

## **SUMMARY OF COMMENTS/RECOMMENDATIONS**

**PROPONENT:** HudBay Minerals Inc.  
**PROPOSAL NAME:** Anderson Tailings Impoundment Area Expansion  
**CLASS OF DEVELOPMENT:** 2  
**TYPE OF DEVELOPMENT:** Mining  
**CLIENT FILE NO.:** 1644.10

### **OVERVIEW:**

A proposal was filed on behalf of Hudson Bay Mining and Smelting Co., Limited for the expansion and continued operation of the existing Anderson Tailings Impoundment Area (Anderson TIA), located in the Snow Lake mining district southeast of the Town of Snow Lake. The purpose of the Anderson TIA is for the environmental management of mine tailings produced at the Stall Lake Concentrator. The proposed expansion to the Anderson TIA will occur in three stages over a period of approximately ten years and will include the construction of new water retention dams, improvement of the existing Anderson Dam, a replacement spillway and the gradual inundation of shoreline areas directly adjacent to the existing impoundment area, resulting in an increase to the total operating water level. The Anderson TIA discharges during the open-water season to Anderson Creek which flows into Anderson Bay of Wekusko Lake.

The Department, on September 6, 2016, placed copies of the Proposal in the Public Registries located at Legislative Library (200 Vaughan Street) and online at <http://www.gov.mb.ca/sd/eal/registries/1644.1hbms/index.html>. Copies of the Proposal were also provided to the Technical Advisory Committee (TAC) members. A notice of the Environment Act Proposal was placed in the Thompson Nickel Belt, Thompson Citizen, Flin Flon Reminder, The Pas Opasquia Times, Snow Lake Underground and the Winnipeg Free Press. The newspaper and TAC notifications invited responses until October 11, 2016.

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

Letter from Duboff Edwards Haight & Schachter Law Corporation, Mr. Harley Schachter, on behalf of Mathias Colomb Cree Nation (MCCN) – October 11, 2016

- Mathias Colomb Cree Nation feels that it will be affected by the above operation and wishes to make representations in respect of the proposal.

Proponent Response – November 16, 2016:

- *Proponent provided the Law Corporation with a copy of information filed in a previous regulatory process which summarizes HBMS' prior engagement with MCCN. This engagement included an information sharing meeting with MCCN in Pukatawagan at which HBMS made a presentation about its plans for future development, including*

*expansion of the Anderson TIA and described the environmental impact assessment it was carrying out. In the preparation for that meeting and in attendance at the meeting itself, MCCN was assisted by its own consultants, the Firelight Group. Our letter to Mr. Schachter also extends an invitation to have our environmental assessment consultants attend once again in Pukatawagan and answer any additional questions that their elders or resource users may have with respect to the expansion of Anderson TIA.*

- *As pointed out in the EA Report, the Anderson TIA has been in operation for 37 years. All of the components of the proposed alteration are contained within land that is held by HBMS under lease or in fee simple and which is already occupied and used by HBMS for mining purposes.*
- *All trappers with rights in the area to be affected have been identified and, as described in the EA Report, HBMS maintains communication with them and works with them to ensure that access to their traplines is not impacted.*
- *No activity, component or impact of the proposed alteration will impede access to downstream fishing or other resources or affect any current user's ability to continue to exercise any recreational, commercial or subsistence use of these resources.*
- *As concluded in Section 6.11.5 of the EA Report, (for these reasons) as a result of the environment assessment as a whole, "the proposed expansion is not expected to cause any environmental effects that would lead to consequential effects on Aboriginal peoples."*
- *With respect to Crown consultation concerning potential impacts on the exercise of Aboriginal and Treaty rights, we are of the general view that it is a proponent's responsibility to assess the impacts of its proposed project and identify any potential impacts which could affect the exercise of such rights. For the reasons noted above and in the EA Report, we are of the view that there are no such impacts with respect to the proposed alteration of the Anderson TIA.*

**SUMMARY OF COMMENTS FROM THE TECHNICAL ADVISORY COMMITTEE:**

<b>No.</b>	<b>Technical Advisory Committee Member</b>	<b>Response Provided</b>
1	Canadian Environmental Assessment Agency	Comments Received
2	Manitoba Agriculture – Ag Resources Branch	No Response
3	Manitoba Sustainable Development –	
	<ul style="list-style-type: none"> <li>• Compliance and Enforcement Branch</li> <li>• Climate Change and Air Quality Branch</li> <li>• Wildlife and Fisheries Branch</li> <li>• Parks and Protected Spaces Branch</li> <li>• Forestry Branch</li> <li>• Indigenous Relations Branch</li> <li>• Lands Branch</li> <li>• Water Quality Management Section</li> <li>• Groundwater Management Section</li> <li>• Office of Drinking</li> <li>• Water Use Licensing Section</li> <li>• Water Control Works Licensing Section</li> <li>• Regional Services Branch</li> </ul>	Comments Received No Response No Concerns Comments Received No Response No Response Comments Received Comments Received No Comments No Concerns No Concerns Comments Received No Response
4	Manitoba Sport, Culture, and Heritage – Heritage Branch	Comments Received
5	Manitoba Growth, Enterprise and Trade –	
	<ul style="list-style-type: none"> <li>• Energy Development Branch</li> <li>• Petroleum Branch</li> <li>• Office of Fire Commissioner</li> <li>• Work Place Safety &amp; Health</li> </ul>	No Response No Response No Concerns No Response
6	Manitoba Infrastructure	Comments Received
7	Manitoba Indigenous and Municipal Relations	No Response
8	Manitoba Health, Seniors and Active Living – Environmental Health Unit	No Response

A copy of the responses and the additional information provided can be viewed at the following link:

<http://www.gov.mb.ca/sd/eal/registries/1644.1hbms/index.html>

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

### **Canadian Environmental Assessment Agency**

September 12, 2016

Based on the information provided, the proposed project does not appear to be a designated physical activity under the *Regulations Designating Physical Activities*.

#### Disposition:

No follow up is required.

### **Manitoba Sustainable Development – Environmental Compliance and Enforcement and Manitoba Sustainable Development - Lands Branch**

September 26, 2016

- This expansion is required as the facility is nearing capacity. As the impoundment fills, the tailings rise closer to the surface raising the risk of acid generation, and releases. This expansion will reduce these risks. This proposed expansion will improve water level control, significantly increase flood management capacity, and accommodate additional tailings storage.
- The CEC 766 for this facility is was issued in 1977 (39 years ago). This is a major expansion which is to occur in 3 stages (stage A, B, & C).
- I recommend that the old CEC rescinded and replaced with a new updated Environment Act Licence.

#### Disposition:

A new Environment Act Licence has been drafted (attached) which will rescind the existing Licence No. 766.

### **Manitoba Sustainable Development – Water Control Works and Drainage Licensing**

September 9, 2016

- Any water control works (drains, culverts, dykes, dams, etc.) 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.

Proponent Response – November 16, 2016:

*At such time as tender documents are being prepared, HBMS will review the proposed works with the Office of the Water Control Works and Drainage Licensing Section and apply for any applicable licenses that may be required under The Water Rights Act.*

Disposition:

No follow up required. Clause 7 of the draft Licence states that the Licencee shall obtain all necessary federal, provincial and/or municipal licences, authorizations, permits and/or approvals for construction of relevant components of the Development prior to commencement of construction.

**Manitoba Infrastructure – Environmental Services Section**

September 26, 2016

- MI is concerned with the potential change in flow rates (i.e. Peak flows from TIA control structure) into the adjacent ditches and recently replaced culvert crossing at PR 392. A hydraulic study/drainage plan prepared by a Professional Engineer should be provided to MI for review and approval.
- The proponent should be informed that, under the Highways and Transportation Act, any new, modified or relocated access connection onto a PR will require a permit from Manitoba Infrastructure. A permit may also be required for:
  1. Any construction (above or below ground level) within 38.1 m (125ft) of the right of way;
  2. Any plantings within 15.2 m (50 ft) from the edge of the right of way;
  3. Discharge of water or other liquid materials into the ditch on PR 392.

Proponent Response – November 16, 2016:

- *The comments are predicated on the question of whether the proposed project will result in any potential change in flow rates discharged out of the TIA control structure, especially any potential increases in peak flows. As outlined in Section 6.7.2 of the Environmental Assessment of the Proposed Expansion of the Anderson Tailings Impoundment Area Report (“EA Report”), the project will involved reductions in flow rates out of the Anderson TIA at various times. No increases in flow rate are anticipated. (Letter of opinion attached from licensed professional engineers).*
- *No such constructions, plantings or discharge are anticipated but, at such time as tender documents are being prepared, HBMS would be pleased to review the plans with Manitoba Infrastructure and confirm that no such permits are required.*

Manitoba Infrastructure Response – December 13, 2016:

We are satisfied with the response from HBMS and have no further concerns on the discharge from the TIA.

Disposition:

No additional action required.

**Manitoba Sustainable Development – Water Quality Management Section**

October 7, 2016

- Some of the figures referred to in the report appear to be missing. These include Figures 1-16. There are also reference to multiple figures with the same figure number such as Figure 15 which refers to both a figure of a site location and water quality copper data. It is requested that the missing figures be provided for review.
- The proposal assumes that the mineralogy of the tailings from future mining will be similar to historic deposition in the tailings facility. Should this assumption change the proponent may have to re-evaluate the treatment options. Ongoing monitoring will provide an indicator in any change in the efficacy of the tailings facility.
- It is noted HBMS commits to developing a detailed water quality monitoring plan including erosion and sediment control measures prior to commencing construction. It is requested that the proponent provide a copy of this document for review.
- There could have been more analysis in the proposal on the effect of the environment on the project. While it is understood the proposed dams will improve the ability of the facility to withstand a severe flood. Are there any areas of permafrost which may be affected by flooding and a warming climate which could impact the stability of the structures or lead to issues with erosion or slumping shorelines?
- It is noted the discharges from the facility are regulated by the Metal Mining Effluent Regulations and Clean Environment Commission Order No. 766. Discharge limits between these two instruments are not entirely congruent. It is recommended that when the discharge limits noted in the two regulatory instruments differ that the stricter criteria be applied.
- With respect to protecting water quality, clauses providing the same intention as those in the Reed Mine Environment Act Licence No. 3065 are recommended to be adapted to be a part of a revised Licence for this facility. Recommended clauses include 1, 2, 6, 15, 17, 20, 39, 40, 41, Appendix B, Appendix C, and Appendix D of the Reed Mine Environment Act Licence No. 3065. Reduced frequency monitoring of Radium 226 would be acceptable in accordance with the conditions noted in the MMER.
- Although the Environment Act Proposal indicates increases in downstream mercury concentrations in aquatic biota are unlikely, verification of this is required during the project. Monitoring mercury levels in fish in Anderson Bay and Wekusko Lake before and after the final inundation phase (Stage C) of the project should be considered as a condition of the License. The proponent should consider measuring selenium concentrations in fish as an additional parameter.

Proponent Response – November 16, 2016:

- *The missing figures have been provided. We apologize for the omission in the original submission. We would be pleased to answer any further question that may arise in relation to those figures.*
- *Mr. Jacobs observes that ongoing monitoring will provide an indicator of any change in the efficacy of the tailings facility and indicate if, at any time, treatment options should be re-evaluated. HBMS agrees with this observation. Please see the commitments set out in Chapter 7 of the EA Report.*
- *Mr. Jacobs also requests that the HBMS detailed water quality monitoring plan, including erosion and sediment control measures be provided for review. HBMS agrees that it should be a term of the licence that it submit for review its environmental protection plan, which will include both mitigation measures, such as erosion and sediment control measures and short and long term water quality monitoring plans. The environmental protection plan will be prepared at the time of tender.*
- *Mr. Jacobs comments on the effect of the environment on the Project, observing that the proposed dams will improve the ability of the facility to withstand a severe flood. With respect to the specific question that Mr. Jacobs poses, HBMS has conducted detailed geotechnical investigations at the locations of the proposed dams and other structures. Based on the results of these investigations, we have a high degree of confidence that no permafrost will be encountered.*

*As outlined in Section 3.4.2.1 of the EA Report, the proposed structures have been designed to meet the stability guidelines of the Canadian Dam Association (CDA). The modifications proposed to the Anderson TIA include upgrades to its flood routing capability such that the facility may safely pass the probably maximum flood (PMF) caused by the probably maximum precipitation (PMP) event (as directed by the CDA guidelines). The PMP event is determined by Environment and Climate Change Canada (ECCC).*

- *Mr. Jacobs points out that discharge limits set out in CEC Order No. 766 may not be as stringent as those set out in the MMER. HBMS assumes that, in approving the proposed expansion of Anderson TIA, Manitoba Sustainable Development (MSD) will substitute a new Environment Act Licence for CEC Order No. 766. HBMS suggests that the new license incorporate by reference compliance with the MMER, as it may be amended from time to time, and that it require submission to MSD of such reports as are required pursuant to the MMER.*
- *With respect to the clauses recommended by Mr. Jacobs for incorporation into the new license, HBMS agrees that clauses 1, 2, 6, 15 and 17 of the Reed Mine Environment Act Licence are broadly applicable, and could be incorporated into the new licence issued for the Anderson TIS. However, the balance of the provisions listed by Mr. Jacobs incorporate provisions that, in HBMS' view, are not applicable to a development which is itself, in any case, subject to the MMER, as is the Anderson TIA. Incorporating MMER criteria by reference into the new license should take care of any such concerns.*
- *With respect to mercury monitoring, as suggested in Section 7.3 and 6.11.1.2 of the EA Report, HBMS intends to carry out such follow up monitoring and agrees that the*

*carrying out of such monitoring should be a condition of the new licence. Further, HBMS has no objection to incorporating the measurement of selenium concentrations in fish into its follow up monitoring plan.*

Water Quality Response – December 12, 2016:

Based on my review of the response I have no further comments at this time.

Disposition:

The water quality parameters and effluent limits and monitoring requested by the Water Quality Branch have been included in the attached draft Licence.

**Manitoba Sustainable Development - Parks and Protected Spaces Branch**

October 14, 2016:

While Grass River and Wekusko Falls provincial parks are referenced in Chapter 5.7.1 there is no reference as to whether the project will have any impact on the parks or park users. Please add a statement under 6.11.2 addressing this.

Proponent Response – November 16, 2016:

*The proposed project will not cause any impact on either Park or Park users.*

Disposition:

No additional response was provided by the Parks and Protected Spaces Branch which was assumed to indicate no further concern. No further follow up is required.

**Manitoba Sport, Culture and Heritage – Historic Resources Branch**

- While the potential to impact significant heritage resources was deemed low in this area, the Historic Resources Branch must be immediately contacted if an archaeological site is encountered during development. Please replace “A qualified archaeologist” with “the Historic Resources Branch” (see section 6.11.3 Heritage Resources Pg. 110).
- If at any time heritage resources are encountered 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:

No additional follow up is required.

**PUBLIC HEARING:**

A public hearing is not recommended.

**CROWN-INDIGENOUS CONSULTATION:**

The Government of Manitoba recognizes that it has a duty to consult in a meaningful way with Indigenous communities when any proposed provincial law, regulation, decision or action may infringe upon or adversely affect the exercise of the Indigenous rights of that community.

The Mines Branch of Manitoba Growth, Enterprise and Trade prepared an initial assessment for the Anderson Tailings Impoundment Area and concluded that the effect of the Project on the exercise of aboriginal and treaty rights is negligible and that any asserted use has been adequately evaluated. The Mines Branch determined that there is no additional requirement for Aboriginal consultation on the Project.

**RECOMMENDATION:**

The Proponent should be issued a Licence for the expansion and continued operation of the Anderson Tailings Impoundment Area in accordance with the specifications, terms and conditions of the attached draft Licence. Enforcement of the Licence should be assigned to the Environmental Compliance and Enforcement Branch of Manitoba Sustainable Development.

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