

Environment Act Consultation – Wildlife Branch comments.

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1. EIS guidelines should include a requirement, or at least a recommendation, that proponents contact the Manitoba Conservation Data Centre (CDC) to determine if rare species have been observed at or near the location of the proposed development. If rare species do occur in the project area, the CDC can work with the proponent to determine appropriate mitigation actions.

2. The TAC should be able to review proposals, suggest license conditions, and be involved in the review of EIS guidelines.

3. The TAC membership should remain limited to government experts with a broad perspective on government issues and processes and how those processes work together for the benefit of Manitobans. Members of the public, ENGOs and other agencies still have the ability to provide their own perspective on proposals through the established mechanisms (public comment period, CEC process, public engagement by proponent).

There is currently no representative to review proposals for the effect to the exercise of Rights by First Nations, Métis and other Aboriginal peoples. While the Environment Act does not directly address the exercise of Rights, it does address the impact on the environment where Rights-based activities are carried out. Adding a TAC role to provide this perspective will add to the meaningfulness of the Crown-Aboriginal Consultation process.

4. Any survey/monitoring data collected as required under an Environment Act license should be provided to the relevant TAC member(s) (e.g.: wildlife monitoring data should be provided to the Wildlife Branch TAC member).

5. Activities that should be subject to at least some degree of environmental review include quarries, petroleum wells, and petroleum flowlines. These activities, individually and en masse (e.g.: petroleum wells, cumulative impacts), can have significant effects on wildlife and habitat values.

6. The proposed review of licences is a positive step to ensure the process is reflective of current best practices. One way to enhance the process would be to require the proponent to submit a compliance calendar or timetable within a set number of days following the issuance of the licence. The proponent would be responsible for ensuring each of the licensing requirements is met according to the calendar. If there are outstanding items, or if during the development, a clause is found to become obsolete, or monitoring data warrants, a review/ revision of the licence could be triggered.

NOTE: The TAC helps inform the original licensing decision- the TAC should also be involved in any licence reviews/ revisions etc.

7. The different processes under the Environment Act (Public comment, CEC process) must be clearly distinguished from other processes (Crown-Aboriginal Consultation). While these processes may run concurrent to one another, the role of each in informing a decision can be confusing. Developing a clearer separation for each distinct process will benefit each.

8. Proponents often engage First Nations, Métis and other Aboriginal peoples in their public consultation processes and in the case of Bipole III specifically committed to demonstrating that engagement in the EIS. The Environment Act, in its current version, does not provide adequate direction on how this type of engagement should be reflected in the licensing decision. Information gathered through a proponent's engagement can help inform the Crown-Aboriginal Consultation process, though there is no direction in the current legislation which states the proponent must share that information with government.

Furthermore, in several other jurisdictions, some procedural aspects of Crown-Aboriginal Consultation have been delegated to the proponent. This approach minimizes repetitious visits by proponents and then government to gather information and has an overall time and potentially cost-saving aspect. This approach should be considered as part of the review of the Environment Act.

9. Under the current structure, a landowner/lesser can install fencing (for any reason) so long as they provide breaks for road allowances and crossings. This allows such a person to install fencing for an indefinite length with no oversight, and the structure is not subject to Environment Act licensing approval or conditions. The resulting fences impede wildlife movement, effectively penning some wild animals or making it difficult for them to evade predators. The current practice also does not require an inspection and determination wildlife accessibility or a reinspection/reassessment to avoid fences from becoming decrepit and a danger to wildlife and domestic animals alike.

There is a critical need for Manitoba regulations and standards for 'wildlife friendly' fencing. Atypical fencing (other than 3-strand barbed wire) is likely to negatively affect wildlife. Proven or assessed effective mitigation measures are required.

We recommend that extensive fencing be assigned to the appropriate level of Environment Act development classes. Toward that end, Wildlife Branch will develop and recommend standards and mitigation such measures, including a threshold for the length of semi-continuous fencing to develop a licensing process to ensure better oversight and a standard of practice.

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