

MANITOBA CLEAN ENVIRONMENT COMMISSION

CLEAN ENVIRONMENT COMMISSION MEETING

CRYSTAL SPRINGS COLONY LAGOON

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Transcript of Proceedings
Held at Fraserwood Community
Hall
Winnipeg, Manitoba
THURSDAY, APRIL 23, 2026
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CLEAN ENVIRONMENT COMMISSION

Aimée Craft - Chairwoman

Donald Labossiere - Commissioner

Lydia Carpenter - Commissioner

Peter Crocker - Executive Director/
Commission Secretary

Carson MacKenzie - Keewatin-Aski Ltd.
Commission Technical Advisor

HARBOUR (CRYSTAL SPRINGS) COLONY FARMS

Paul Kathler - Legal

Luke Bossuyt - Legal

Daniel Burns - Burns Maendel Consulting Engineers

RM OF GIMLI

Kevin Williams - Legal

Matthew Nordlund - Legal

Indra Kalinovich - Dillon Consulting

Kevin Chudd - Mayor

DEPARTMENT OF ENVIRONMENT AND CLIMATE CHANGE,
PROVINCE OF MANITOBA

Siobhan Burland Ross - Engineering Manager

Barsha Sagan - Senior Environmental Engineer

Anges Wittman - Director

Reporter: Giselle Chen

1 THURSDAY, APRIL 23, 2026

2 UPON COMMENCING AT 9:30 A.M.

3

4 THE CHAIRWOMAN: Good morning. I'll
5 ask everyone to please take your seats. It's 9:30 and
6 we'll start.

7

8 So, good morning. Welcome back.
9 Mr. Kathler. Do you have any rebuttal evidence to
10 advance?

11

12 MR. KATHLER: So, no, we will not be
13 entering any rebuttal evidence to -- I believe it's to
14 participants, is what the rule states -- that would be the
15 RM of Gimli -- and I feel that any concerns that need to
16 be replied to with respect to public presentations can be
17 done in -- in my final closing. So, with that, I'll yield
18 to -- to Mr. Williams to make the RM's closing
19 submission.

20

21 THE CHAIRWOMAN: Thank you, Mr.
22 Kathler. So, let's proceed with closing statements from
23 the participant, the RM of Gimli. Mr. Williams, when
24 you're ready.

25

1 MR. WILLIAMS: Thank you, Madam Chair
2 and members of the Commission. This is precisely the kind
3 of project that calls for the Commission's careful
4 attention, not because it's controversial for the sake of
5 controversy, but because it sits at the intersection of a
6 sensitive receiving environment, a watershed of undeniable
7 importance to the province, and a geographic region that
8 has proven to be prone to adverse and occasionally extreme
9 weather events.

10

11 We're dealing with a project that
12 discharges into Willow Creek, which connects directly to
13 Lake Winnipeg and which has potential to affect downstream
14 landowners, neighbouring municipalities and the broader
15 environment. That is why this process matters. It's
16 important to -- to highlight the fact that the -- there is
17 a distinction between -- between the RM of Armstrong and
18 the RM of Gimli. And the fact of the matter is -- is,
19 that the Lake Winnipeg way of life is not based on
20 agricultural standards from neighbouring municipality.
21 The RM of Gimli is not a agricultural RM, whereas the RM
22 of Armstrong is. Planning frameworks such as the Fisher
23 Armstrong Planning do not align with the East Interlake
24 realities.

25

1 And that's why, it's this Commission's role
2 to provide meaningful advice and recommendations to the
3 minister. And that's why it's so important. And I -- and
4 those words I emphasize them meaningful advice and
5 recommendations to the minister. They come right from
6 your mandate, of course.

7
8 And the evidence before you, we
9 respectfully submit, established something fundamental.
10 There are real and legitimate issues associated with this
11 project, and those issues have not been resolved on the
12 current record that is before you. What you're being
13 asked, is by the proponent, is to recommend approval of a
14 class two licence. They're doing so in circumstances
15 where there has been no receiving water impact
16 assessment. There's been no modelling downstream --
17 meaningful modelling downstream of nutrient transport in a
18 meaningful way. There hasn't been analysis of the low
19 flow or effluent dominated conditions that will occur
20 within Willow Creek. There has not been an evaluation of
21 how this system performs when dilution is minimal or
22 absent. There has not been an assessment of bioavailable
23 nutrient impacts. There has not been an assessment of
24 evaluating nitrogen, oxygen demand and oxygen sag within
25 Willow Creek and there has not been analysis addressing

1 the drainage modifications that are necessary and the
2 effect of those modifications that facilitate effluent
3 transport.

4
5 Without considering alternative solutions
6 and critically, there doing so without defining the
7 potential monitoring framework, without establishing the
8 potential thresholds or triggers, without identifying
9 response mechanisms and without demonstrating how
10 compliance would be achieved or enforced. What I've heard
11 over the last two days is, You know what? Let's just go
12 ahead and we'll figure out the rest later. And that's
13 just not appropriate in circumstances where there's so
14 serious issues at stake, livelihoods at stake and people's
15 -- people's enjoyment of what -- what is -- what is an
16 incredible -- incredible watershed.

17
18 Other meaningful analysis -- or missing
19 analysis, I apologize, is -- is to look at -- we'll look
20 at a couple of specific examples. As you heard, Willow
21 Creek is not a generic ditch. It's a class A drain. And
22 with fish habitat requiring protection of oxygen and
23 nutrient levels and part of a system where nutrient
24 thresholds are already exceeded and yet no receiving water
25 analysis was conducted, no transport modelling was

1 completed, and no cumulative downstream impact was
2 assessed. As you're aware from the evidence, the
3 proponent takes the position because they've complied with
4 a specific set of universally applicable guidelines that
5 could apply anywhere in the province of Manitoba. They've
6 met the threshold, and it's time to move ahead. And the
7 RM of Gimli's position is, that's not appropriate in these
8 circumstances, these very -- very unique circumstances.

9

10 Physical impacts. This is something else
11 that wasn't considered. It's not just chemical ones.
12 It's not only about nutrients. There's physical
13 downstream impacts. We heard from Dr. Kalinovich about
14 the increased flow through Willow Creek. Potential risk
15 for bank instability and sloughing and sediment transport
16 that can smother fish habitat. Those are real physical
17 impacts that could have a detrimental effect, a disastrous
18 detrimental effect on the Willow Creek watershed.

19

20 Abattoir waste. Leaving that aside, we
21 know this system is not purely domestic. It includes
22 abattoir wastewater with elevated nitrogen and organic
23 loading, which introduces nitrogenous biochemical oxygen
24 demand and risks of oxygen depletion, particularly during
25 discharge periods. And again, that complexity was not

1 analyzed in a meaningful way. The pattern of this
2 proponent's approach is twofold.

3
4 It's -- first of all, it's completely
5 piecemeal. It -- let's just look at this tiny aspect in a
6 vacuum and move ahead on that basis. And that's -- you
7 saw from some of the record evidence before you that
8 there's a lot more going on in relation to this
9 development than just this particular lagoon. And all of
10 those other things that are going on have environmental
11 impacts. And your mandate is to make meaningful
12 recommendations with respect to those environmental
13 impacts. It's not simply to look at a set of guidelines,
14 confirm all the boxes have been ticked, and then leave the
15 rest to be sorted out later. I respectfully submit, it's
16 not appropriate to do so.

17
18 What the evidence shows consistently is a
19 pattern and the issues are identified, acknowledged and
20 then accepted as legitimate concerns. But when we heard
21 from the CDC's own technical expert, the issues that have
22 been identified are almost invariably significant. And
23 there is no -- there is no resolution. There's a pathway,
24 like what is a pathway? I mean, basically it's -- to me,
25 it's -- it's a -- it's a deferral. A pathway to a

1 resolution is not a resolution. The RM here is seeking
2 today a resolution which is basically to pause until these
3 issues can be fully examined and sorted out.

4
5 A site-specific analysis of the lagoon and
6 the Willow Creek watershed are warranted in these very,
7 very unique circumstances. Deferral to a future licence
8 conditions is not a resolution. Leaving it for
9 operational procedures is not a resolution. And on the
10 operational procedures, I draw your particular attention
11 to the fact that it was clear that the monitoring of the -
12 - of the outflow effectively is reliant on somebody
13 opening a tap and then trying to figure out in a day or
14 two how much discharge is actually running down Willow
15 Creek. I respectfully submit that's not appropriate. And
16 pushing it down the road to later regulatory stage doesn't
17 really solve any problems.

18
19 The reason that the minister requested this
20 pause is for you to provide meaningful comment, comment on
21 these very -- very significant issues from our
22 perspective. To the extent that the -- the -- the
23 proponent says that -- that we're fine to move ahead, I
24 would point out that the conditions of the licence are not
25 defined. They haven't been evaluated because you can't

1 evaluate something that hasn't yet been defined. They
2 haven't been demonstrated to be effective because you
3 can't demonstrate something to be effective until you've
4 identified it and evaluate it. And -- and most
5 importantly, none of that information is before you as
6 commissioners.

7
8 Lastly -- I shouldn't say lastly, I have a
9 bit more, but there is a regulatory mismatch here and it's
10 apparent to everybody that's been sitting here over the
11 last couple of days. There -- there's a project that
12 relies on a one milligram phosphorus limit and
13 understandably so, as that's the limit prescribed by the
14 guidelines. And there was some commentary yesterday on
15 what guidelines are and I won't repeat it for you. I
16 thought it was very appropriately said that guidelines are
17 just that -- not that, they're not laws. It's not like a
18 speed limit and -- and it's a guideline. And the
19 guideline is made to be tailored to the particular
20 circumstances. But we also know that Lake Winnipeg's
21 ecological target is approximately half of that amount.
22 You've heard lots on that. And I'll pause on that for a
23 moment to deal with a question raised by Madam Chair
24 yesterday.

25

1 You asked Dr. Klein (ph) whether she knew
2 of any lagoon or wastewater treatment plant that had a
3 phosphorus discharge limit of 1.05mg/litre. That's not
4 why the rural municipality has emphasized the existence of
5 the ecological target. Neither doctor nor the RM are
6 seeking that. The reason the ecological target is being
7 emphasized is it -- because it demonstrates two things.
8 One, a legislative desire to reduce phosphorus limits in
9 Lake Winnipeg. And secondly, the need to conduct a site-
10 specific analysis simply because this lagoon, unlike many,
11 many other lagoons, is hydraulically connected to Lake
12 Winnipeg.

13

14 The commission's role, in fact, is -- is --
15 this is the -- the -- the -- the very first presentation
16 on Tuesday was from the Manitoba Environment and Climate
17 Change, and one of the things that you heard from the
18 witness is very important. The applicable guidelines and
19 standards are just that -- guidelines and standards. They
20 represent a baseline, a starting point. They're not site-
21 specific and they're not determinative of whether a
22 particular project is appropriate in a particular
23 location. And that should be self-evident. You can't
24 devise a universal standard that will be appropriate for
25 isolated -- for an isolated lagoon in southern Manitoba

1 and a lagoon such as this. And even where a project meets
2 those baseline standards, further analysis may be
3 required. As I've mentioned, site-specific conditions
4 must still be considered, and additional controls or
5 redesign may be necessary depending on the receiving
6 environment. And this is particularly true in the case
7 before you because the receiving environment is
8 ecologically sensitive. It's hydraulic -- hydrologically
9 connected and the cumulative impacts are a known concern.
10 We already know we have a problem.

11

12 And as I indicated I think earlier,
13 elephant -- elephants eat peanuts. And what that means is
14 -- is it's no answer to say, Well, that's what everyone
15 else is doing. So, let us do it too. There's got to be a
16 line drawn at some point in time and some positive efforts
17 made to improve the conditions in that lake. And -- and
18 this is not the appropriate circumstance to just say,
19 Well, no, we'll just continue on with -- with the same old
20 -- same old and just -- just that -- that -- that, you
21 know, hope that things get better and, and work on those
22 targets in the future. That's -- that's not appropriate.

23

24 Your task is not simply to note that issues
25 exist. It's to provide meaningful advice and

1 recommendations. And I would respectfully submit you
2 can't do so where the impacts are not fully understood.
3 The mitigation measures have not been defined, and the
4 effectiveness of those measures have not been addressed,
5 we said in our opening statement the RM of Gimli does not
6 oppose this lagoon for the sake of opposition. It's
7 simply alive to the potential impact that this lagoon may
8 have on the watershed and the people of -- of Gimli giving
9 sensitive -- given the sensitive receiving environment and
10 the hydraulic connection to Lake Winnipeg and a watershed
11 of undeniable importance to this province. Consistent
12 with that, Gimli's expert proposed several recommendations
13 from this Commission -- for this Commission to consider
14 site-specific analysis in totality, site-specific
15 phosphorus and nitrogen limits based on assimilative
16 capacity. Advanced treatment to meet ambient targets.
17 Zero emission discharge protocols and defined a -- defined
18 downstream monitoring program -- program, Sorry. Adaptive
19 management tied to measurable triggers and a clear
20 contingency planning. These are a minimum. There by no
21 means the totality of what you need to consider, but that
22 is at least a starting point for some of the issues of
23 concern.

24

25

We respectfully submit that the evidence

1 before you over the last couple of days has established
2 some significant flaws in the review that -- of this -- of
3 this project that has been conducted to date. The RM
4 commends the minister for establishing a task force for
5 Lake Winnipeg. However, the RM of Gimli call -- also
6 calls for meeting full modernization of protocols and
7 processes that are site-specific and reflective of the
8 current realities.

9

10 As I've indicated, the evidence has made it
11 clear that there's a clear disconnect between an
12 industrial farm operation based in the arm of Armstrong
13 bordering on Gimli, with the agricultural -- with
14 agricultural land, given the nature of the RM of Gimli and
15 its inhabitants and -- and lifestyle, as I've indicated
16 that there's going to be a future hearing involving a
17 proposed \$140,000 -- or 140,000 chicken operation under a
18 different government department and minister. The
19 fragmented approach just highlights why the decisions you
20 make as it relates to this particular aspect are so very
21 important. The mayor discussed the need for greater
22 collaboration, engagement and communication and most
23 importantly, full disclosure and transparency. From -- at
24 the end of the day, we -- you know, the RM of McGinley
25 really seeks for this commission to take a hard -- long,

1 hard look at how -- what's transpired and in the big
2 picture where this thing is going and -- and -- and make
3 some really meaningful recommendations to the minister
4 that -- that can try to rectify a situation that none of
5 us wanted to find ourselves in.

6

7 So, absent questions, those are my
8 comments.

9

10 THE CHAIRWOMAN: Thank you,
11 Mr. Williams, for your closing statement. And now we'll
12 move to the proponents closing -- closing arguments.

13

14 MR. WILLIAMS: Thank you, Madam
15 Chairwoman. The future members of Harbour Colony will
16 exist. It's trite to say they like all of us, will leave
17 their environmental footprint.

18

19 As was said by one of the commenters
20 yesterday, whether they flushed their toilet in Winnipeg
21 or Gimli or at Harbour Colony, that impact will exist.

22

23 The proponents position remains simple
24 despite other -- the -- despite the rather dirty topic
25 that's brought us here today, the proponent submits its

1 come with clean hands approach, this -- this project with
2 integrity engaged in engineer whose adopted conservative
3 safe design practices and ensured it's legally compliant
4 with or in many cases exceeds applicable design standards
5 guidelines regulations that apply to all other similar
6 systems in the province.

7
8 Legal compliance throughout this proceeding
9 has, it seems, become a bit of a dirty word. The
10 proponent has been accused of just ticking boxes, members
11 of the public, prompted by sometimes valid concerns and
12 their personal observations, have turned the proponent and
13 said you shouldn't just be following the law if that
14 allows you to dump effluent into the lake in the way that
15 you're proposing.

16
17 Madam Chairwoman, the law and legal
18 compliance is what prevents us as a society from slipping
19 into arbitrariness. This is a complicated and difficult
20 process, and parties such as the proponent need a North
21 Star to guide them. They need to rely on law, the legal
22 system, statutes, regulations, objectives, guidelines and
23 regulatory processes to understand and make a plan for
24 navigating this process. Without that certainty, project
25 such -- such as this simply cannot proceed. Development

1 cannot proceed and well, far from perfect, the reliable
2 application of the rule of law is one of our country's
3 greatest strengths.

4
5 While the law adds certainty, it does not
6 always add comfort to parties that will surely be true in
7 this matter. The law is not here to please everyone.
8 It's not here to win friends. It is a guide. It's a
9 guide to us as a society through some of our most
10 difficult decisions that we have to make. A key aspect of
11 the rule of law is, of course, application of the law as
12 it is, not as we wish it to be. Well, legal reform and
13 progress is imperative. That's not why we're here today.

14
15 The proponent states it is compliant with
16 existing environmental legislation, regulations,
17 objectives and guidelines and has fairly and transparently
18 proceeded through the processes dictated by the laws of
19 Manitoba as it must. It's compliant with zoning
20 regulations. It's guided by the best engineering
21 practices by a qualified and experienced engineer. The
22 members of Crystal Spring Colony, many of whom will become
23 future members of Harbour Colony, are not ashamed of this
24 compliance. They're proud of it. Now every site for
25 development will come with its challenges. There is no

1 perfect site, and it will always be a matter of
2 compromise. There's no site available at the right time.
3 The right price and yes, price is always a factor that
4 must be considered, whether at the public or private
5 level. And there's no site that has all of the right
6 environmental conditions. However, this project was
7 engineered to address site-specific conditions within the
8 existing regulatory framework. Mr. Daniel Burns, to my
9 left, gave evidence on the proponent's behalf with respect
10 to his conservative design philosophy and all his
11 projects, including this one. Examples adopted in this
12 case include a design that contemplates 250 people at
13 maximum design capacity, despite his evidence being
14 throughout these submissions and in all written materials
15 that an anticipated maximum of 200 is likely, that's a
16 full 25% over design right off the baseline. That's not a
17 rounding error.

18

19 Excess lagoon capacity has also increased
20 detention time in the case of emergencies. Setbacks from
21 nearest non-associated properties, while not acceptable to
22 some, are in excess of legal requirements. Setbacks from
23 property lines are also in excess of legal requirements.
24 Similarly, conservative abattoir inputs have been
25 selected. For example, the number of hogs was an example

1 given by Mr. Burns, although it's -- it's not anticipated
2 that hogs would routinely be, if ever, be slaughtered on
3 the site as a conservative measure, he included that in
4 the submissions in the Environment Act proposal. Periodic
5 overland flooding raised by numerous parties in this
6 hearing was known to the proponent, and it's yet another
7 clear example of a site-specific condition that is capable
8 of and has been addressed through an engineering
9 solution.

10

11 Madam Chairwoman, the City of Winnipeg sits
12 in the Red River Valley and has flooded. That has been
13 resolved through an engineering solution in the Red River
14 floodway. These site-specific issues can be engineered to
15 compliance. The written evidence on how the proponent has
16 -- has or will address many of the technical and site-
17 specific conditions is, of course, on the record. The
18 full Environment Act proposal, including responses, the
19 entire TAC process, that's there for the public and for
20 the -- the panel to consider. That's summarized as well
21 in the proponent's written submission and the report of
22 Mr. Mackenzie, who identifies concerns raised in the --
23 the EAP process and where they've been properly addressed
24 by the proponent through clarification. With respect to
25 potential alternatives, this is an issue that's been

1 raised a number of times throughout these proceedings.
2 Alternatives such as hauling or connection to the rural
3 municipalities' treatment plant. There hasn't been any
4 evidence demonstrating that they are any better at
5 protecting the environment, and each suffers from other
6 serious deficiencies, including the proponent's
7 submission, unrealistic upfront and ongoing cost burdens,
8 and further public infrastructure burdens. Again, yes,
9 cost is a factor.

10

11 Lagoon failure was -- was a comment that
12 was raised by miss -- I believe it was Ms. Mishak
13 yesterday. Any infrastructure can fail, Madam Chairwoman.
14 Gimli's plant can fail. A pipeline from the colony to
15 that plant can fail. It can be accidentally damaged.
16 That would result, of course, in untreated sewage being
17 released. It's also true of trucks carrying waste. Such
18 heavy trucks would, of course, at full capacity be
19 carrying many loads a day. And greenhouse gas emissions
20 are another consideration within the purview of this
21 commission. Clearly, trucking on a constant basis for the
22 entire lifespan of this colony would have a significant
23 impact in that regard. Simply put, these are not
24 reasonable or better alternatives, Madam Chairwoman.
25 would also direct the Commission to section 5.4 of

1 Mr. Mackenzie's report, in which he provides a concise
2 review of some of the more general considerations as it
3 relates to operational differences between lagoons and
4 wastewater treatment plants specifically. I think that
5 section fairly summarizes that it's really a matter of
6 trade offs we're talking about.

7
8 As Mr. Williams mentioned, while this panel
9 did receive a presentation from a representative of the
10 Director of Environmental Approvals, I do worry a little
11 bit that this aspect of the process has been a little
12 underemphasized in the submissions over the past two days,
13 so let's be clear, the project was subject to a thorough
14 review by -- by parties completely independent of the
15 proponent. And those are department -- various
16 departments of the government of the Province of Manitoba
17 as well as Canada.

18
19 And when Mr. Mackenzie (inaudible) in his
20 report, speaks of resolution pathways, he also concludes
21 many of those resolutions have been found through this
22 process, which unfolded from August of 2023 through to the
23 decision of the Director of Environmental Approvals Branch
24 on March 10th, 2025. The conclusion of the government
25 ultimately being the potential environmental impacts of

1 this proposal are well known and can be mitigated.

2

3 As a part of the CSC process. The project
4 has further been scrutinized by Dr. Indra Kalinovich of
5 Dillon Consulting, who you heard from yesterday.

6

7 Dr. Kalinovich confirmed her report does
8 not contain any independent modelling. It's not a site
9 assessment. No sampling was done. And in many ways
10 Dr. Kalinovich 's Report is -- is a critique of the
11 existing regulatory framework, something Mr. Williams
12 alluded to in -- in his closing statements as well. And I
13 will come back to that.

14

15 Now, her report identifies -- identifies as
16 a central focus what she calls the regulatory paradox
17 where current discharge criteria are. And I'm quoting
18 from the introductory section of her report, Fundamentally
19 misaligned with the 2024 Nutrient Target Regulation. The
20 report also goes on to cite other jurisdictions, namely
21 the Lake Erie Basin, that have more stringent requirements
22 approximately half of the standard discharge criteria for
23 Manitoba. Those portions of her report and evidence are
24 again targeted -- targeted at -- targeted, excuse me, at
25 regulatory reform, not targeted at this project.

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Dr. Kalinovich also briefly opined on issues such as soil stratigraphy and hydraulic conductivity at the lagoon site. Her evidence made clear that -- that she admittedly had not done a fulsome review. This was based on her review of the TREC report. And she did later confirm that -- that the use of a synthetic liner is a an effective mitigating strategy for many of those concerns. So again, this is another clear example of a site-specific condition that can be addressed through an engineering solution.

And additionally, I wouldn't be doing my job if I didn't note that Dr. Kalinovich report did contain citations that did not bear a reasonable relationship to the proposition for which they were cited.

I gave the example of citations of -- for *Schindler et al*, 2016, and I would encourage the panel to review that and all other sources for accuracy, of course. And if that pattern of inconsistency or vagueness in the citations hold, it's clear that -- that the report cannot reasonably be relied upon by this panel.

1 Moreover, in instances where conclusions
2 are drawn without any cited authority, I would urge the
3 panel to disregard or weight accordingly that evidence.
4

5 The proponent also denies the conclusion of
6 Dr. Kalinovich -- many of the conclusions of Dr.
7 Kalinovich excuse me that flow from the 2024 nutrient
8 target guidelines. That's -- that's a topic I'll come
9 back to more fully later. Mayor Chudd also testified on
10 behalf of the RM of Gimli, and I think the evidence of --
11 of Mayor Chudd can fairly be summarized as zealous
12 advocacy for lake health. And on behalf of his -- his
13 constituents and well admirable with respect to his
14 technical and scientific and legal issues. I would submit
15 that his testimony will not meaningfully inform this
16 commission. This includes his conclusions with respect to
17 the 2024 Nutrient Target Regulation, again, which I'll
18 address shortly.

19
20 With respect to the comments of the public,
21 which we heard yesterday evening. I certainly want to
22 thank the members of the public who took the time to speak
23 yesterday. I have absolutely no reason to doubt the
24 genuine belief they all hold in their positions the
25 positions advocated, whether it was advocated bluntly, as

1 Mr. Buckels did poetically as -- as I think Mr. Jantz
2 deserves credit for or emotionally in the case of
3 Ms. Streich. The Commission has to hear these voices.

4
5 Now, the question of how the factual
6 contents and allegations of those submissions are to be
7 considered is a more difficult question, of course. The
8 strict rule of that rules of evidence do not apply in this
9 proceeding. This is a public hearing. This is not a
10 court. However, this board is taking in evidence. This
11 board is -- or this commission rather, is tasked with
12 considering facts. It's tasked with considering the
13 governing laws that the rules of evidence have not been
14 applied in the course of this hearing, as is appropriate
15 in a public hearing, does not mean that this panel should
16 not, in preparing its report, adequately scrutinise the
17 facts, evidence and law that have been put before it. And
18 I certainly trust that the Commission is up to that task.

19
20 Honest belief in statements of fact put
21 forward by the public -- excuse me. An individual's
22 understanding of the applicable laws may not necessarily
23 be accurate. This does not mean that any document or
24 authority for which the proponent has had no opportunity
25 to test or rebut in some cases should necessarily be

1 considered by this panel.

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It also doesn't mean that each member of the public properly understood the scope of the mandate of this panel as set out in the terms of reference. Many of the comments of the public were well beyond the scope. In preparing the Commission's report, the panel must appropriately filter what has been stated and submitted and discern the quality and reliability of the facts and evidence before it. While, the rules of evidence do not strictly apply. Procedural fairness always must.

In some instances, the issues raised by members of the public, of course, are true. The lake is unwell. I have not heard one party deny that throughout the course of these proceedings and I'll not do it now. A solution is needed. It's also true that the issues plaguing the lake are the result of cumulative effects over time, as many presenters also fairly commented.

The proposed project will be a net contributor of nutrients to Lake Winnipeg. Let me be clear the proponent also doesn't deny that there may be a need for regulatory reform. Perhaps amendments to the Environment Act are appropriate, but as I stated, we must

1 consider the law as it is now, and regulatory reform is
2 not the mandate of this commission.

3
4 The proponent does not agree that, as an
5 expected contributor of 0.0000367% of the phosphorus
6 loading to Lake Winnipeg, and that's at the proponents
7 maximum and conservative figures, it should be unfairly
8 targeted as a pilot project for reform of discharge
9 criteria and conditions that no other operation is subject
10 to. It's -- it's difficult for the proponent to hear that
11 a potential restriction the proponent should face is a
12 significant reduction in discharge criteria, when the
13 rural municipality of Gimli's discharge criteria are, in
14 fact, at the standard the proponent is requesting -- one
15 milligram of phosphorus per litre. A standard that,
16 paradoxically, has been critiqued by both witnesses of the
17 rural municipality.

18
19 This commission's report may fairly make
20 comments or recommendations regarding potential regulatory
21 reform as it relates to project like this. And if there's
22 reform, if there are changes, this proponent will comply.
23 But that is not the mandate today. I've said that -- that
24 many of the points raised in public submissions were fair
25 or accurate. But I do have to state that some

1 unequivocally were not.

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The proponent has addressed many of those misconceptions and misunderstanding in the course of these proceedings. But I'll provide a brief overview of some that I think should be addressed now. Members of the public and at times the rural municipality of Gimli as recently as this morning raised concerns with respect to a proposed commercial poultry operation on the future colony. It's been alleged that this was related to the lagoon application. That is not correct.

The commercial poultry application is the subject of a separate review under the Planning Act. It's been alleged that the birds from this poultry operation would be slaughtered in the abattoir reference. All birds from the commercial operation will be processed off site. It's been alleged that animal waste from the commercial poultry operation would be placed in the lagoon. That is the subject of these proceedings. That is not correct. No animal waste from the commercial poultry operation will enter this lagoon.

Similar, there's been a broad conflation of this project with respect to the lagoon and the broader

1 colony development. Many residents have used this hearing
2 as a forum to vent frustration with the colony development
3 in general. It's too big. There will be traffic.
4 There's been a request for traffic studies. There's been
5 concerns raised with respect to manure spreading again
6 seemingly targeted at the agricultural operations of the
7 future colony, not with respect to a domestic sewage
8 lagoon. Zoning issues have also repeatedly been raised
9 allegations of non-compliance. Again, while not the
10 mandate of this commission, the proponent nonetheless
11 submits the record shows clear compliance. The parcels on
12 which the -- the project are situated, I'll reiterate, are
13 zoned agricultural.

14
15 This is effectively an Advertisement to
16 parties such as the proponent that agricultural
17 development is appropriate. That's how zoning works.
18 This is how parties like the proponent make decisions on
19 where they will site a colony, where they will site future
20 development, where individual farmers will site farming
21 operations.

22
23 The use of land zoned agricultural land for
24 agricultural purposes often comes into conflict with those
25 simply living on rural areas in rural areas, and this was

1 nowhere more clear than in the submissions of Ms. Tanya
2 Mishtak. However, planning authorities such as rural
3 municipalities and planning districts do -- do zone these
4 lands for a primarily agricultural purpose. These are
5 expected uses.

6
7 It's been repeatedly alleged as well that
8 there was no consultation. That is not correct. The
9 proponent has invested significant resources in engaging
10 in the TAC process over approximately a two-year period
11 and has in fact met with the RM of Gimli. Granted, those
12 discussions certainly did not result in what the RM of
13 Gimli was hoping for.

14
15 DFO -- that's the Department of Fisheries
16 and Oceans consultations. It's been suggested in numerous
17 public comments, including Mr. Chris Klassen last night
18 that DFO, now called Fisheries and Oceans Canada, was not
19 consulted. That is not correct. The Department of
20 Fisheries and Oceans Canada was consulted in connection
21 with the TAC process, and their comments appear in the
22 first-round responses. That those records have been on
23 the public registry for over a year.

24
25 Many members of the public also exclaimed

1 that not one further drop of effluent and no further
2 pollution should enter the lake. Many also extolled the
3 virtues of the arm of Gimli's wastewater Treatment Plant,
4 a project for which I have no specific critique to be
5 clear.

6
7 However, those people seem to not
8 understand that same plant to which their own waste goes
9 has been discharging effluent to Lake Winnipeg throughout
10 this entire proceeding. If that is for some reason a
11 secret the residents of -- if that is for some reason a
12 secret to the residents of the R.M. of Gimli. That is the
13 definition of a dirty one.

14
15 Nutrient target guidelines. One often
16 repeated misunderstanding in these proceedings has been
17 with respect to the nutrient target guidelines, questions
18 directed at Mr. Burns suggested that 0.05mg/l would be a
19 target that could be complied with. It's also been
20 suggested in these proceedings that it's a figure that --
21 that ought to be used as a discharge criteria more
22 broadly. This misconception was repeated in the testimony
23 of Mayor Chudd, who felt it represented the best, newest
24 standard of discharge criteria put forward by the province
25 of Manitoba and that he hoped to comply.

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Madam Chairwoman, it's none of these things. Fortunately, clarification from the -- came from the RM witness Dr. Kalinovich of Dillon consulting. Clarification can also be found on a plain reading of the 2024 Nutrient Target regulation itself, as well as the enabling section of the Water Protection Act, namely section 4.0.1 (2). Dr. Kalinovich -- that witness Dr. Kalinovich and those authorities that I've just cited also confirmed, and the questions of the panel seem to confirm that it's understood that those guidelines do not prescribe or even mention discharge criteria, whether at a lower 0.05mg of phosphorus per litre or any other criteria. They do not prescribe site-specific discharge criteria. In fact, it's not a prescriptive regulation in any way. That is -- it does not require compliance or action by any party. There is no shall, no must and no prescriptive language whatsoever. It's also not prohibitive. That is that regulation does not prevent any specific action. It does not say shall not, must not, may not. It's also not permissive. It does not say a party may do something.

The nutrient targets are intended to provide a means for water management authorities in

1 Manitoba and other jurisdictions adjacent to measure water
2 quality and track progress on reducing nutrient levels in
3 water bodies. That's from the Water Protection Act.

4
5 The nutrient target guidelines were central
6 to the submissions of Dr. Kalinovich's Report, though less
7 so in her presentation, and it submitted that her opinion
8 recommending their application in a manner is recommending
9 their application in a manner that does not accord with
10 the language of the regulations or their stated purpose in
11 the Water Protection Act.

12
13 My friend in his closing submissions, of
14 course, raised the issue of this being too early
15 preliminary. We haven't done the homework yet. Licence
16 conditions are not the stage that the proponent has
17 reached in this regulatory process. The proponent is not
18 opposed to certain conditions. Let's be clear. Those in
19 some cases the proponent is -- is opposed for example Dr.
20 Kalinovich, as was discussed in cross examined yesterday,
21 suggests a prohibition on emergency discharge. She was
22 subsequently asked whether those issues can be addressed
23 through appropriate emergency protocols rather than a
24 blanket prohibition, and her answers to that are on the
25 record.

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Tertiary treatments such as alum and irrigation are also issues that were discussed put to Mr. Burns and suggested as possible mitigation strategies, operational and management strategies and potentially could form the basis for conditions.

I'll remind the panel that Mr. Burns has calculated that the freeboard of the lagoon offers an additional 92 days of storage in emergency circumstances, so while it's hoped that no emergency discharge will be required, an emergency is just that. It's an emergency. It should not be the plan of first resort, but an emergency that arises must be responded to appropriately.

The proponent is -- is also opposed to the nutrient mass balance reporting proposed by Dr. Kalinovich. It's -- it's first not clear how that would technically be possible or monitored, nor is it clear how it -- it would, in any way, serve a meaningful purpose. It's the effluent content at the point of discharge which matters.

With respect to discharge rate, again, a concern that was raised by my learned friend this morning

1 in a question put to Mr. Burns. I believe it was by a
2 member of the public. It was discussed that an orifice
3 limiting flow rate to a fixed amount could be an
4 appropriate condition. Monitoring of Willow Creek around
5 discharge times is also an option that -- that might
6 fairly be considered. Of course, the particulars of cost
7 and implementation would need to be discussed with the
8 province at the time of licensing. There are other
9 nutrient contributors to the creek, so that monitoring
10 program would need to be thoughtfully developed.

11 Madam Chairwoman, I've personally spent
12 more time in on or around Lake Winnipeg than any other
13 body of water on earth. That will also be true of the
14 future families of Harbour Colony for generations. No one
15 in this room wants to do anything to deliberately harm
16 this lake, but I think it's important that we take a
17 moment to realize that we are all contributors to this
18 issue today. Whether it's through the food we eat and the
19 agricultural practices that lead to that, where it's
20 grown, where it goes after. For most residents of Gimli,
21 Winnipeg and Harbour Colony, the final destination is Lake
22 Winnipeg.

23

24 For most of us it's out of sight, for the
25 colony, it's been put in the public spotlight. The

1 proponent's conclusion is simple, adding significant cost
2 operational burdens, unprecedented discharge criteria,
3 unprecedented conditions or outright denial is not a real
4 solution to broader environmental issues. The scope of
5 which are well beyond this commission's narrow mandate.
6 And they're well beyond the proponent's ability to control
7 or influence in a meaningful way. The solution to Lake
8 Winnipeg's problems cannot symbolically be put on a group
9 of Manitoba families to bear. I ask that this commission
10 recommend to the minister in its report that Harbour
11 Colony be granted its requested licence with such
12 reasonable conditions as this panel and the Province of
13 Manitoba. It's hoped in consultation -- in consultation
14 with the proponent may recommend. Thank you. Those are
15 my submissions.

16

17 MR. WILLIAMS: Madam Chair. Can I
18 have an opportunity to say three points in reply. There's
19 literally three short points and they were just issues
20 that you heard from.

21

22 THE CHAIRWOMAN: Direct response.
23 Yes.

24

25 MR. WILLIAMS: Thank you. So, the

1 first point is -- is there was reference to the rule of
2 law and -- and this -- this isn't a rule of law
3 situation. It's a rule of guideline situation. And
4 there's a huge distinction between a rule of law and a
5 guideline.

6
7 My second point is -- is the fact that --
8 that telling you all the other ways that the environment
9 could be harmed given alternative methods -- methods that
10 were put forward isn't an answer to whether this
11 particular lagoon is appropriate.

12
13 And the third and final point I'll make is
14 probably one of the most important ones. And that is the
15 fact that no one from the proponent testified. No one
16 from the proponent testified. And my learned friend is
17 not a witness. And so, for him to put in front of you
18 evidence as to what it is that the colony is going to do
19 or isn't going to do is not appropriate in my submission.
20 It can't be considered by you. He's not -- he wasn't
21 sworn and he wasn't the person who -- the people who were
22 supposed to give that evidence was the proponent and
23 nobody from the proponent testified.

24

25 THE CHAIRWOMAN: Mr. Williams, can you

1 refer to what type of evidence you believe is being
2 entered through argument?

3

4 MR. WILLIAMS: Well, his suggestion
5 as -- as to what was going to happen with the chickens and
6 -- and how many chickens were going to be there and what
7 was going to happen on the colony site. All that is --
8 that's pure argument.

9

10 THE CHAIRWOMAN: Okay.

11

12 MR. WILLIAMS: And it's unsworn
13 testimony as to what was going to happen. There were some
14 questions that were put to various witnesses which you can
15 consider for sure. But when you look at his submissions
16 and what he said to the extent he was making any
17 representations as to what was going to go on at that
18 colony or what -- what plans they have in the future, or
19 how many birds were -- that is -- that is the portion to
20 me that -- that is -- that is inappropriately before you.

21

22 THE CHAIRWOMAN: We take your point.
23 And some of that was brought through evidence of
24 Mr. Burns. So, we'll be diligent in going back to the
25 record to assess what actually is properly in evidence.

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MR. WILLIAMS: That's -- that's --
that's -- that's all. Thank you very much.

MR. KATHLER: We're truly narrowing
on the -- in -- on the nitty gritty now. So, I just -- I
do have one reply to that and that's that the conditional
use application that prompted this series of questions was
submitted by my learned friend and put up on the screen,
notwithstanding the fact that it had not been prior
previously submitted into the record, it's the proponent
submission that it's not within the scope of this
mandate. But having been raised, response is appropriate
and was done through Mr. Burns.

THE CHAIRWOMAN: Thank you.

MR. KATHLER: Thank you.

THE CHAIRWOMAN: And so, I think it was
made very clear at the beginning that we can only consider
information that's on the record, so we will be diligent
in assessing that evidence is properly on the record if we
are to be considering it in making our recommendations to
the Minister, I think we'll take a short morning break, a

1 15 minute break and come back for the closing of the
2 session.

3

4 MR. WILLIAMS: Thank you.

5 (BREAK)

6

7 THE CHAIRWOMAN: Okay, I'll ask
8 everyone To please take your seats and we'll resume.

9

10 So, I'd like to start on behalf of myself
11 and our panel as a whole, thanking all of you who have
12 participated in this hearing. I want to thank the
13 proponent, the RM of Gimli, as a participant, members of
14 the public who've attended, those who have presented
15 evidence and also to thank the Fraserwood Hall for the
16 welcome. This has been a wonderful venue, and I think
17 that all of us have felt comfortable in this space over
18 the last few days and been able to do the work that we
19 needed to do, in large part because of the -- the welcome
20 that we had in this space.

21

22 I also want to thank members of our
23 technical staff who have supported the hearing, and we
24 want to indicate that we have listened. We have heard.
25 We've taken extensive notes. We have evidence on the

1 record, and we'll consider all of that and review it in
2 the next few weeks in preparing a report with our advice
3 and recommendations to the Minister that are both specific
4 to the licence that has been applied for and making
5 broader policy recommendations to assist with enhanced
6 environmental process in the province.

7
8 So, those are our closing remarks for
9 today. Again, thank you for being here. Thank you for
10 taking time to be part of this process and for each of
11 your contributions. I wish you a wonderful day. Thank
12 you.

13

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April 23, 2026