

Memorandum

October 14, 2003

Re: Draft Guidelines for the Preparation of an Environmental Impact Statement (EIS) for the Red River Floodway Expansion Project, August 2003 [Public Registry File #4967.00]

Overview

Manitoba Conservation has prepared draft Environmental Impact Statement (EIS) guidelines for the proposed Red River Floodway Expansion Project (RRFEP). The proponent of the RRFEP is the newly established Floodway Expansion Authority.

The draft EIS guidelines confirm the following:

- The proposed RRFEP is a Class 3 application pursuant to the Environment Act and its regulations
- The proposed RRFEP will require a screening under the Canadian Environmental Assessment Act (CEAA)
- A cooperative environmental assessment process will be undertaken between federal and provincial environmental regulatory authorities pursuant to the 2000 Canada-Manitoba Agreement on Environmental Assessment Cooperation.
- That, pursuant to the Canada-Manitoba Agreement on Environmental Assessment Cooperation, a Project Administration Team (PAT) will be established and will finalize the EIS guidelines after consideration of public comments and input received from the federal/provincial Technical Advisory Committee (TAC)
- That public hearings will be convened at some undefined date (no reference to the Manitoba Clean Environment Commission or any other entity)
- That a Public Involvement Plan (PIP) will be developed by the proponent
- That an Environmental Protection Plan (EPP) will be developed by the proponent

Specific Comments on the Draft EIS Guidelines

1.0 Prescriptiveness

The 16-page draft EIS guidelines are vaguely worded, lacking specificity, and enable the proponent to interpret, and determine for themselves, a significant level of breadth and depth of the EIS content requirements.

While it is recognized that 'over prescription' has some disadvantages, there does appear to be a clear lack of balance with respect to prescribing the job at hand versus maintaining a degree of flexibility that allows the proponent room to innovate.

EIS guidelines should not be used for completely different types of projects. If anything, there appears to be a need for innovation in the preparation and refinement of the draft EIS guidelines for the proposed RRFEP.

It is recommended that the final EIS guidelines provide a much more prescriptive and detailed listing of EIS requirements.

2.0 Alternatives to the Proposed RRFEP

The draft EIS guidelines do not include the requirements to consider the ‘need for’ and ‘alternatives to’ as well as the ‘justification’ of the proposed project. While it is recognized that there is a need for significant long-term flood protection measures for the City of Winnipeg, there is also a need for sufficient identification, description and analysis on the alternatives to the proposed RRFEP.

Section 16(1) of CEAA states:

Every screening or comprehensive study of a project and every mediation or assessment by a review panel shall include a consideration of the following factors:

- (a) the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;
- (b) the significance of the effects referred to in paragraph (a);
- (c) comments from the public that are received in accordance with this Act and the regulations;
- (d) measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the proponent; and
- (e) any other matter relevant to the screening, comprehensive study, mediation or assessment by a review panel, **such as the need for the project and alternatives to the project**, that the responsible authority or, except in the case of a screening, the Minister after consulting with the responsible authority, may require to be considered.

While the draft EIS guidelines require the proponent to consider the purpose of the project as well as the ‘alternative means of carrying out the project’, the latter has a much different meaning than ‘alternatives to’ the project.

In terms of the draft EIS guidelines, a later reference to ‘alternative means of carrying out the project’ creates a level of ambiguity on whether the EIS will be required to assess the St. Agathe project and other potential alternatives to the RRFEP. For instance:

Consideration of alternative means for achieving the goals of the project, for the purpose of the environmental impact statement, will include discussion of other processes that could have been implemented or locations that could have been chose to achieve a similar end result. The purpose and the rationale for selection of the Red River Floodway Expansion Project shall be presented.

It is recommended that the final EIS guidelines include a stated requirement for the proponent to identify, describe and assess ‘alternatives to’ the proposed RRFEP..

3.0 Public Policy and Regulatory Framework

The draft EIS guidelines are considerably vague with respect to required compliance with the existing public policy framework as it relates to environmental management and protection. The draft EIS guidelines state:

It is intended that the EIS for the RRFEP shall incorporate and reflect the Principles of Sustainable Development as contained in “Towards a Sustainable Development Strategy for Manitobans” and the policies under the Land and Water Strategy as contained in “Applying Manitoba’s Water Policies”. The EIS should consider how the project relates to each of these principles.

The environmental impact statement shall identify the legislation, policies, necessary approvals, land and resource related agreements and current planning initiatives applicable to the review of the Red River Floodway Expansion Project. The report shall discuss the primary focus of each regulatory or policy requirement, such as resource allocation, environmental protection, land-use designation or development control.

Missing from the draft EIS guidelines is an explicit requirement for the proponent to provide an assessment of how the proposed RRFEP will comply with each element of the overall public policy framework. Therefore, it is recommended that the final EIS guidelines include a requirement for the proponent to clearly indicate its compliance with each element of this public policy framework.

It is not clear why “Applying Manitoba’s Water Policies” is identified while other elements of Manitoba’s Land and Water Strategy which are just as or more relevant to this project, are not identified.

4.0 Manitoba’s Protected Areas Initiative

The draft EIS guidelines do not reference Manitoba Protected Area Initiative. It is recommended that the final EIS guidelines include the following:

- A requirement for the proponent to provide a sufficient description of the current status of Manitoba’s Protected Area Initiative with specific reference to the Capital Region (and natural regions impacted by this project.)
- A requirement for the proponent to provide details of how the proposed RRFEP will impact (both positive and negative) Manitoba’s Protected Area Initiative with specific reference to the Capital Region and Manitoba’s Action Plan for a Network of Protected Areas.

- A requirement for the proponent to identify and describe a number of options for establishing protected areas in the Capital Region and in the natural regions impacted by this project.

5.0 Climate Change

The draft EIS guidelines have a very weak reference to climate change effects and impacts. It states:

The environmental assessment shall describe general climate conditions with sufficient data provided to predict the effect of the project on climate and the potential effects on the project.

The current language does not seem to require the proponent to undertake a sufficient assessment on the climate change impacts from the project (both construction and operation stages). There is no mention to carbon stocks, greenhouse gases, or other climate change issues and key indicators.

The brief and vague existing references to climate change impacts in the draft EIS guidelines are discouraging given the Government of Manitoba's progressive climate change policy as well as Canada's international commitments under the Kyoto Accord. As result, more specific references and requirements to climate change need to be reflected in the final EIS guidelines.

It is recommended that the final EIS guidelines have the following:

- A requirement for the proponent to provide details of how the proposed RRFEP will comply with the government of Manitoba stated policy on climate change as well as Canada and Manitoba's commitment under Kyoto
- A requirement for the proponent to provide detailed estimates on greenhouse gas (GHG) emissions and changes to carbon stocks as a result of the proposed RRFEP in relation to construction, operation and decommissioning stages
- A requirement for the proponent to provide a detailed description outlining options of how GHG emissions or negative changes to carbon stocks can be minimized and eliminated through 'alternatives means of carrying out the project' and in 'alternatives to' the proposed project
- A requirement for the proponent to provide a comparative analysis between the carbon effects of the proposed RRFEP and other large scale, earth moving and water diverting projects in other jurisdictions (particular emphasis should be placed on best practices, and standards –both statutory/regulatory as well as voluntary)

- A requirement for disclosure of both carbon and GHG emissions for all stages of the project. in relation to Manitoba's Kyoto requirements.

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6.0 Water Quality and Lake Winnipeg

The draft EIS guidelines do not reference water quality issues specific to Lake Winnipeg even though the proposed project would seem to have the potential to cause negative impacts to Lake Winnipeg's water quality (both during construction and operation stages). The stated reference in the draft EIS guidelines is as follows:

The environmental assessment shall describe sufficient detail regarding the pre-project water quality and temperature parameters to predict the effect of the project on water quality and how it would relate to human consumption and to compare post-project water quality conditions shall be provided.

The final EIS guidelines require specific language on the issue of both water quality and supply. It is recommended that the proponent be required to identify and describe the expected impacts (both positive and negative) to Lake Winnipeg's water quality, and water supply in the project region.

7.0 Impacts to Biodiversity and Species

The draft EIS guidelines state the requirement to assess wildlife-related MESA, COSEWIC or SARA species but does not do the same for aquatic species. According to the 'Project Description' document, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) lists a number of potentially affected fish species as a "Special Concern" (big mouth buffalo, silver chub and chestnut lamprey). Furthermore, the Manitoba Endangered Species Act (MESA) 'Watch List' in relation to fish species include channel catfish, flathead chub, brassy minnow, and the spotfin shiner.

It is recommended that the final EIS guidelines include clear requirements for the proponent to identify, describe and assess the anticipated impacts (both positive and negative) to all aquatic COSEWIC 'special concern' and MESA 'watch list' species.

The draft EIS guidelines do not include any specific reference to the Tall Grass Prairie and other significant vegetation features. This project is intended in a region that is now the most endangered ecosystem in Canada – tall grass prairie. The single draft EIS guideline reference in relation to vegetation issues is the following:

The environmental assessment shall describe information on plant communities, "Species at Risk", and "Rare Species" that may be affected by the project, including medicinal plants, riparian and wetland vegetation and type(s) of vegetation to be flooded and/or cleared shall be provided in sufficient detail to predict the effect of the project on vegetation in the study area.

It is recommended that the final EIS guidelines include clear requirements for the proponents to identify and describe the presence of all indigenous vegetation such as Tall Grass Prairie and to assess the potential impacts (both positive and negative) as a result of the proposed project.