



Justice

Civil Legal Services SOA
Room 730 Woodsworth Building
405 Broadway
Winnipeg MB R3C 3L6

In reply, please refer to:
Aaron Berg
General Counsel

Phone: 945-2851
Fax: 948-2041
aberg@gov.mb.ca

File No: EN0100(27)

October 24, 2006

Manitoba Wildlands
1000 – 191 Lombard Avenue
Winnipeg MB R3B 0X1

Attention: Gaile Whelan Enns

Dear Madame:

Re: Wuskwatim (Generating Station) – Appeal to Cabinet

I am writing in response to your letter dated October 8, 2006 and our telephone conversation of October 12, 2006.

You have asked a number of questions about the procedures for this appeal and you asked us to respond to each of your questions by number

- 1) The procedures that were generally outlined in my letter of September 29, 2006 are essentially the same as those followed for the Red River Floodway Appeal. This is the most recent Class III license appeal under *The Environment Act*.
- 2) & 3) As described in my letter of October 6, 2006, we will be asking the parties to provide their submissions within set periods of time. As stated in Mr. Boyd's letter of October 6, 2006, we have asked that the Appellants provide any submissions they might have by November 3, 2006. You will be advised of the timelines for the Licensee to provide a response to your submission after we receive it.
- 4) Certain ministers will not participate in hearing and deciding the appeal. Most notably the Minister of Conservation and the Minister responsible for Hydro will not participate. We also understand that there are a number of ministers who have a conflict due to personal relationships with persons

involved in the project. We can advise you which ministers are not participating in advance of the hearing, if you wish.

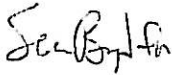
- 5) With respect to funding, I can advise that there has not typically been funding for these types of appeals and to my knowledge there are no plans to provide funding to any parties to this appeal.
- 6) The cabinet appeal will be a written hearing only. This is typical of these types of appeals and follows the practice in the Red River Floodway appeal.
- 7) The "Appeal Book" is simply a collection of documents that were relevant to the Minister's licensing decision and includes the two appeal letters. Its role is somewhat analagous to a "record" in regular administrative proceedings. It is designed to bring together some of the information that cabinet will be considering on this appeal, though the parties are certainly entitled to provide any additional material they feel is relevant in addition to their submissions.
- 8) The material and documentation provided by the parties that comprise the Appeal Book, other than the two individual letters of appeal, is available on the Department of Conservation website.
- 9) Cabinet will consider this appeal at one of its regular cabinet meetings which will not be open to the public.
- 10) To my knowledge no stay of the license has been granted. Under section 30 of *The Environment Act*, it appears that any request of this nature should be directed to the Minister of Conservation.
- 11) Documents relating to this appeal served on:
 - 1) Manitoba Wildlands at the address you provided;
 - 2) Mr. McIvor at:
525 – 555 St. Mary's Avenue,
Winnipeg MB R3C 3X4
 - 3) Wuskwatim Power Limited Partnership
c/o Manitoba Hydro
Attn: Ms. Joy Kovnats
Manager, Future Generation Impact Analysis & Monitoring
820 Taylor Avenue (4), Winnipeg MB R3M 3T1

With copies to:

Doug Bedford (Hydro),
Sherly Rosenberg (Thompson Dorfman Sweatman LLP)
Elliott Leven (Cherniack Smith LLP)

I hope this response is helpful. We look further to receipt of any appeal submission you might have.

Yours truly,

A handwritten signature in cursive script, appearing to read "Aaron Berg".

Aaron Berg
General Counsel

ALB/tlv