

## **SUMMARY OF COMMENTS/RECOMMENDATIONS**

**PROPONENT:** Rural Municipality of Strathclair  
**PROPOSAL NAME:** Thomas Lake Water Level Control Project  
**CLASS OF DEVELOPMENT:** Two  
**TYPE OF DEVELOPMENT:** Water Development and Control  
**CLIENT FILE NO.:** 5534.00

### **OVERVIEW:**

The Proposal was received on July 15, 2011. It was dated July 12, 2011. The advertisement of the Proposal was as follows:

“An Environment Act Proposal has been filed by G. D. Newton and Associates on behalf of the Rural Municipality of Strathclair for a project to regulate high water levels on Thomas Lake. The project involves the construction of a gated culvert control structure in NE 35-18-21W and the improvement of a small existing channel along the natural outlet route from Thomas Lake to the Little Saskatchewan River. The outlet would allow water to be discharged from Thomas Lake when elevations exceed 587.4 metres above sea level. By comparison, lake levels in the summer of 2010 were approximately 588.1 metres. The outlet would have a capacity of 0.6 cubic metres per second, and would flow southwest through privately owned agricultural land and the Keeseekoowenin First Nation. The outlet would not be operated following heavy precipitation events until downstream local inflow had diminished. Construction and operation of the project is proposed for the fall of 2011.”

The Proposal was advertised in the Minnedosa Tribune on Friday, August 5, 2011 and in the Brandon Sun on Saturday, August 6, 2011. It was placed in the Main, Millennium Public Library (Winnipeg), Manitoba Eco-Network and Western Manitoba Regional Library (Brandon) public registries, as well as at the office of the Rural Municipality of Strathclair as a registry location. It was distributed to TAC members on August 2, 2011. The closing date for comments from members of the public and TAC members was September 6, 2011.

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

**Darci Semeschuk** Our family has had a cottage on Thomas Lake (Fisher - 5 Wildwood) for the past seven years. We leased and built on a lot that had had a cabin on it for many many years. In those decades it was never affected by high water. Over the last four years the water had risen steadily up to 2010 where the rise was dramatic to this year when our entire cabin frontage is gone. We have lost sixty feet of frontage. Our dock is now mounted directly to our deck and if the water increases any more we will no longer have a deck, or worse, no cabin.

What is worse than that is the loss of the trees. There are hundreds and hundreds of trees that are dead and dying. Giant pines that must be sixty or seventy years old are dead. The

loss of these old trees is tragic. The trees surrounding Thomas Lake will ever recover from this devastation. Worse still is the affect the high water has had on the farm land and waterfowl that saw nests washed away time and again. The list goes on.

Addressing the issue of the taxes, we have seen a steady increase in taxes on that spot to 1587.00 in 2010. To pay that high rate for zero frontage is unfair in our opinion.

I am pleased to see that the municipality has taken steps to reduce the water levels on Thomas Lake. We do hope the project moves forward and we and others affected by the rising Thomas can see some benefit from it.

I have been listening and sympathizing with the people at Lake Manitoba who are affected by high water there. This disaster is on a smaller scale but still a disaster none the less.

Thank you for opportunity to share our concerns.

**Tim McFadden** Pursuant to the proposal outlined below, please accept this email as my representation of being **in favour of the proposal** to regulate water levels by allowing water to be discharged through the natural outlet route to the Little Saskatchewan River.

**Rick and Tammy Robertson** I am a cabin owner at Thomas Lake and looking for information please. Can you please tell me what the lake levels were in 2007 and 2008 and why we are not trying to maintain those levels as we had no issues then with flooding. Also, please advise how and who came up with the levels you are proposing.

Disposition: The requested information was provided.

**Rob Elliott** I have a cabin LOT 5, Birch Bay. I would like to voice my approval for your proposed drainage project.

**Terry Gillespie** With regards to the Environment Act Proposal for Thomas Lake in the RM of Strathclair, I would like to voice my support for the project, as it will have many benefits to preserve the condition of the lake for many years in the future.

**Gayle Drysdale** Re: Environment Act Proposal for Thomas Lake. I wish to register my approval of the above study.

**Ginette and Travis Snaith** We would like to officially make you aware that we support the proposal for Thomas Lake level be maintained at 587.08 meters, this would allow the lake to be lowered by three feet. This would maintain a minimum of 4 feet of water in the

low spots through the entry ports of North & South Thomas Lake, as per Environmental Act Proposal 5534.00.

**Rob McEwen** I just wanted to give you a quick email and let you know that I support the proposal of lowering the water of Thomas Lake by 3 feet and keeping it at 587.08 meters above sea level.

**Mike and Jaime Marshall** I have read the proposal to lower and maintain Thomas Lake to 587.08 meters with work to commence this fall. As a tenant at Birch Bay on Thomas Lake, please consider this email as our support for this project.

**Terry Tilley** I would like to express my support of this Water Level Control Project for Thomas Lake. I am a cottage owner on the lake and the proposal would be of obvious benefit to all those who use the lake with an apparent minimum impact to landowners downstream.

**Terry Lysaichuk** I am a cottage of owner at lot 20 Birch Bay Thomas Lake and fully support the above proposal to lower the lake.

**Cathy Morgan and Gary Easter** We are contacting you to voice our concern for the high water level at Thomas Lake. Our understanding is that there has been a proposal put forward to develop a control to drain the lake effectively. We would like to support this development.

Our family has owned a cabin at Thomas Lake #2 Wildwood Bay (Fisher subdivision) for 24 years and never have we seen water levels this high which has been getting higher and higher for the past 5 years. At one time we had 150 feet of frontage and this year the lake came so high it was under our deck. The cabin has as you can imagine shifted and supports under the cabin have sunken which is causing some structural concerns to say the least.

We are also very concerned about the demise of the trees surrounding Thomas Lake. Each year we watch more and more die from their roots drowning.

If you would like further information or pictures of the water surrounding our cabin this spring please contact us.

**Dwight Ferguson** I am sending this email in support of your "Rural Municipality of Strathclair-Thomas Lake Water Level Control Project". I am very happy to hear that something is going to be done to maintain Thomas Lake at a reasonable level that is beneficial to everyone involved.

**COMMENTS FROM THE TECHNICAL ADVISORY COMMITTEE:**

**Manitoba Conservation – Sustainable Resource and Policy Management Branch and Land Programs Branch** No concerns.

**Manitoba Conservation - Parks and Natural Areas Branch** No comments.

**Manitoba Conservation – Wildlife and Ecosystem Protection Branch** No concerns.

**Manitoba Conservation – Air Quality Management Section** No air quality-related comments or concerns.

**Manitoba Water Stewardship – Planning and Coordination Branch**

Manitoba Water Stewardship has reviewed the referenced file, forwarded for comment on July 27, 2011.

- Manitoba Water Stewardship requires an Environment Act Licence to include the following:
  - The Licencee is required to submit an application for a Water Rights Licence to Construct Water Control Works, prior to the commencement of any construction, including the submission of an engineered drainage plan, stamped by a Professional Engineer, registered by the Association of Professional Engineers and Geoscientists of the Province of Manitoba.
    - A contact person is Mr. Ed MacKay, C.E.T., Senior Water Resource Officer, Water Control Works and Drainage Licensing, Manitoba Water Stewardship, 1129 Queens Avenue, Brandon, Manitoba R7A 1L9, telephone: (204) 726-6226, email: ed.mackay@gov.mb.ca.
  - The Licencee shall notify the water plant operator at the Town of Rivers, prior to the commencement and end of operation of the overflow.
    - Note: Manitoba Water Stewardship's information indicates that the only community located downstream of this proposed development which uses the river as a source of raw water for a public water system is the Town of Rivers.
- Manitoba Water Stewardship submits the following requirements:

- The proponent must obtain written consent from all affected landowners before an Environment Act Licence is issued.
  - Note: A Resolution from the Keeseekoowenin First Nation, dated on June 23, 2010, is conditional upon protection to the horse race track. This resolution appears sufficient as the intent of the project has not changed from the time of signing. Written consent is required from Carrie and Andrew Ellchuk and Edwin and Perry Koroscil. Without landowner consent, Manitoba Water Stewardship cannot approve this project.
- The outlet elevation of 587.40 meters is acceptable for the Thomas Lake basin, however the outlet channel route appears to run directly through several permanent wetlands as shown on Figure No. 3. The topographic survey design profile shown on Figure No. 6 does not extend far enough downstream to show the effects the channel will have on the water levels of these wetlands. The survey must extend to a point of grade out. If the permanency or classification of any wetland along the planned outlet route will be altered by the proposed outlet channel excavation, a mitigation plan will be required. This plan must show where and how a wetland of equal size shape and depth, will be constructed.
- Manitoba Water Stewardship submits the following recommendations:
  - Manitoba Water Stewardship supports the “shut-off” valve type of control affixed to the control culvert. Manitoba Water Stewardship recommends that this gate be a screw-type that will allow for operation and provide variable flow control. This will be necessary to provide flow control to ensure there are no impacts to the racetrack on the First Nations Lands downstream.
  - The cross section of the culvert control crossing shows 1:1 side slopes on Figure No. 7. Manitoba Water Stewardship recommends that these slopes need to be a minimum of 3:1 to ensure stability and safety.
- Manitoba Water Stewardship submits the following concern:
  - Manitoba Water Stewardship is concerned that the removal of vegetation along the discharge route and lake outlet will permanently alter this aquatic environment to the point where water quality and functionality of these small lakes will be impacted by an altered flow regime.
  - The Department of Fisheries and Oceans Canada needs to provide comments on the proposed development.

- Manitoba Water Stewardship requests clarification of the following:
  - The upstream portion of the outlet channel will start somewhere in Thomas Lake at elevation 587.40. What station is this? There is no horizontal control on the survey profile Figure No. 6 to determine this distance. This horizontal stationing is necessary to determine the extent of the excavation.
  - Is the surveyed profile representing the bottom or centerline of the existing channel? Or, is it the natural ground adjacent to the channel?
  - Do the cottage owners know where the new shoreline of 587.40 metres will be located and do the cottage owners support this new shoreline location? There are no basin contours provided in the Proposal that indicate the location of the lower shoreline. Also, it appears that the access to the south Fishing Lake basin may be lost at this lower lake level. Is this acceptable to those users on the south basin?
  - Which entity is responsible to ensure that the proposed development will operate within licenced lake levels?
  - The Proposal did not provide information on the lake water quality (salinity etc.) or the effect discharge of lake water would have on water quality in the river (dilution etc.). Can the proponent provide this information?
- Manitoba Water Stewardship submits the following comments:
  - Manitoba Water Stewardship does not object to this proposal, at this time.
  - The proponent needs to submit an application for a Water Rights Licence to Construct Water Control Works and provide all of the requested information, soon to allow a complete assessment of the proposed development.

Additional Comments:

Manitoba Water Stewardship submits a response, for the referenced file, in addition to the information provided on August 25, 2011.

- Manitoba Water Stewardship requires an *Environment Act* Licence to include the following:
  - The Licencee shall monitor downstream of the outlet during an operational year to determine whether walleye fry and or other fish species are

transported over the control structure. The Licencee shall monitor the downstream ponds when lower water levels occur to determine whether fish are stranded.

- The Licencee shall monitor the downstream natural ponds, when the proposed development is being operated, to ensure proper sedimentation occurs.
  - The Licencee shall implement erosion and sediment control measures and monitor their effectiveness, until all of the sites have stabilized, during construction and after construction.
- Manitoba Water Stewardship submits the following comments:
    - Walleye spawning shoals were constructed in Thomas Lake about 25 years ago. The lake is also stocked with walleye fry annually.
    - The control structure should be constructed to allow some natural low water levels. In the past, a control structure was considered to be constructed to increase water levels during dry years. It is healthy for the system to experience both natural low and high water level variability.

**Disposition:**

Several of these comments were provided to the proponent's consultant for information. In particular, comments pertaining to consent needed for a Water Rights Licence and associated design requirements were forwarded to the consultant. Additional information was requested to address several comments. A number of the comments can be addressed as licence conditions.

**Manitoba Innovation, Energy and Mines, Mines Branch**

No concerns.

**Manitoba Infrastructure and Transportation, Highway Planning and Design Branch**

No concerns.

**Canadian Environmental Assessment Agency**

I have undertaken a survey of federal departments with respect to determining interest in the project noted above. I can confirm that the project information provided has been distributed to all federal departments with a potential interest. Based on the responses to the survey more information is needed to determine if the application of the *Canadian Environmental Assessment Act* (the Act) by a federal authority is required for this project. I have enclosed copies of the received responses for your file.

The Department of Fisheries and Oceans Canada (DFO) has reviewed the project proposal and has requested additional information. Please see the attached email from

DFO. The contact for DEC is Jeff Moyer. He can be reached by phone at (204) 622-4072 or by email at [Jeff.Moyer@dfo-mpo.gc.ca](mailto:Jeff.Moyer@dfo-mpo.gc.ca).

Transport Canada (TC) has reviewed the project information and has not determined its role in the project. TC has indicated the proponent needs to submit an application to the Navigable Waters Protection Act (NWPA) for it to determine its requirements. The contact person for TC is Jennifer Van de Vooren. She can be reached by phone at (204) 983-1140 or by email at [Jennifer.Vandevoreen@tc.gc.ca](mailto:Jennifer.Vandevoreen@tc.gc.ca).

HC has indicated it is not a RA for the project, however HC could contribute expert knowledge in the area of human health to a RA if requested. The contact person for HC is Rick Grabowecky. He can be reached by email: [Rick.Grabowecky@hc-sc.gc.ca](mailto:Rick.Grabowecky@hc-sc.gc.ca).

Environment Canada (EC) has reviewed the project and determined it is not a RA for the project. EC has provided a letter with comments for the proponent. The contact person for EC is Reg Ejeckam. He can be reached by phone at (204) 984-3522 or by email at [Reg.Ejeckam@ec.gc.ca](mailto:Reg.Ejeckam@ec.gc.ca).

The project information was also shared with Aboriginal Affairs and Northern Development Canada. No other federal interest in this project was received.

**Disposition:**

These comments were provided directly to the proponent's consultant by CEAA.

**ADDITIONAL INFORMATION:**

Additional information was requested on September 16, 2011 to address several TAC comments. The attached response was received on November 15, 2011. The additional information addresses most of the TAC comments. The lack of water quality information in both Thomas Lake and downstream and the consequent lack of information on water quality effects of the project can be addressed through a monitoring program as a licence condition.

**PUBLIC HEARING:**

No requests were received for a public hearing. Accordingly, a public hearing is not recommended.

**CROWN-ABORIGINAL CONSULTATION:**

The Government of Manitoba recognizes it has a duty to consult in a meaningful way with First Nations, Métis communities and other Aboriginal communities when any proposed provincial law, regulation, decision or action may infringe upon or adversely



affect the exercise of a treaty or Aboriginal right of that First Nation, Métis community or other Aboriginal community.

The Thomas Lake Water Level Control Project proposes an outlet route from Thomas Lake to the Little Saskatchewan River that passes through the Keeseekoowenin First Nation. The First Nation provided a letter (included in the Proposal) approving the project subject to the project not causing flooding on reserve lands. The outlet route follows existing drains on First Nation land and does not require the construction of additional works or the modification of existing channels or culverts. Consequently, the project would not create land use changes or affect resource use on First Nation land. Other land between Thomas Lake and the First Nation is privately owned agricultural land.

Since the Keeseekoowenin First Nation supports the project and resource use is not affected by the project, it is concluded that Crown-Aboriginal consultation is not required for the project.

#### **RECOMMENDATION:**

It is recommended that the Development be licensed under The Environment Act subject to the limits, terms and conditions as described on the attached Draft Environment Act Licence. It is further recommended that enforcement of the Licence be assigned to the Western Region.

#### **PREPARED BY:**

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