

SUMMARY OF COMMENTS/RECOMMENDATIONS

PROPONENT: Chappel Ag Ventures Inc.
PROPOSAL NAME: Crop Protection Warehouse – R.M. of Hamiota
CLASS OF DEVELOPMENT: 1
TYPE OF DEVELOPMENT: Bulk Materials Handling Facility
CLIENT FILE NO.: 5551.00

OVERVIEW:

A Proposal was filed on November 15, 2011 by Kelsen Agritech on behalf of Chappel Ag Ventures Inc. for the operation of a crop protection products warehouse located in the SE ¼ of Section 24, Township 15, Range 23 West in the Rural Municipality of Hamiota. The site will consist of a crop protection products warehouse.

The Proposal was advertised in the Brandon Sun on Saturday January 7, 2012 and the Shoal Lake Crossroads This Week on Friday January 13, 2012. Copies of the proposal were placed in the Public Registries at the Millennium Public Library, the R.M of Hamiota Office, the Manitoba Eco-Network, and the Conservation and Environment Library. The proposal was distributed to the Technical Advisory Committee (TAC) on December 22, 2011. The closing date for TAC and public comments was on February 6, 2012.

COMMENTS FROM THE PUBLIC:

No public responses were received.

COMMENTS FROM THE TECHNICAL ADVISORY COMMITTEE:

Following is a summary of TAC comments received pertaining to the Proposal. Copies of the original comments from TAC are available in the Public Registries.

Manitoba Conservation – Land Programs Branch and Sustainable Resource Policy Management Branch

No concerns.

Disposition:

No action needed.

Manitoba Conservation – Air Quality Branch

No concerns.

Disposition:

No action needed.

Manitoba Conservation - Parks and Natural Areas Branch

No concerns.

Disposition:

No action needed.

Manitoba Conservation - Wildlife and Ecosystem Protection Branch

No comments or concerns.

Disposition:

No action needed.

Manitoba Conservation – Operations Branch – Western Region

No concerns.

Disposition:

No action needed.

Manitoba Infrastructure and Transportation

No comments or concerns.

Disposition:

No action needed.

Manitoba Water Stewardship

The Water Stewardship Division of the Manitoba Department of Conservation and Water Stewardship has reviewed the referenced file, forwarded for comment on December 22, 2011.

- The Water Stewardship Division requires an *Environment Act* Licence to include the following:
 - The Licencee shall develop and implement an Emergency Response Plan, including the following:
 - All potentially contaminated water from the site must be contained on the proponent's property. Therefore, secondary containment must incorporate a gated culvert which must remain in the closed position unless authorized by an Environment Officer. Where there is a concern that accumulated water is contaminated, the liquid must be sampled prior to release.
 - Potentially contaminated water must not be directed to surface waters, including wetlands. Potentially contaminated water must not be released until approval is obtained from an Environment Officer, after a review—by the Water Stewardship Division—of water sample test results submitted from a laboratory accredited by the Canadian Association for Laboratory Accreditation Inc. Water samples shall be retrieved from any source on the proponent's property, or adjacent properties that might have been contaminated.
 - The Licencee must meet the guidelines of the Agrichemical Warehousing Standards Association for the proposed development.
- The Water Stewardship Division submits the following comments:
 - The Water Stewardship Division does not object to this proposal, at this time.
 - The proponent needs to be informed of the following for information purposes:
 - Erosion and sediment control measures should be implemented until all of the sites have stabilized.

- *The Water Rights Act* requires a person to obtain a valid licence to control water or construct, establish or maintain any “water control works.” “Water control works” are defined as any dyke, dam, surface or subsurface drain, drainage, improved natural waterway, canal, tunnel, bridge, culvert borehole or contrivance for carrying or conducting water, that temporarily or permanently alters or may alter the flow or level of water, including but not limited to water in a water body, by any means, including drainage, OR changes or may change the location or direction of flow of water, including but not limited to water in a water body, by any means, including drainage. If a proposal advocates any of the aforementioned activities, a person is required to submit an application for a Water Rights Licence to Construct Water Control Works. A person may contact the following Water Resource Officer to obtain an application and/or obtain information.
 - A contact person is Mr. Geoff Reimer C.E.T., Senior Water Resource Officer, Water Control Works and Drainage Licensing, Manitoba Conservation and Water Stewardship, Box 4558, Stonewall, Manitoba R0C 2Z0, telephone: (204) 467-4450, email: geoff.reimer@gov.mb.ca.

Disposition:

Comments and concerns are addressed in the draft licence. Comments have been forwarded to the proponent for information.

Local Government – Community and Regional Planning

The proposed crop protection warehouse development is located on an owner occupied farm located in the Rural Municipality of Hamiota, which is a member of the Mid West Planning District. As such, all development within the municipality must be generally consistent with the policies of the Mid West Planning District Development Plan (By-law No. 3/2009) as well as conform to the requirements of the Rural Municipality of Hamiota Zoning By-law No. 3/2001).

What the Mid West Planning District Development Plan Says:

According to the Plan, the subject lands are located in an area designated “Rural Policy Area” and the following policies are relevant to the development being proposed.

“PART 2, General Objectives and Policies - Section 2.3.2 Hazardous Uses

- .1 *Hazardous uses refer to facilities or developments, exclusive of railways and highways, which manufacture, handle, store or distribute hazardous materials.*
- .2 *Wherever possible, new facilities should be separated from settlement centres and buildings used for human occupation.*
- .3 *Where development of a potentially hazardous use is proposed, information may be required by Council or the Board relating to the nature of any potential discharges; the nature of outside storage; the compatibility of surrounding land uses; and plans for buffering such activities from adjacent uses.”*

“Part 3, Rural Policy Areas – Section 3.3.5 Commercial and Industrial Development

- .1 *Resource-related (including private for profit commercial-scale renewable energy developments), agro-commercial/industrial and certain commercial and industrial*

developments, which because of their nature, may not be able to be accommodated in urban settlements, may be allowed in Rural Policy Areas where:

- b) a proposed use is hazardous in nature or is a potential nuisance due to traffic associated with the proposed use (for example, a farm implement dealership);*
- c) there is a need to separate a proposed development from a centre of population due to a potential danger to public safety or nuisance associated with materials associated with the proposed development (for example, an anhydrous ammonia fertilizer depot or waste disposal site);*
- f) a family-based businesses is being operated from the home property or farm that may be beneficial to the community. Such businesses, however, should complement nearby urban centres and should not create nuisance, safety or environmental problems.”*

What the RM of Hamiota Zoning by-law Says:

According to the RM of Hamiota Zoning by-law, the subject lands are zoned “AR” – Agriculture Restricted Zone. In this zoning district, a farmer may operate a “home-based business” and the “crop protection warehouse” would be considered a permitted accessory structure subject to the following requirements of PART 4, PART 6 and PART 7 of the RM of Hamiota Zoning By-law as follows:

For Accessory Uses, Buildings, Structures:

Required Front Yard Size – 125 feet

Required Side Yard Size – 25 feet

Required Rear Yard Size – 25 feet

(a) Where a site line is adjacent to a Provincial Trunk Highway or Provincial Road the set back requirements of the Highway Traffic Board or the Department of Transportation and Government Services shall apply.

(b) Except for cemeteries where a site or rear site line is adjacent to a government road allowance or other municipal road, the minimum required yard shall be 125 feet.”

“PART 6: RULES FOR SPECIFIC USES, Section 6.5 Hazardous Materials Storage

6.5 No commercial chemical warehouse, inland grain terminal, bulk fuel or fertilizer storage or anhydrous ammonia storage container shall be located within:

- (a) 350 feet of any public roadway
- (b) 1,000 feet of a building used for human occupation excepting the operator;
- (c) 2,640 feet of any residential area or public building.

“PART 6: RULES FOR SPECIFIC USES, Section 6.6 Home Based businesses

- 6.6 *Home based businesses are governed by the following rules:*
- (a) *they shall be conducted by a person or persons residing in the dwelling;*
 - (b) *persons employed or otherwise engaged in the business who do not reside in the dwelling may not exceed:*
 - (ii) *in the ‘AR’ Agriculture Restricted Zone, 15 employees*
 - (d) *shall not generate undue traffic or congestion, adversely affect the amenity and convenience of the neighbourhood, or create a nuisance.*
 - (e) *One business sign, either freestanding or affixed to the wall of a principal or accessory building, is permitted.”*

“PART 7: ADMINISTRATION

Development Permits

- 7.2 *A development permit is required for any the following:*
- (a) *subject to 7.3, the erection, construction, enlargement, structural alteration or placing of a building or structure;*
 - (b) *the establishment of a use of land or a building or structure;*
- 7.3 *The issuance of a development permit in respect of a building or structure does not affect the obligation to obtain a building permit or other permit where they are required under the building by-law for such a building or structure.*
- 7.6 *An application for a development permit shall be made by the owner(s) of the site in question, or by a person authorized in writing by the owner(s).*
- 7.7 *An application for a development permit shall be accompanied by plans drawn to scale showing the following:*
- (a) *the shape and dimensions of the site to be used or built on, illustrating vehicle access and utility connections;*
 - (b) *the location and dimensions of existing buildings and structures and their distances from property lines;*

- (c) the location and dimensions of the proposed building, structure, enlargement or alteration and their distances from property lines;*
 - (d) the use or uses of each existing and proposed building and structure, or of the land, and the area to be occupied by each use;*
 - (e) any other information required by the development officer to determine compliance with, and to provide for enforcement of, this by-law.*
- 7.8 *An application for a development permit shall be accompanied by the fee prescribed by the Board of the Mid West Planning District.*
- 7.9 *The development officer may refuse to issue a development permit where the proposed building, structure or use, despite apparent compliance with this by-law, does not, to the development officer's knowledge, comply with the building by-law or with any other law.*

Concluding Remarks:

Based on the information I've outlined above, it appears Mr. Chappell may be able to develop the proposed crop protection warehouse on his farm subject to first obtaining a required Development Permit from the Mid West Planning District prior to the commencement of construction. For additional information regarding the required Development Permit, the proponent should contact the Mid West Planning District Development Officer (Wayne Poppel) at (204) 567-3699.

Additionally, as the sketch included with the Environment Act Proposal was not fully dimensioned, my office was not able to determine whether the proposed warehouse would be developed in accordance with the siting and setback requirements for an "accessory building" as identified in PART 4 of the RM of Hamiota Zoning by-law nor was I able to determine whether the accessory building would be sited in accordance with the additional setback requirements for Hazardous Materials Storage as set out in PART 6 of the RM of Hamiota Zoning By-law. I would therefore recommend Mr. Chappell prepare a fully dimensioned site plan and present it to the Mid West Planning District Development Officer to assist him in determining the need for additional variation order approvals that may be granted at the discretion of Council following a required Public Hearing.

Disposition:

Comments have been forwarded to the proponent for information and action.

Canadian Environmental Assessment Agency

The following comments were received from the Canadian Environmental Assessment Agency:

Based on a survey of federal departments, application of the Canadian Environmental Assessment Act will not be required for this project.

Disposition:

The Canadian Environmental Assessment Agency forwarded the letters from Health Canada, Fisheries and Oceans and Environment Canada to the proponent for their consideration in a letter dated February 6, 2012.

PUBLIC HEARING:

A public hearing is not recommended.

CROWN ABORIGINAL CONSULTATION:

The project will be located on agricultural land owned by the proponent. All surrounding land potentially affected is also privately owned agricultural zoned land. The project will not affect resource use on land or water. There are no adjacent or nearby First Nations.

RECOMMENDATION:

The provincial TAC expressed no concerns, or concerns are addressed in the draft licence, regarding the proposal. Therefore, 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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February 6, 2012
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