

February 6, 2006

Honourable Stan Struthers
Minister of Conservation
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Ms. Tracey Braun
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Dear Ms. Braun and Minister Struthers;

**Re: Public Registry File #5156.00 – Pembina Valley Water Cooperative Inc.
Supplemental Groundwater Supply System**

Manitoba Wildlands has reviewed the small amount of material filed by the Pembina Valley Water Cooperative (PVWC) regarding their proposed project to divert 50 L/s of water from the Sandilands area to Morris and eventually into the PVWC water distribution network. From a local perspective, this proposal has some very serious information deficiencies. From a provincial and international perspective, this proposal does not acknowledge, consider or address the potential to set precedents in Manitoba regarding water use and management, and water transfers and withdrawals. It also ignores larger public policy issues that have been emphasized as a priority by this government. Please accept this letter as a formal indication of our objection to this proposal and place it in the public registry file for this project.

Provincial / International Public Policy and Water Issues

Water Transfer – A Manitoba Precedent

One of our primary objections to this proposal is that the removal and diversion of water from one sub-basin to another sets a precedent that is in open contradiction to Manitoba's legislation and public policy. Is PVWC filing this environmental proposal now because it would not be approved in the near future? If this is so then Manitoba Conservation and Manitoba Water Stewardship have a responsibility to uphold existing policy and the intent of those Acts triggered by this proposal.

There is no precedent for this project, or any proposal that involves an inter-basin or sub-basin transfer of water, in Manitoba. The Agassiz Sandilands Uplands area is an extensive aquifer complex that extends from the Trans Canada Highway to the US border and from the Bedford Ridge to near Lake of the Woods. Setting a precedent that allows removal or diversion of water from this region into the Red River sub-basin would open the door for other large users to extract water from this aquatic ecosystem of ecological significance. A precedent could also have implications for groundwater resources all over the province.

The proponents also state that this project is the first phase; PVWC's "ultimate annual water requirement" (not under consideration in this application, but mentioned in the proposal) is 300 liters/sec (or about 7300 acre-ft annually). The proponents also refer to the potential for future construction of a water treatment plant along PTH#12, "as there is a potential to sell water to communities and rural municipalities along the way". Clearly, this proposal is the first step for a set of incremental projects with much larger environmental impacts potential. As such, both because of the potential for increased resource requirements by existing and potential future PVWC customers, and because this project could open the door for other/large water-users, this project warrants a process of careful consideration, where the Department of Water Stewardship is a full participant as the lead department responsible for water issues in Manitoba. This would augment the involvement of the Department of Conservation and the fulfillment of its important role and assessment obligations under the *Manitoba Environment Act*.

It is not clear from the materials filed whether a review by federal departments through CEAA has been undertaken. Clearly their determination is needed.

Full involvement of the Water Stewardship Ministry is also particularly important in light of the new *Water Protection Act* and because Manitoba Water Stewardship has placed heavy emphasis on watershed planning. The proposal does not address the issue of watershed planning at all, nor does it take into account the water needs of the towns, businesses and municipalities using the water supply which PVWC assumes is there for the 'taking'. Our recommendation would be that no further action be taken on this proposal until watershed plans are in place, and Manitoba's much touted *Water Protection Act* is fully operational.

There seems to be a pattern emerging that contradicts practice under Manitoba's *Environment Act*. Complete review comments from Manitoba government departments need to be available during the review of proposals by the public. Short memos are insufficient, particularly when provincial government responsibility involves more than one or two departments.

Staged Licensing

The fact that PVWC has indicated that its "ultimate annual water requirement" is 300 liters/sec (or about 7300 acre-ft annually), with the possibility of an expanded customer base and a new water

treatment plant, is a further complication to this proposal, which already demands careful scrutiny because of its precedent-setting nature.

As noted above, this proposed project is by the proponent's own admission part of a larger project to meet a greater long term need (from the proponent's perspective). In other words, if this proposal is assessed as it is currently being submitted, it will be the first stage of a licensing process of at least two stages (possibly more). Given the government of Manitoba's clear and unequivocal commitment to end staged licensing¹, the PVWC proposal can not be assessed in its current form. Full disclosure of the nature of the full project must be described and the full project must be assessed in a licensing process. Public notification under the Environment Act would be required.

We note that Manitoba does not have EIS standards for water pipelines, and such would need to be arrived based on the usual public review process.

International Implications

Given the uncertainty regarding pipelines to access water in the south east corner of Manitoba from North Dakota, a watershed and water management plan must be in place prior to any decisions on a project such as the one proposed by PVWC. The proposal by PVWC must also be considered in the context of Devil's Lake, the Garrison Diversion project, and the North Dakota Water Supply Project. The proposal does not acknowledge or discuss the possible broader implications of the Sandilands Diversion in relation to these other projects where the stakes are high in terms of jurisdiction, fundamental water rights and decision-making power.

Opportunity

Manitoba has an opportunity with this proposal to take a leadership role and establish standards of excellence regarding water sustainability and management. We also have a responsibility to protect our water resources and manage them responsibly; the enactment of the *Water Protection Act* and the provisions of the *Water Resources Conservation Act* are a testament to that commitment. Manitobans expect our government to fulfill the intent of these *Acts*.

Pembina Valley Water Cooperative (PVWC) Proposal Deficiencies

The proposal filed by PVWC is deficient in several ways and barely meets the informational requirements of Regulation 163/88 (The Licensing Procedures Regulation). We also note that the proposal does not in any way constitute a full Environmental Impact Statement (EIS). We are frankly surprised that it was allowed to go forward for review.

¹ "We are also committed to an environmental licensing process that follows the recommendations of the Sustainable Development Implementation Committee. This commitment includes . . . [a]n end to licensing developments in stages" (Please see '1999 Manitoba Election Promises' Page 2, September 4, 1999 located at: http://manitobawildlands.org/govern_elections.htm#mbelection)

Manitoba Wildlands continues the work of WWF Canada and Nature Canada for establishment of Manitoba Protected Areas.

Need for Water?

The PVWC proposal is lacking information to adequately explain or justify the need for the increased water supply. Information regarding current water use (or water budget) for the PVWC supply region is not provided in the proposal, nor are predictions for future use. This very basic information is an absolute minimum requirement and yet was not included by the proponent.

According to Sam Schellenburg (CEO, PVWC), the agricultural sector consumes over 50% of the water in the distribution network. Yet alternative water supply options, such as water soft paths, water retention ponds, and demand side management are not provided or considered in the proposal. This information is essential to the justification for the project. EIS guidelines for water pipeline proposals would include water conservation standards.

Justification for the project aside, the project's objective of increasing the water supply to PVWC customers is supposedly to "alleviate water shortages during periods of drought or contamination due to accidental spills". First, we would like to know what sort of spills the proponent is referring to and why such risks are a concern. Second, no drought analysis has been performed and a sustainable annual yield has therefore not been calculated. The proponents assert that the Sandilands area is not susceptible to drought, but provide no information to justify this position (which would be discussed in a drought analysis). Further, interactions between the upper sand unit and the sandstone unit (two other identified aquifers above and below the lower sand unit) are dismissed, leading the proponent to conclude that no impacts will occur to the surface environment from the continuous withdrawal. We suggest that this conclusion is not substantiated by the information provided.

Lack of Data

The proponent admits in the proposal itself that little is known about the groundwater resource in this area. It states that, "Given that the aquifer (the lower sand unit which is under consideration) system is essentially undeveloped and very little information is available on the response of the aquifer to pumping, the estimation of a safe or sustainable yield is considered unwarranted and imprudent at the time." This is a serious information gap, given that the Sandilands region is an area of ecological importance and is the source of freshwater for five major watersheds in the province (Brokenhead River/Whitemouth River/Rat River/Seine River/Cooks Creek). There is also some evidence that the Sandstone and Carbonate Aquifers (two major bedrock aquifers in south central Manitoba) receive most of their recharge from the Sandilands upland area. In the absence of an admitted lack of data, the precautionary principle must be applied with respect to this project. Attempting to use lack of data as a basis to go ahead with a project is fairly odd – and certainly unacceptable.

In fact, words such as 'likely' and 'potentially' characterize the proponent's description of the three aquifers in the system, essentially rendering the little information that is provided meaningless. The proponents also state that the Lower Sand Unit aquifer system was selected because "it has a limited hydraulic connection with the surface environment within the area of influence of the well and there

fore the environmental effects of groundwater withdrawal would be minimized.” However, a few paragraphs earlier, the especially unconfident sentence regarding the recharge of the Lower Sand Unit states: “Recharge of the aquifer is *likely* the result of the cumulative effects of small amounts of infiltration through the Upper Silt Unit over a very large area, and *potentially* the infiltration of water from the surface to the east in the St. Labre Bog area where the lower permeability Upper Silt Unit is absent.” (emphasis added) This seriously doubtful information is an inadequate basis for filing a proposal for a project such as this. We would also point out here that if the area is affected by drought (which we don’t know, since no drought analysis has been conducted), the recharge of this aquifer through the combined amounts of surface infiltration would be directly impacted, rendering it unsuitable to address the stated reasons for the additional water supply.

There is also no data in the materials filed about the current use of the Sandilands water resource. As this information is available, we have to ask why it was left out.

Figures and Maps

Natural Region context is missing from the maps and figures provided, as are municipal boundaries, watershed boundaries etc. Manitoba Conservation needs to immediately put in place standards for maps and figures in environmental proposal materials filed under the *Environment Act*. Hand drawn figures, with no source, date etc. are just one example in these materials of what should never be seen in materials for a public review. Maps included that show only the pipeline corridor are insufficient, and show a lack of understanding of EIS standards.

Protected Areas

The Pocock Lake Ecological Reserve is approximately 1.5 kilometers north of the proposed well site. The proponent states that “the studies conducted at this site have shown that the proposed groundwater withdrawal will not affect the water balance within the Pocock Lake Ecological Reserve, the Watson P. Davidson Wildlife Management Area, nor the Sandilands Provincial Forest”. Further to our comments above regarding the inadequacy of information about the aquifers, we have no confidence in the proponent’s assertion. We request that more information be provided to substantiate this claim.

Notwithstanding the uncertainty regarding impacts on protected areas, the PVWC proposal well is also located in a Manitoba Natural Region where there are many Areas of Special Interest (ASIs) under consideration for protected status, as well as many Mining Sector Consultation Rank One areas approved by mining sector and waiting for protection. In addition, most of these ASIs have been approved by Tembec for protected status. The status of all of these areas has remained unchanged for some time and no further consultation work has been done to move towards designation, despite the fact that the government’s own data on ecological representation for this Natural Region indicates clearly that the region’s enduring features are far from adequately represented within the current protected areas network. There is no reason that protected areas decisions can’t or shouldn’t happen prior to development decisions. Manitoba needs to move rapidly in the direction of both the

precautionary principle and 'Conservation First' in making decisions regarding our natural resources. The proponents are ignoring the sub water basin, natural region, and public policy context for their proposal. Stating there will be no impacts on three designations shows their lack of understanding of the protected area context for the project region.

Manitoba needs to complete the network of protected areas, achieving representation for this natural region.

First Nations

There is no acknowledgement of potential interest or concern by the First Nations affected by this proposal. Nor is there any indication of notification regarding this proposal going to these First Nations. We suggest that the Aboriginal Relations branch of Manitoba Conservation make sure that notification and access to information under the *Environment Act* occurs for potentially affected First Nations. This will be essential in future stages of review for the PVWC proposal.

Public Notification and Involvement

The proponent's public involvement has been deficient; participation was limited to municipal officials, and even so, municipalities such as Steinbach that currently use Sandilands water as their primary source were not necessarily notified or consulted when this proposal was being developed.

Public notice was also inadequate. All stakeholders must be notified of PVWC's proposal and public opportunities for comment and participation should occur in a timely way through the use of multiple outreach techniques to contact various publics (newspaper, internet, direct contact, radio announcements, local papers). Information must be available in a variety of formats (electronic, paper) and at appropriate local and regional locations. It is unacceptable in this current technological environment for proposal documents to be unavailable in electronic format. It is also poor from an environmental perspective; a commitment to less paper also reflects well on all parties involved.

Recommendations and Requests

In summary, the proponent has filed information that is seriously deficient and completely inadequate as a basis for moving forward with environmental review. The project is by the proponent's own admission a first step in a larger project, which is in conflict with the government's commitment with respect to staged licensing. The proposed project ignores larger public policy environment and priorities in terms of water and is completely inconsistent with existing and new water legislation. Public involvement has been cursory at best, and has been unquestionably insufficient. The assumption that a range of licenses and permits for future developments will be issued based on the pipeline being in place has no place in a province where land use planning and watershed plans are the new standard.

As a starting point, we recommend the active involvement of all provincial and federal departments with an interest and jurisdiction regarding water resource use. This includes the Manitoba Departments

of Conservation, Water Stewardship, Culture, Heritage and Tourism, and Aboriginal and Northern Affairs, and the federal Departments of Environment, Fisheries and Oceans, and Indian and Northern Affairs. The approximately 96 kilometers of pipeline will cross numerous rivers, streams and creeks and will invariably impact fish habitat areas – it seems likely the Canadian Environmental Assessment Act will be triggered and federal departments involved in this environmental assessment.

A thorough Environmental Impact Statement (EIS) is absolutely required for the project proposed by PVWC – and as per our comments above, the EIS must assess the full extent of activities planned both in the short and long-term, not just this incremental first step. We also request that the public be involved in the development of guidelines for the EIS, given the precedent-setting nature of this proposed project.

We also recommend that the Minister of Conservation be requested to direct the Clean Environment Commission to conduct a public hearing to review the project, based on the steps outlined above. Thank you for the opportunity to comment on this proposed project – we look forward to further opportunities for comment and participation.

Yours truly,

Gaile Whelan Enns
Director, Manitoba Wildlands

cc.

Honourable Steve Ashton, Minister of Water Stewardship
Dan McNaughton, Director, Prairie Office – Canadian Environmental Assessment Agency
Chief Tina Leveque, Brokenhead First Nation
Chief John Thunder, Buffalo Point First Nation
Chief Terrance Nelson, Roseau River Anishinabe First Nation
Chief Linda Twoheart, Sagkeeng First Nation