

November 21, 2010

Chris Davis
380 Centennial Street
Winnipeg, MB
R3N 1P5

Environmental Assessment & Licensing Branch
Manitoba Conservation
123 Main Street, Suite 160
Winnipeg MB R3C 1A5
Fax: (204) 945-5229
Email: Bruce.Webb@gov.mb.ca

BW

Re: File 5486.00 - Rettie Boat Access

Mr. Webb:

I am writing to voice my concerns regarding the above Environment Assessment Proposal and formally notify you of my opposition to the proposal. Because marshes perform a vital role in the health of our environment and are to be a protected resource, the development of Beaconia Marsh affects me. I am a seasonal resident in the immediate area, as well as frequent kayaker in the marsh under review. My specific concerns are as follows

The Environmental Assessment submitted by Mr. Rettie is very weak on content. In fact there is no reference to any type of reports or scientific literature and no mention of the relevant bylaws. There is no legally acceptable map of the project to verify that the project was placed in the upland (Mr. Rettie's property) vs. the coastal wetland, the Ordinary High Water Mark, and the Crown setback from a navigable waterway. The proper delineation and verification of the coastal wetland and legal property demarcations is a key issue that has not been addressed by any level of regulatory and/or enforcement authority. The map that Mr. Rettie provided to DFO is critical as it was instrumental in misleading the regulatory authorities. I am not saying that this was intentional but rather that it was Mr. Rettie's responsibility to provide the correct information to these agencies.

Please note the following attachments are to be considered Appendices to this letter and form part of this letter:

- RETTIE APPENDIX A - 1 - March 5, 2010 South Basin Community Members
- RETTIE APPENDIX A - 2 - May 28 - Rettie Perspective Must Be Heard
- RETTIE APPENDIX A - 3 - Delayed EAP
- RETTIE APPENDIX A - 4 - Mortgage Documents
- RETTIE APPENDIX A- 5 - Beaconia Beach Swapped to Private Ownership by Council, Canal Excavation in Marsh, and Potable Water Issues EBCC
- RETTIE APPENDIX A - 6 - Land Title Documents

I have a number of issues with the assessment in general but here is a summary of my main concerns.

1. In the executive Mr. Rettie indicates that only 5% of the project will take place on crown land. This needs to be independently verified.
2. In the Introduction Mr. Rettie states that he received approval for the project from DFO in April 2008, however he fails to acknowledge in the assessment that the project varied significantly from what was initially proposed. The original plans called for a channel 700ft long, 15ft wide and 5ft deep, while what was constructed was 129% longer, 67% wider, and 20% deeper. The letter from DFO clearly states that if the plans change relative to the proposal that the proponent should contact DFO and that failure to implement the proposal as described could lead to corrective action. Based on this I do not think Mr. Rettie can use DFO as a scapegoat for moving ahead with the project.
3. The letter from DFO indicates that Mr. Rettie stated in his proposal that no exaction would occur in the existing bay. This should be independently verified.
4. Although it appears a most of the recommendation for mitigation from DFO were ignored or poorly implemented, there are two DFO recommendations that stand out as requiring further investigation: namely that excavated material was disposed of above the high water mark and not in the marsh, and that all machinery worked above the high water level.
5. Under the heading "Description of Existing Environment in the Project Area", Mr. Rettie states that the area excavated consists of grasses, bushes, and small maple trees, but he omits that wetland vegetation was excavated. If DFO had known that wetlands vegetation was being excavated they may not have seen the project as creating fish habitat.
6. Under the heading "Description of Environmental Effects of the Proposed Development", Mr. Rettie states that less than 1% of his land will be used for the project and that the overall impact to wildlife will be minimal. However, there is no attempt made anywhere in the assessment to assess the impact that project will have on the environment. Although the tremendous biodiversity of the area was highlighted in the report provided by Green Spaces Environmental Consulting there was no attempt to indicate how the project would affect biodiversity. Furthermore, although biodiversity is important there are numerous other ecosystem functions and services provided by coastal wetlands that may have been negatively affected.
7. In the conclusion, Mr. Rettie indicates that the channel will benefit wildlife and not be detrimental to birds and waterfowl based on the numbers that have been observed in the channel. This is invalid considering these observations were made after the project was constructed. Perhaps the diversity and numbers of birds and waterfowl were greater before the project was constructed. There is no defensible way Mr. Rettie can suggest that the project is beneficial. In fact his own consultant states on page 22 of the biological inventory that "*The tranquility of the setting, aptly described as "nature's paradise", was **transformed** by the construction of the long trench and berm.*" and that "*The challenge now is to try*

to harmonize this intrusion with its surroundings and attempt to mitigate for the environmental changes. This report provides a basis to build on so that over time, and with ingenuity, much can be accomplished which will benefit plants and wildlife and help counter the damage done to the natural environment."

Through these statements Mr. Rettie's consultant clearly acknowledges that the project has had negative impacts on the environment yet Mr. Rettie claims that the project will be beneficial. In fact, the biological inventory shows that Mr. Rettie's project directly affected a fairly pristine environment with tremendous biodiversity.

8. One aspect not mentioned anywhere is the fact that these types of disturbances can often provide a foot hold for invasive species that could have tremendous negative impacts on the entire area in the future
9. There was no consultation with the public or with the Lakeshore Erosion Technical Committee as required by Selkirk and Area District Planning requirements. There has also been no complete scope on this and further development provided by Mr. Rettie.
10. Mr. Rettie did not abide by the Manitoba Environment Act, Section 11(1)(a) which states "*no person shall construct, alter, operate or set into operation any class 2 development unless the person first files a proposal in writing with the department and obtains a valid and subsisting licence from the director for the development*".
11. Conflict-of-interest and possibly even collusion was, in my opinion, clearly displayed between the Rettie's, the Mayor of the RM of St. Clement's (RM), and the Selkirk and District Area Planning Board (SDAPB). Under *The Planning Act*, the Board is responsible for the adoption, administration, and enforcement of the Development Plan by-law for the entire district, and the administration and enforcement of the zoning by-law(s), any secondary plan(s), the building by-law(s), and any other by-law(s) of its member municipalities and/or district. The Mayor of the RM is an appointed member of the SDAPB Board (per http://www.selplan.net/index.php?option=com_content&task=view&id=12&Itemid=27). Attached are PDF copies of two - of many - communications released by the RM in regards to the Rettie development project. The following two attachments form part of my opposition submission.
 - RETTIE APPENDIX A - 1 - March 5, 2010 South Basin Community Members
 - RETTIE APPENDIX A - 2 - May 28 - Rettie Perspective Must Be Heard
12. Manitoba Conservation requested on March 2, 2010 that Mr. Rettie file an *Environment Act Proposal* for the channel project. The Rettie's filed materials on April 14, but the material was incomplete. Mr. Rettie finally filed an EAP on September 16, 2010. Rettie's submission on September 16, 2010 was still incomplete as it did not include *Appendix 6*. Conservation was not aware of this omission until advised by a 3rd party. *Appendix 6* was not posted to <http://www.gov.mb.ca/conservation/eal/registries/5486Rettie/index.html> until November 5th, 2010. No explanation has been provided by Conservation as to why extensions and omissions were permitted. The provenance and accuracy of the contents of Rettie's *Appendix 6* is contentious as there are at least two – if

not three – separate occupied dwellings on the property and Rettie's mortgage application declared the property as "farmland". In the meantime Mr. Rettie continued work on the canal including, but not limited to, bulldozing acres of sand from the public beach commonly known as Island Beach. The following two attachments form part of my opposition submission:

- RETTIE APPENDIX A - 3 - Delayed EAP
- RETTIE APPENDIX A - 4 - Mortgage Documents

13. Attached is a letter release by the Eastern Beaches Conservation Coalition on April 19, 2010. This letter was submitted to all relevant regulatory and enforcement authorities, agencies, and departments. It would appear that no investigation – independently or coordinated - was initiated or conducted by any of the relevant regulatory and enforcement authorities, agencies, and departments to ensure compliance with the Acts, Regulations, and By-Laws they are mandated to enforce. This attachment forms part of my opposition submission:

- RETTIE APPENDIX A- 5 - Beaconia Beach Swapped to Private Ownership by Council, Canal Excavation in Marsh, and Potable Water Issues EBCC

14. The Land Title documents submitted by Rettie as part of their *Appendix 5* appear to have been edited and/or altered. It is also unknown why multiple titles have been included as Title 2126059 is the only legal title that encompasses the shoreline. Furthermore, the only legal survey for Title 2126059, WLTO Plan 2045, was completed by The Winnipeg & Northern Railway Company and registered with Land Titles on April 13, 1913. Plan 2045 is not available electronically and is a 10-foot long scroll containing a railroad right-of-way plan running from approximately Scanterbury to Grand Marais. As such, no legal survey of the property has been registered with Land Titles since 1913, even though the property has changed ownership at least twice since that time. Title 2126059 is so old there isn't even any utility easement. Plan WLTO 2045 does not notate any dimensions, demarcations, or shorelines, but solely indicates the where the property is located on a township grid. Attached is a PDF that included a "*Certified True Extract From Land Titles Data Storage System on 2010/03/08*" of Title 2126059 which you will find is different than the Title 2126059 submitted by Rettie as part of their EAP submission. This attachment forms part of my opposition submission

- RETTIE APPENDIX A - 6 - Land Title Documents

I am in possession of several thousand photographs, taken from both the air and from the ground, of the channel project development under consideration. Electronic copies will be provided upon your written request. I am willing to meet with Conservation, upon request, to provide details regarding the location focus and significance of individual pictures.

Regards,

Chris Davis

C. Davis Re: File 5486.00 - Rettie Boat Access

ATTACHMENTS PROVIDED
IN APPENDIX B

November 21, 2010

Liz Speers
Box 52
Beaconia, MB R0E 0B0

Environmental Assessment & Licensing Branch
Manitoba Conservation
123 Main Street, Suite 160
Winnipeg MB R3C 1A5
Fax: (204) 945-5229
Email: Bruce.Webb@gov.mb.ca



BW

Re: File 5486.00 - Rettie Boat Access

Dear Mr. Bruce Webb:

I am writing to voice my concerns regarding the above Environment Assessment Proposal Report and to tell you that I am against the proposal. Marshes perform a vital role in the health of our environment and are to be a protected resource. The development of Beaconia Marsh affects the environment and the wildlife in the area. I live in the area and frequent the Beaconia marsh by kayak and by foot to enjoy the abundant wildlife and flora. I feel that I have specific local knowledge about the area to support the many existing reasons that the channel in Beaconia marsh should not be permitted. My specific concerns are as follows:

-Mr. Rettie states that he wants the channel so that he can safely moor his watercraft in a sheltered area. If he has ever actually spent any time in the area on his boat, he would know that it is not even possible to get a boat (other than a kayak or canoe) into the marsh from Lake Winnipeg. The entrance from the lake into the Beaconia marsh is only about 2 feet deep. Appendix 4, pg 3, of Mr. Rettie's EAP report also states that the water at the entrance into the marsh is "just about knee-depth". When I kayak into the marsh, my paddle hits the bottom and I often feel carp bumping against the bottom of my kayak. Mr. Rettie would have to dredge the entrance into Beaconia marsh if he intends to bring his watercraft into his channel, an action not allowed by Fisheries and Oceans. There is a safe place to moor personal watercraft at Balsam Harbour, about 1.5 km's north. The locals, including my husband and I, safely moor motor boats there.

-The lake is very dynamic and the southern end, in particular, is affected when a north wind occurs and there is a significant shift in water volume from the northern basin to the southern basin of the 430 km long lake. This shift in water volume and wave action changes the sand, rock and sediment deposits on the southern portion of the lake on a daily basis. It also changes the water levels by several feet daily. The natural berm and the entrance to the marsh change frequently as deposits shift and move. This makes the marsh inaccessible to boat traffic. Since Mr. Rettie has dug his channel, the natural berm has had much more sand, shells and rocks deposited on it, extending into and blocking clear passage into the opening of his channel. The water action has also removed most of the plug that was put in. The storm and resulting changes in the shoreline that is referred to on pg 3 of appendix 4 is not an unusual occurrence; it is the normal dynamic state of this area which I have personally witnessed since I have been

frequenting the marsh area for the last 10 years. It is also common for the Beaconia Beach road to be washed out from high water levels.

-The proposal includes numerous differences in specifications and scope from the original plan submitted by Mr. Rettie. Example 1 - He now says the channel will be/is 1600 ft long, which is more than 2 times longer than what was proposed to DFO. It is now a 25 foot wide channel; 10 feet wider than what was proposed (see appendix 1 pg 1). Example 2 - The channel was to have been dug above the high water mark along the tree line. It was dug in the aquatic marsh well away from the tree line.

-The map that was supplied with the proposal to Fisheries and Oceans shows general land use areas only and does not clearly represent the land and water areas affected by the channel. The map also does not show high water marks and marsh areas.

-Work on the channel began in November 2009 (as also supported by Mr. Rettie's letter emailed to Cottage Association Presidents by Lloyd Talbot on May 28/10). The permit from Selkirk and District Planning area board (appendix 9) is dated January 18th, 2010. This was issued well after the work was done and well after local residents had asked for answers from the RM, Selkirk and District Planning, DFO and Conservation. The permit was not obtained before the work was started. The permit was issued after concerned locals could not get information and answers about the extensive work occurring in the marsh. The permit was issued after the East Beaches Coalition was formed in an effort to protect the marsh from the damage that frustrated locals were witnessing. Mr. Rettie now states that work started in December 2009 (pg 2 EAP) and in his letter to Cottage Association Presidents he admits to the actual work starting in November 2009, 2 months before a permit was issued to do the work.

-There has been no drainage plan provided as required by the development permit and the effects of this channel on the water table have yet to be determined. Mr. Rettie states on pg 2 of the EAP report that water will eventually drain towards the lake through a natural ditch on the south end of his property. He also states that he "hopes to lessen the flooding effect with the berm" (pg 3). The ditch currently has a series of six separate beaver dams on it, many are recent builds by the beavers since the October 26th storm this year. Drainage and flooding in the area is affected by several natural phenomena. Any man-made changes to drainage should entail a proper study and plan taking into account the natural variations that occur in the area due to the wildlife and to the changing shoreline from water effects and the changing water levels of Lake Winnipeg.

-Mr. Rettie was to install and maintain the sediment fencing. The sediment fencing did not stay in place to do its intended job of reducing the sediment from seeping into the channel and preventing erosion. It has not been regularly inspected or maintained and is currently a hazard to birds and fish in the area. Much of the fence has been floating in the water with the posts uplifted (from natural water action) for at least one month. I am concerned about birds, fish and turtles getting tangled in the fencing that is both floating in the water and laying flat on the ground in many parts.

-The plug that was put in place has not done what it was intended to do. It did not prevent sediment from entering the lake and it did not keep the lake water from entering the property during high water. A natural plug of untouched soil was not left. It was not of sufficient size to not blow out during high wind set-up or rain. Most of the plug blew out.

-Fisheries and Oceans advised that aquatic vegetation should not be removed. The proposal that Mr. Rettie submitted to them said that the entire access would be done along the tree line and

above the high water mark. The digging was mostly done in marsh grasses. The high water mark, where the lake naturally leaves washed up lake debris, is much further back than the area that the channel was dug. This is also apparent in the photos submitted with the EAP report.

-Many of the spruce trees and much of the sod that was planted are standing in the normal high water level and are dead or dying. Marsh grasses and cattails grow in this area, not sod, and not coniferous trees.

-The report is incomplete as "*Appendix 6 - Land Use Designation for Site and Adjoining Land Plan*" is missing.


-There are numerous issues with the process that was followed prior to the channel being dug including lack of confirmation of the property line and the required 90' setback from the ordinary high water mark, which has also yet to be confirmed.

- There was no consultation with the public nor with the Lakeshore Erosion Technical Committee as required by Selkirk and Area District Planning requirements. There has also been no complete scope on this and further development provided by Mr. Rettie.

-The proposal includes the Green Spaces Environment Report showing the huge diversity of wildlife which are at substantial risk due to this development. This report best sums up what I have experienced as making the Beaconia marsh special and worthy of protection. On pg 22 of the report, it states that this area provides a window on the great diversity of flora and fauna occurring in the East Beaches portion of southern Lake Winnipeg. It is referred to as relatively pristine natural area and as nature's paradise. Of special note is the carex zone referred to on pg 6, appendix 4, or damp meadows found between the marsh and the woods. This area should be protected, not dug up and manipulated to reduce normal temporary flooding.

Due to the above issues, I encourage you to protect our water resources and this important natural ecosystem and deny any further development to the Beaconia Marsh area. I wish that you could mandate the restoration of Beaconia Marsh to its original state, but I don't believe this is possible. The damage has been extensive and the area has been forever transformed. It is my hope that this area can be protected from future damage and all available efforts to help counter the damage done to the natural environment can be utilized and that some benefit can actually come from this terrible situation.

Sincerely,


Liz Speers
Beaconia Resident
204-754-3736

note- unsigned copy sent by email to ensure delivery by November 22, 2010. A signed copy of this letter will be sent by snail mail to arrive at a later date.

Copy - unsigned version was emailed Nov. 22/10

Candace Neufeld
PO Box 95
Beaconia, MB
R0E 0B0

November 21, 2010

Environmental Assessment & Licensing Branch
Manitoba Conservation
123 Main Street, Suite 160
Winnipeg MB R3C 1A5
Fax: (204) 945-5229
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BW

Re: File 5486.00 - Rettie Boat Access

Dear Bruce Webb:

I am writing to voice my concerns regarding the above Environment Assessment Proposal Report and to tell you I am against the proposal. Because marshes perform a vital role in the health of our environment and are to be a protected resource, the development of Beaconia Marsh affects me. My specific concerns are as follows:

- The proposal includes numerous differences in specifications and scope from the original plan submitted by Mr. Rettie.
- The proposal includes the Green Spaces Environment Report showing the huge diversity of wildlife that are at substantial risk due to this development.
- There are numerous issues with the process that was followed prior to the channel being dug including lack of confirmation of the property line and the required 90' setback from the ordinary high water mark, which has also yet to be confirmed.
- There has been no drainage plan provided as required by the development permit and the effects of this channel on the water table have yet to be determined.
 - There was no consultation with the public nor with the Lakeshore Erosion Technical Committee as required by Selkirk and Area District Planning requirements. There has also been no complete scope on this and further development provided by Mr. Rettie.

I support the group known as the EBCC and feel lucky that they are there to protect the marsh and make sure that the wrongs committed in the marsh are corrected. The marsh should never have been excavated or damaged in any way.

Due to the above issues I encourage you to protect our water resources and deny any further development and mandate the restoration of Beaconia Marsh to its original state.

Yours truly



Candace Neufeld

Webb, Bruce (CON)

From: Marcel van der Sluis [mvandersluis@fcn.ca]
Sent: November-22-10 7:49 AM
To: Webb, Bruce (CON)
Subject: Re: File 5486.00 - Rettie Boat Access

Mr. Bruce Webb **BW**
Environmental Assessment & Licensing Branch
Manitoba Conservation Branch

Re: File 5486.00 - Rettie Boat Access

Dear Mr. Webb:

I am writing to express my strong support for the November 19, 2010 report presented to you by the Eastern Beaches Conservation Coalition (EBCC), as well as by FCN and NAC member, naturist and environmentalist, Judy Williams, and to implore you to order Mr. Rettie to put to a stop to the Beaconia marsh degradation.

We have been following closely the events surrounding Beaconia Beach as far back as 1982 when Judy Williams reported to us on her site visits and in-person negotiations to maintain traditional clothing-optional usage of the beach. Beaconia is an ecological treasure and an important part of the limited, but important, collection of clothing-optional/naturist beaches in Canada.

I would like to reiterate and summarize the concerns that Ms. Williams has brought to us and that we strongly support:

1. Because marshes perform a vital role in the health of our environment and are to be a protected resource, the development of Rettie's boat access channel is unacceptable.
2. The proposal includes numerous differences in specifications and scope from the original plan submitted by Mr. Rettie.
3. The report is incomplete as "Appendix 6 - Land Use Designation for Site and Adjoining Land Plan" is missing
4. The proposal includes the Green Spaces Environment Report showing the huge diversity of wildlife which are at substantial risk due to this development.
5. There are numerous issues with the lack of process prior to the channel being dug, including lack of confirmation of the property line and the required 90' setback from the ordinary high water mark, which has also yet to be confirmed.
6. There has been no drainage plan provided as required by the development permit and the effects of this channel on the water table have yet to be determined.
7. There was no consultation with the public nor with the Lakeshore Erosion Technical Committee as required by Selkirk and Area District Planning requirements. There has also been no complete scope on this and further development provided by Mr. Rettie.
8. If the channel is not returned as closely as possible to its original form through infilling, what is the province and Mr. Rettie prepared to do to ameliorate the current flooding issues to both the causeway and beach with debris such as escaped docks plugging up the marsh.

9. What kind of pre-construction monitoring or environmental assessment was done by a certified environmental consultant?
10. What monitoring will be done as a follow-up to what damage Mr. Rettie has already wrecked? What can be done to encourage more turtles to nest there?
11. Jet skis (PWC's) and jet boats being allowed into the marsh when it is proven they are deleterious to fish and wildlife, is a terrible intrusion into the marsh and lake. One single PWC in an average life span of 7 years can put as much as 600 gallons of fuel into receiving waters. They should be banned from Canadian waterways! It doesn't matter, either, whether they are two- or four-stroke engines.
12. Just why does Fisheries think the channel is going to encourage new fish species and what is their response to those indigenous species who have now abandoned the marsh?.
13. What preservation plan was followed for the marsh reptiles' safety, particularly for the safety of the two turtle species that have been there for decades?
14. Due to the above issues we encourage you to protect your water resources and deny any further development and to mandate the restoration of Beaconia Marsh to its original state.

I fully support the Federation of Canadian Naturists, the Naturist Action Committee, and the Eastern Beaches Conservation Coalition's opposition to the Rettie Channel and boat access.

Yours naturally,

Marcel van der Sluis
Vice-president, Director
Federation of Canadian Naturists

Marcel van der Sluis

Federation of Canadian Naturists
www.FCN.ca
P.O.Box 186, Station D
Etobicoke, ON M9A 4X2
Canada
phone/fax: (416) 410-NUDE [410-6833]
direct: (613) 983-8161

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November 22 , 2010

Mike Eggett
96 William Rd.
Beaconia, MB R0E 0B0

Environmental Assessment & Licensing Branch
Manitoba Conservation
123 Main Street, Suite 160
Winnipeg MB R3C 1A5
Fax: (204) 945-5229
Email: Bruce.Webb@gov.mb.ca

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- The report is incomplete as "*Appendix 6 - Land Use Designation for Site and Adjoining Land Plan*" is missing
- The proposal includes the Green Spaces Environment Report showing the huge diversity of wildlife which are at substantial risk due to this development.
- There are numerous issues with the process that was followed prior to the channel being dug including lack of confirmation of the property line and the required 90' setback from the ordinary high water mark, which has also yet to be confirmed.
- There has been no drainage plan provided as required by the development permit and the effects of this channel on the water table have yet to be determined.
- There was no consultation with the public nor with the Lakeshore Erosion Technical Committee as required by Selkirk and Area District Planning requirements. There has also been no complete scope on this and further development provided by Mr. Rettie.

Due to the above issues I encourage you to protect our water resources and deny any further development and mandate the restoration of Beaconia Marsh to its original state.

Yours truly,

Mike Eggett