

Environment Act Licence

Loi sur l'environnement Licence

Manitoba
Conservation
Conservation
Manitoba



Licence No./Licence n° _____ 2718

Issue Date/Date de délivrance April 20, 2006

**IN ACCORDANCE WITH THE ENVIRONMENT ACT (C.C.S.M. c. E125)
THIS LICENCE IS ISSUED PURSUANT TO SECTION 11(1) TO:**

PEMBINA HILLS WIND ENERGY LIMITED PARTNERSHIP; "The Licencee"

for the construction, operation and maintenance of the Development known as the Pembina Hills Wind Energy Project being a 99-megawatt wind-powered electricity generation facility and ancillary facilities located on 35 sections of privately owned land across a 37,632 ha area north, west and south of the community of Deerwood within the Pembina Hills of south-central Manitoba. The Development involves the installation of between 35 and 70 wind-turbine generators, approximately 25 km of access roads, one or two collector substations, approximately 10 km 230 kV transmission line interconnection, and an operations and maintenance building, in accordance with the Proposal and Environmental Impact Assessment filed under The Environment Act, dated November 23, 2005, and subject to the following specifications, limits, terms and conditions:

DEFINITIONS

In this Licence:

“**affected area**” means a geographical area, excluding the property of the Development;

“**Director**” means an employee of the department appointed as such by the Minister;

“**Environment Officer**” means an employee of the department appointed as such by the Minister;

“**noise**” means unwanted or undesirable sound;

***A COPY OF THIS LICENCE AND THE PEMBINA HILLS WIND ENERGY PROJECT
ENVIRONMENTAL PROTECTION PLAN MUST BE KEPT ON SITE AT THE DEVELOPMENT AT
ALL TIMES***

“noise nuisance” means a continuous or repeated noise in an affected area, which is offensive, obnoxious, troublesome, annoying, unpleasant or disagreeable to a person:

- a) residing in an affected area;
- b) working in an affected area; or
- c) present at a location in an affected area which is normally open to the members of the public;

if the noise:

- d) is the subject of at least 5 written complaints, received by the Director in a form satisfactory to the Director, and within a 90 day period, from 5 different persons falling within clauses a), b) or c), who do not live in the same household; or
- e) is the subject of at least one written complaint, received by the Director in a form satisfactory to the Director, from a person falling within clauses a), b) or c), and the Director is of the opinion that if the unwanted noise had occurred in a more densely populated area there would have been at least 5 written complaints received within a 90 day period from 5 different persons who do not live in the same household;

“leks” means bird dancing and display ground;

“point of reception” is any point on the premises of a person where sound originating from other than those premises is received;

“wetland or wetlands” means those areas where the water table is at or above the land surface for a long enough period each year to make the area capable of supporting aquatic or hydrophilic vegetation, and which have soils with characteristics indicative of wet conditions; and

“WTG” means wind turbine generator.

GENERAL TERMS AND CONDITIONS

This Section of the Licence contains requirements intended to provide guidance to the Licencee in implementing practices to ensure that the environment is maintained in such a manner as to sustain a high quality of life, including social and economic development, recreation and leisure for present and future Manitobans.

1. The Licencee shall site wind turbine generators throughout the Development in consideration of with the *Provincial Guidelines for Sound Pollution, Environmental Sound Objectives, Schedule A* and any local by-law respecting the siting of wind turbine generators.
2. The Licencee shall locate fuel storage and equipment servicing areas established for the construction and operation of the Development a minimum distance of 100

meters from any waterbody, and operate the fuel storage areas in compliance with the requirements of *Manitoba Regulation 188/2001* respecting *Storage and Handling of Petroleum Products and Allied Products*.

3. The Licencee shall, at all times during the construction of the Development, have materials available at the construction sites to contain and recover spills of fuel and other fluids associated with construction machinery.
4. The Licencee shall dispose non-reusable demolition and construction debris from the Development at a waste disposal ground operating under the authority of a permit pursuant to the *Waste Disposal Ground Regulation, MR 150/91*, or a Licence pursuant to The Environment Act.
5. The Licencee shall, during construction, dispose of all sewage and septage from on-site sanitary facilities in accordance with the *Onsite Wastewater Management Systems Regulation, MR 83/2003*.
6. The Licencee shall, during construction and operation of the Development, report spills of fuels or other contaminants to an Environment Officer in accordance with the requirements of *Manitoba Regulation 439/87* respecting *Environmental Accident Reporting*. Any reportable spills shall be reported immediately to Manitoba Conservation's Accident Reporting Line at 204-944-4888.
7. The Licencee shall, during construction, adhere to the general recommendations on design, construction and maintenance of stream crossings as specified in the Manitoba Department of Conservation guidelines titled *Manitoba Stream Crossing Guidelines for the Protection of Fish and Fish Habitat, 1996*.

SPECIFICATIONS, LIMITS, TERMS AND CONDITIONS

Respecting Pre-Construction

8. The Licencee shall, prior to construction, provide a copy of this Licence to the contractor and subcontractor(s) involved in the Development.
9. The Licencee shall not locate wind turbine generator structures near wetlands closer than a distance equal to 1.5 times the WTG height. Setback distances between WTG structures and large permanent wetlands shall be determined in consultation with Manitoba Conservation Wildlife staff.

10. The Licencee shall, once specific locations of the wind generator structures are identified and prior to the construction, consult with the Historic Resources Branch, Manitoba Department of Culture, Heritage and Tourism to arrange for a Heritage Resource Impact Assessment of the Development area.
11. The Licencee shall, prior to the commencement of construction activities related to the Development, file a Pembina Hills Wind Energy Project Environmental Protection Plan (EPP) with the Director. The EPP shall describe the integrated approach to be used by the Licencee to undertake pre-construction plant and wildlife surveys and monitor the effects of construction activities and related environmental conditions both during and after construction to ensure that mitigative measures are applied systematically and in a manner consistent with the commitments made in the *Pembina Hills Wind Energy Project Environmental Impact Assessment, November 2005*. Specifically, the Plan shall also describe:
 - a) methods to be used to undertake a baseline study of bird use and bird habitat including leks affected by the Development;
 - b) methods used to identify and survey any areas where rare plants may be present and affected by the Development;
 - c) methods used to implement a two year migratory bird and bat mortality study to monitor bird and bat mortality from strikes WTG structures;
 - d) the methods used to evaluate birds and bird habitat during development operation;
 - e) the proposed environmental management practices to be implemented to mitigate adverse effects on groundwater and local wells in the event of contamination during construction; and
 - f) the methods used to collect baseline data to assess changes to water quality during operation.
12. The Licencee shall, prior to construction, provide information requested by the Federal Departments responsible for administering the Fisheries Act and the Migratory Birds Convention Act.
13. The Licencee shall, prior to construction start-up, retain a qualified on-site field biologist to ensure that impacts to wildlife and vegetation are avoided or minimized.
14. The Licencee shall, prior to construction, consult with the Manitoba Conservation Wildlife and Water Stewardship Regional Fisheries staff and the field biologist to determine:
 - a) site specific impact management practices; and
 - b) water crossing locations and types.

15. The Licencee shall, prior to construction on Crown lands, obtain a Work Permit from the Manitoba Conservation.
16. The Licencee shall, prior to construction, obtain a Water Rights Act Licence for any dewatering required during construction.

Respecting Construction

17. The Licencee shall separate and replace topsoil from backhoe and trenching operations in accordance with the methodology described in Figures 1, 2 and 3 attached to this Licence. This requirement is not applicable where the topsoil has been previously disturbed due to the construction of roads or drains.
18. The Licencee shall, during construction, avoid clearing, compacting, grading or filling any agricultural lands, yard sites and natural habitat areas including wetlands, woodlands and grasslands which are not required for the Development. All construction related traffic shall be restricted to the access roads and marshalling yards throughout the Development.
19. The Licencee shall, during construction activities near wetland areas throughout the Development:
 - a) locate any temporary marshalling yards and storage sites required for the Development a minimum distance of 100 meters from any wetland or watercourse;
 - b) avoid construction activities on native grasslands, wetlands, lake or pond edges between April 15 and July 30;
 - c) avoid instream construction between April 1 and June 15;
 - d) avoid altering surface drainage patterns and wetland water levels; and
 - e) maintain adequate setback distance between transmission line structures and wetlands.
20. The Licencee shall, during construction, undertake temporary erosion control measures to reduce siltation from erosion prone areas. Erosion prone areas shall be monitored following construction to ensure stabilization procedures are effective.
21. The Licencee shall obtain water required for dust control during construction from a source other than waste water treatment facilities.
22. The Licencee shall, at the completion of the construction of the Development:
 - a) landscape and vegetate erosion prone areas disturbed during the construction; and
 - b) fill and seal any boreholes and test pits to prevent groundwater contamination.

Respecting Operation

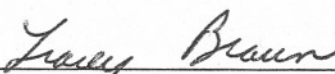
23. The Licencee shall maintain a buffer near wetlands and waterbodies along the transmission line right-of-way of 30 meters for application of herbicides. Any herbicide application shall be carried out in accordance with applicable regulatory requirements.
24. The Licencee shall not cause or permit a noise nuisance to be created as a result of the operation of the Development, and shall take such steps as the Director may require to eliminate or mitigate noise nuisance.
25. The Licencee shall carry out any noise monitoring required by an Environment Officer at the point of reception.

Respecting Alterations to the Development

26. The Licencee shall obtain approval from the Director for any proposed alteration to the Development before proceeding with the alteration.

REVIEW AND REVOCATION

- A. If, in the opinion of the Director, the Licencee has exceeded or is exceeding or has or is failing to meet the specifications, limits, terms, or conditions set out in this Licence, the Director may, temporarily or permanently, revoke this Licence.
- B. If, in the opinion of the Director, new evidence warrants a change in the specifications, limits, terms or conditions of this Licence, the Director may require the filing of a new proposal pursuant to Section 11 of The Environment Act.
- C. If the construction of the Development has not commenced within three years of the date of this Licence, the Licence is revoked.



Tracey Braun, B. Sc.
Director
Environment Act