



Fast FACTS

CANADIAN CENTRE FOR POLICY ALTERNATIVES - MANITOBA

JULY 18, 2012

DIDG Licensed: Little Saskatchewan River Unprotected

On the day the Fast Facts titled Will the Province Protect the Little Saskatchewan River was published (July 5, 2012), the Daly Irrigation Development Group (DIDG) was granted Environment Act license No. 3010. Two days earlier a formal request, specifying numerous concerns, had been made of Gord Macintosh, Minister of Conservation and Water Stewardship to deny the license.

Many of the thirty-three conditions in the license fail to protect fish, endangered and at-risk species, recreational and other established shared uses of the River. As expected, flexibility to adjust current license requirements during periods of low flow in the Little Saskatchewan River has been built into the license. It is now possible for the amount of water reserved for ecosystem needs to be lowered so that the irrigators may get the water they need despite Conservation's unofficial assurance that the flow rate for riparian needs may only be adjusted after the completion of an in-stream flow study.

The issuance of the Environment Act license and many of its conditions was expected for a number of reasons.

First, clear, yet unofficial, assurances were provided that lowering the level of Lake Wahtopannah (created by the Rivers Dam), in low flow years to supply 2600 acre feet of water for the irrigators was not a viable option. Yet in the project summary for DIDG, the option of adjusting lake levels is presented twice. Available studies on the historic flow in the Little Saskatchewan

River downstream of the dam show that the reservoir was unable to deliver enough water downstream to maintain a flow more than sufficient to support short-term fish survival in 15 out of 36 years. (The Environmental review summary is at <http://www.gov.mb.ca/conservation/eal/archive/2012/summaries/5577.pdf>.)

Further, License 3010 conditions expose problems with environmental assessment, licensing and enforcement in Manitoba. For example, DIDG must "install buried pipelines on cultivated land or land in its natural state in accordance with the methodology" attached to the license. However, DIDG has been installing pipeline for two years. When this was brought to the attention of the Conservation official drafting License 3010, along with a request for guidance on how to make a complaint, he responded, "On their land, the owners can clear trees, install pipe, install pivots, plant potatoes, etc. anytime they want. But those activities are not what makes the operation a Development under the act." Rather, the "trigger" was a desire to use water. "There is certainly nothing to enforce under the Environment Act, and most likely not under any other act either." Further, he reported DIDG was installing infrastructure at "their own risk."

Including a condition on pipeline installation suggests there is something to enforce under the Environment Act, the Act from which assessment, licensing and enforcement authority is derived. This signals DIDG's ability to legally install pipeline on private land was actually supposed to be

there is an alternative.

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regulated by License 3010. Why was this condition included if irrigators can legally install such infrastructure prior to the issuance of an Environment Act license?

Indeed, DIDG's consultant identified the project as a Class 2 development "thereby requiring a valid and subsisting licence from Manitoba Conservation's Environmental Assessment and Licensing Branch (EALB) for construction, alteration or operation."

Perhaps DIDG's understanding of the level of "risk" in proceeding with pipeline installation prior to receipt of a license was mitigated by the fact that Water Use Licensing had issued two temporary authorizations to a DIDG partner. One was issued last July, one this spring, allowing the partner to install a pump and pipeline and use water prior to environmental assessment. While a water licensing official explained that there was "excess water" in the system, the partner was allowed to extract only 46 acre feet in 2012, and equipment was to be installed in a manner "as if they had an Environment Act license."

To allow infrastructure development to proceed without proper environmental assessment facilitated through a series of temporary authorizations is a circumvention of the spirit, intent and letter of the Environment Act. In the absence of a credible in-stream flow study, which the departments have been mandated to undertake, the capacity to determine what constitutes excess water in this ecosystem does not yet exist. Water Licensing's practice of calculating water availability on the basis of volume and "water budgets" fails to address in-stream flows required to protect habitat. How can a credible in-stream flow study now be done when the flow parameters will change as a result of the

project's water withdrawals?

Finally, the most onerous conditions of the license include DIDG taking daily pictures of the degree to which the riffle fish habitat next to the pump intakes are exposed, developing and following a dissolved oxygen monitoring plan there, recording volumes and flow rates of water use and river flow rates directly up and downstream of the pumps. Reports are to be submitted to Conservation by March 1 the following year. Why does the license not require weekly reporting to the local enforcement office?

DIDG monitoring the effects of water use on downstream habitat is not included in the license. This fragmented approach focuses on a single riffle fish habitat with no requirement to determine impacts on habitat and other uses downstream.

Only if the director has specific concerns, will DIDG be required to sample, monitor and investigate to determine the environmental impact associated with this specific concern.

On the farm, we call this the fox guarding the chicken house.

It appears this is of little concern to Minister Macintosh. Having been appraised of concerns and without an in-stream flow study in hand, he has allowed the license to be issued. It remains to be seen what the minister and cabinet will do with any appeals that may be submitted before August 5 and if they will act to protect the public rather than private interests.

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