the channel enters Beaconia Marsh. A General Permit is required to obtain legal access to this land, and this is addressed as a licence condition. It is anticipated that a legal survey may be necessary to define the extent of the land involved.

Scope of project: The owner has indicated that the channel is for his private use. We are aware of previous plans for a residential development on this land parcel, but we are limited to conducting an environmental assessment on a project as currently defined by the proponent. Changes in plans over time are not uncommon in many kinds of developments, and this is accommodated in the *Environment Act* by a process for assessing alterations based on their environmental significance. Although covered in legislation, we have explicitly drawn attention to the need for approval in advance for alterations as a licence condition. Because of the characteristics of the site and the history of this project, if the owner proposed a change in the project for commercial use or for use to service a larger residential development, we would consider the environmental effects to be significant, and the owner would be required to file a new Environment Act Proposal that would be subject to public and technical review in advance.

Other area issues: We are aware of other area land use issues that are in close proximity to the channel, but not related to it. We cannot address issues that are outside of the jurisdiction of the *Environment Act* and outside of conditions that can be applied to a particular licensee.

In deciding how to proceed with the environmental assessment and licensing of the Rettie project, we carefully considered questions of legality and the regulatory instruments that are available to us under the *Environment Act*. We concluded that the best course of action was to provide a long term regulatory instrument for the project in the form of an Environment Act Licence that would address the remaining construction aspects of the project, its use and maintenance, and other regulatory requirements. The enclosed licence fulfills these objectives.

As noted in the covering letter for the licence, the licence may be appealed by any person affected by its issuance within 30 days of the date of the licence. Written appeals may be filed with the Minister of Conservation, and should state the reason(s) for the appeal and any other information pertinent to the appeal.

Should you wish to discuss any of the foregoing information in more detail, please contact Bruce Webb of this Branch by telephone at (204) 945-7021 or by email at bruce.webb@gov.mb.ca

Yours truly,

Tracey Braun, M.Sc.
Director
Environmental Assessment & Licensing Branch

Enclosures: Public distribution list
Environment Act Licence No. 2971

c: D. Labossiere, Director, Environmental Operations
Public Registries