

October 27, 2020

Shelly Boss
Project Manager, Prairie and Northern Region
Impact Assessment Agency of Canada
Suite 1145, 9700 Jasper Avenue
EDMONTON AB T5J 4C3

Dear Shelly Boss:

Re: Provincial Authority and Advice Record for Great Sandhills Railway Switching Operation at North West Terminal – Response to Input Request for Summary of Issues

Thank you for your letter dated September 21, 2020, requesting input into the Summary of Issues for the Great Sandhills Railway Switching Operation at North West Terminal (NWT Expansion Project).

Further to the enclosed response form, the province wishes to reiterate concerns regarding the application of Sections 54(b) and 55 of the *Physical Activities Regulations* (Projects List). The area-based thresholds used in the Projects list for railway yards without explicit focus on federally regulated lines, has the potential to capture all railway yards and railway yard expansion projects in Saskatchewan that incorporate a loop track configuration, including those exclusively under provincial jurisdiction and those that pose minimal environmental risk.

Based on our understanding of the NWT Expansion Project, it will be entirely located on previously disturbed, private land and have minimal potential to cause adverse effects in areas of federal jurisdiction or to impact the rights of the Indigenous peoples of Canada. As such the province does not believe the NWT Expansion Project warrants an Impact Assessment (IA). Any potential effects will be adequately managed through existing provincial legislative or regulatory requirements.

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We forwarded your request to the Ministry of Highways and Infrastructure who is the primary regulator for secondary rail lines in Saskatchewan and has provided comment in the attached Provincial Authority Advice Record Form. We urge you to carefully consider this information in determining whether a federal IA is required and thank you for the opportunity to provide comment.

Sincerely,

<Original signed by>

Brady Pollock
Executive Director, Environmental Assessment and Stewardship
Ministry of Environment

Enclosure

cc: Brianne England, Manager, Applications, Environmental Assessment and Stewardship

Provincial Authority Advice Record Form #1: Authority and Summary of Issues

Response requested by: **October 21, 2020**

Great Sandhills Railway Switching Operation at North West Terminal Project

CIAR No.: 80998

*All comments should be submitted via the **Submit a Comment** feature available on the Project's Canadian Impact Assessment Registry page (Reference #80998 at <http://iaac-aeic.gc.ca/050/evaluations/proj/80998?culture=en-CA>). Letters and forms can be uploaded using this feature. If you have any difficulties submitting this way, please contact the Agency using the information provided below for assistance.*

Ministry/Agency:	Ministry of Highways and Infrastructure		
Contact Name:	Brent Orb	Telephone:	(306) 787-4900
Address:	800, 1855 Victoria Avenue, Regina SK S4P 3T2	Fax:	N/A
Email:	brent.orb@gov.sk.ca		

Please complete this form.

1. Would your ministry/agency participate in the federal impact assessment process for this Project? If so, provide the information of the main point of contact.

The Ministry of Highways and Infrastructure (MHI) is the provincial regulatory body with oversight of the project and would participate in the federal impact assessment (IA) process for this project, should it be required. Contact same as above.

2. Will your jurisdiction be undertaking a review and analysis of the Project? Would your jurisdiction participate in a cooperative review of the project information?

To date, an application has not been submitted to the Ministry of Environment (ENV) for review under *The Environmental Assessment Act* (Saskatchewan). If the proponent submits an application ENV would issue a Ministerial Determination as to whether a provincial environmental impact assessment (EIA) is required. Unless the proponent submits an application there will not be an opportunity for a cooperative IA/EIA review.

MHI has carried out an initial review and approval process under *The Railway Act* (Saskatchewan) and has provided an Authorization to Construct the proposed railway infrastructure. This review and approval is intended to ensure railway infrastructure is built in accordance with appropriate standards and ongoing railway operations are done safely and in accordance with the proponent's approved railway safety management plan (SMP). MHI's involvement and participation in a cooperative review would be limited to areas of potential overlap between an IA and rail safety assessment.

3. Does your ministry have any advice on matters that should be included in the Summary of Issues and addressed by the proponent in the Detailed Project Description?

For each issue discussed, provide a concise, plain-language summary that is appropriate for inclusion in the Summary of Issues

ENV and MHI do not have concerns that need to be addressed by the proponent in the Detailed Project Description. Local stakeholders have been adequately consulted and given an opportunity to identify and raise any concerns or objections to the project.

4. Does your ministry have any advice on matters to consider for inclusion in the Tailored Impact Statement Guidelines, should an impact assessment be required?

ENV and MHI do not have advice on matters to consider for inclusion in the Tailored Impact Statement Guidelines. The proposed project does not appear likely to cause adverse effects within federal jurisdiction or to species at risk, or to impact to Indigenous peoples in a manner that may warrant a federal impact assessment.

5. Do you have any comments about the Project in relation to effects within federal jurisdiction, and/or the factors defined in section 22 of IAA¹, species at risk or impacts to Indigenous peoples?

IAA defines effects within federal jurisdiction with respect to a designated project as changes to fish and fish habitat, aquatic species, or migratory birds, changes on federal lands or in a province other than the one where the designated project is being carried out, or, outside Canada, with respect to the Indigenous peoples of Canada, an impact resulting from any change to the environment on physical and cultural heritage, current use of lands and resources for traditional purposes, or sites of historical or archaeological significance.

The project is unlikely to cause adverse effects within federal jurisdiction. The project is sited on private land and will not impact fish bearing waters. It is unlikely there will be significant impacts to migratory birds or species at risk, as the proposed project is an expansion to an existing disturbed site, surrounded by cultivated agricultural land. The project is likely to have a net positive effect on greenhouse gas (GHG) emissions, as rail transportation is less carbon-intensive than trucking.

The project is sited on private land, with no unoccupied Crown land or First Nations Reserve land in the vicinity of the project. There is no right of access to the site for the exercise of Treaty and Aboriginal rights or traditional land uses. It is unlikely that there will be negative impacts to Indigenous peoples. The proponent has reached out to First Nations communities and has not received any concerns.

MHI has implemented ongoing inspection, audit and monitoring programs to ensure rail operations are done safely to mitigate the risk of accidents associated with the railway operations. Furthermore, all provincially regulated railway operations that handle and transport dangerous goods must comply with Transport Canada inspections and requirements under federal Transportation of Dangerous Goods legislation and regulations.

¹ A link to IAA text can be found here: <https://www.canada.ca/en/impact-assessment-agency/corporate/acts-regulations/legislation-regulations.html>

6. Do you have comments related to issues such as health, environment, economic or social conditions that you wish to note for the Agency's consideration (both positive and negative)? Additional topics for consideration include gender-based analysis; alternative means to carry out the Project and / or alternatives to the Project; cumulative effects; and sustainability.

The project is likely to create positive social and economic impacts for the region and will also help improve performance and fluidity of the overall commodity supply chain, supporting national interests.

An alternative means of carrying out the expansion may be a different track design, such as a ladder track configuration. A ladder track configuration is inherently less safe and less efficient than a loop design. However, it is possible that future projects may be more inclined to using this configuration, or other complex configurations, to avoid meeting the area-based threshold in the *Physical Activities Regulations*.

This project has the potential to make rail transportation in the region more competitive and efficient. As a result, it will encourage increased rail utilization and facilitate a modal shift from truck to rail freight transportation.

7. Please identify the contact information for your jurisdiction for the public relevant to the potential impact assessment. Could be a generic email box or specific to your jurisdiction's role in the project (e.g., permits, authorizations, guidance or funding within your jurisdiction's mandate).

MHI Rail Policy Regulations and Programs: Rail.Services@gov.sk.ca

8. Based on the Initial Project Description, please confirm what project components and activities you would consider relevant in relation to permits, authorizations or guidance within your jurisdiction's mandate.

Saskatchewan Water Security Agency:

- Development in, or near water, or disturbance to shorelines and banks

Saskatchewan Ministry of Highways and Infrastructure:

- Railway Infrastructure design and construction approval
 - Railway Operations (SMP review and auditing)
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9. Will your jurisdiction be issuing a permit, authorization or be involved in the aforementioned Project in a regulatory manner? If so, indicate below.

Saskatchewan Ministry of Environment:

- Approval to Construct and Operate a hazardous substance storage facility

Saskatchewan Water Security Agency:

- Aquatic Habitat Protection Permit

Saskatchewan Ministry of Highways and Infrastructure:

- Railway Authorization to Construct (already issued)
 - Railway Authorization to Open (issued after construction is complete and verified that track meets acceptable standards)
 - Operating Authority Certificate (Issued by the Highway Traffic Board (HTB) after MHI reviews the proposed SMP and after the HTB verifies that the railway owner/operator has adequate third party liability insurance).
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10. For any permits or authorizations to be issued, please provide a short description of each with specific information on the location or component of the Project to which the permit or authorization would be applicable.

Approval to Construct and Operate a Storage Facility

Storing hazardous materials and waste dangerous goods must be done in a manner that avoids environmental impacts or risk to human health. To minimize these risks, regulations ensure storage facilities are constructed, operated and decommissioned properly. The Ministry of Environment must approve the construction, alteration or expansion of a facility to handle hazardous substances or waste dangerous goods. All hazardous substance storage facilities require operating approvals.

The permit will be required for hazardous substance storage meeting the storage thresholds in *The Hazardous Substances and Waste Dangerous Goods Regulations* pursuant to *The Environmental Management and Protection Act, 2010*.

Aquatic Habitat Protection Permit

Protects aquatic habitat from impacts that may arise from development in, or near water. The program preserves and maintains aquatic habitat at the productive level which existed prior to the development activities by preventing:

- Temporary and permanent habitat alteration;
- Increased soil erosion and sedimentation;
- Impacts of construction timing and development on aquatic organisms and species at risk;
- Discharge of chemicals, oil, gasoline and other contaminants into water.

The program also protects vegetation and habitat in the water and on the banks.

The permit may be required for the wetland rail crossing.

Railway Authorization to Construct

Initial review of proposed project location, purpose and preliminary design. Evaluation is done to assess the proposed track layout, identify risks from any new commodities handled on the railway operations, determine the general computability with adjacent property to identify potential proximity issues (safety concerns or complaints that could arise from rail operation conflicts with adjacent residential areas). The authorization will also ensure the local municipality has been notified of the project.

Railway Authorization to Open

An assessment of the track infrastructure to ensure construction is completed in accordance with acceptable track standards and ensure the track is safe and adequate for the proposed railway operations.

Operating Authority Certificate

MHI will evaluate the proposed SMP to ensure the railway operator has identified the applicable rules to govern railcar movement and handling on site. The SMP also identifies accountability within the organization for ensuring ongoing safe operations. The SMP must also establish training, monitoring and evaluation of employees and their ongoing safety performance. The SMP must establish the process and procedures for dealing with accidents, incidents and emergency response. MHI has implemented an internal risk assessment process to govern any changes to rail operations in the future.

11. Will there be opportunities for engagement with the public or Indigenous groups as part of the regulatory or review process by your jurisdiction? If so, when is this likely to occur (e.g., during the impact assessment process, during a specific phase of the impact assessment process such as the impact statement phase, or post-impact assessment, etc.).

The proponent has conducted engagement activities with the municipality, Indigenous groups and Agricultural Producers Association of Saskatchewan and will continue to engage as needed.

The siting of this project does not trigger the Duty to Consult as defined in the province's [First Nation and Métis Consultation Policy Framework](#). No formal consultation with Indigenous groups will occur.

A formal public engagement process is not required by MHI for a railway construction project of this scope and scale. Sufficient consultation with local stakeholders has already been completed by the proponent and is included in the Initial Project Description.

12. Will your jurisdiction be providing any participant funding?

Funding is available through the *First Nations and Métis Consultation Participation Fund* for projects that trigger a Duty to Consult. No funding is available for this project as the Duty to Consult has not been triggered.

MHI does not have any financial assistance programs available to support engagement activities during the development and construction of private industrial railway facilities.

Brent Orb
Name of responder

October 27, 2020
Date

If you have any difficulties, you may contact the Agency via email at IAAC.NorthWest.AEIC@canada.ca