

**IN THE MATTER OF:**

A Public Hearing before the Clean Environment Commission pursuant to *The Environment Act*, C.C.S.M. c. E125, ss. 6(5)(b)

**AND IN THE MATTER OF:**

The Environment Act Proposal (File No. 6193.00) by Harbour Colony Holding Co. Ltd. (previously 7317434 Manitoba Ltd.) with respect to a proposed domestic wastewater lagoon at SE¼ 28-18-3 EPM in the Rural Municipality of Armstrong, Manitoba

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**WRITTEN SUBMISSIONS OF THE PROPONENT**  
**Harbour Colony Holding Co. Ltd. (previously 7317434 Manitoba Ltd.)**

Public Hearing Dates: April 21-23, 2026 at Fraserwood, Manitoba

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File No. 132596-0001

## **TABLE OF CONTENTS**

|    |   |        |
|----|---|--------|
| A. | LIST OF DOCUMENTS REFERENCED .....                        | - 2 -  |
| B. | LIST OF AUTHORITIES REFERENCED .....                      | - 4 -  |
| C. | INTRODUCTION .....  | - 6 -  |
| D. | ABOUT THE PROPONENT .....                                 | - 8 -  |
| E. | PROJECT HISTORY & ENVIRONMENTAL ASSESSMENT PROCESS .....  | - 12 - |
| F. | PROJECT DESIGN AND CONSTRUCTION .....                     | - 17 - |
| G. | COMPLIANCE WITH APPLICABLE LEGISLATION & REGULATIONS..... | - 22 - |
| H. | SUMMARY OF RESPONSE TO GIMLI .....                        | - 31 - |
| I. | SUMMARY OF RESPONSE TO PUBLIC CONCERNS .....              | - 37 - |
| J. | CONCLUSION .....  | - 45 - |

## **A. LIST OF DOCUMENTS REFERENCED**

### **Book of Documents No. 1**

- TAB 1.** Environment Act Proposal dated August 17, 2023
  - 1.1** Geotechnical Review
  - 1.2** Hydrologic and Hydraulic Assessment
- TAB 2.** Notice of Environment Act Proposal (Public Advertisements)
- TAB 3.** Public Comments Received (1)
- TAB 4.** Public Comments Received (2)
- TAB 5.** Public Comments Received (3)
- TAB 6.** Public Comments Received (4)
- TAB 7.** Public Comments Received (5)
- TAB 8.** Public Comments Received (6)
- TAB 9.** 1<sup>st</sup> Round Technical Advisory Committee Comments
- TAB 10.** Proponent Response to 1<sup>st</sup> Round TAC Comments and Public Comments
- TAB 11.** Notice of Alteration Request
- TAB 12.** Notice of Alternation Response
- TAB 13.** 2<sup>nd</sup> Round TAC Comments
- TAB 14.** Proponent Response to 2<sup>nd</sup> Round TAC Comments
- TAB 15.** 3<sup>rd</sup> Round TAC Comments
- TAB 16.** Additional Information
- TAB 17.** Letter from Agnes Witmann, EAB re: Hearing Decision Notification
- TAB 18.** BMCE Letter to Minister
- TAB 19.** Notice of Community Learning Session & Presentation Information
- TAB 20.** Minister's Letter to CEC and Terms of Reference, dated September 17, 2025
- TAB 21.** Letters from P. Kathler to A. Wittman & M. Popowich, EAB re: Appeals
- TAB 22.** Letter. From J. Margovski to P. Kathler re: Appeals
- TAB 23.** Appeals (Redacted)

## **Book of Documents No. 2**

- TAB 1.** IR No. 1 - RM of Gimli Request of Proponent (Request Round 1)  
1.1 Appendix A – Willow Creek Integrated Watershed Management Plan
- TAB 2.** IR No. 2 - RM of Gimli Request of Proponent (Request Round 1)
- TAB 3.** IR No. 3 - RM of Gimli Request of Proponent (Request Round 1)
- TAB 4.** IR No. 4 - RM of Gimli Request of Proponent (Request Round 1)  
4.1 Appendix A - East Interlake Conservation District - Watershed 050J  
Riparian Assessment Survey
- TAB 5.** IR No. 5 - RM of Gimli Request of Proponent (Request Round 1)
- TAB 6.** IR No. 6 - RM of Gimli Request of Proponent (Request Round 1)
- TAB 7.** IR No. 7 - RM of Gimli Request of Proponent (Request Round 1)
- TAB 8.** IR No. 8 - RM of Gimli Request of Proponent (Request Round 1)
- TAB 9.** IR No. 1 - RM of Gimli Request of Proponent (Proponent Reply 1)  
9.1 Appendix A - Permit to Construct Works in South Malonton Drain from  
Manitoba Transportation and Infrastructure (December 20, 2024)
- TAB 10.** IR No. 2 - RM of Gimli Request of Proponent (Proponent Reply 1)
- TAB 11.** IR No. 3 - RM of Gimli Request of Proponent (Proponent Reply 1)  
11.1 Appendix A - Friesen Drillers Desktop Hydrological Review (March 2,  
2021)
- TAB 12.** IR No. 4 - RM of Gimli Request of Proponent (Proponent Reply 1)
- TAB 13.** IR No. 5 - RM of Gimli Request of Proponent (Proponent Reply 1)  
13.1 Appendix A - Fisher Armstrong Planning District – Development  
Permit No. 2021-A-29
- TAB 14.** IR No. 6 - RM of Gimli Request of Proponent (Proponent Reply 1)
- TAB 15.** IR No. 7 - RM of Gimli Request of Proponent (Proponent Reply 1)
- TAB 16.** IR No. 8 - RM of Gimli Request of Proponent (Proponent Reply 1)
- TAB 17.** IR No. 1 - RM of Gimli Request of Proponent (Request Round 2)
- TAB 18.** IR No. 2 - RM of Gimli Request of Proponent (Request Round 2)
- TAB 19.** IR No. 3 - RM of Gimli Request of Proponent (Request Round 2)
- TAB 20.** IR No. 5 - RM of Gimli Request of Proponent (Request Round 2)
- TAB 21.** IR No. 6 - RM of Gimli Request of Proponent (Request Round 2)
- TAB 22.** IR No. 1 - RM of Gimli Request of Proponent (Proponent Reply 2)  
22.1 Appendix A - Supplemental Report of TREK Geotechnical Inc. re  
Crystal Springs Colony – New Colony Development 200-Year Flood

## Level Assessment

- TAB 23.** IR No. 2 - RM of Gimli Request of Proponent (Proponent Reply 2)
- TAB 24.** IR No. 3 - RM of Gimli Request of Proponent (Proponent Reply 2)
- TAB 25.** IR No. 5 - RM of Gimli Request of Proponent (Proponent Reply 2)
- TAB 26.** IR No. 6 - RM of Gimli Request of Proponent (Proponent Reply 2)
- TAB 27.** IR No. 1 - CEC Request of Proponent (Request Round 1)
- TAB 28.** IR No. 1 - CEC Request of Proponent (Proponent Reply 1)
- TAB 29.** IR No. 1 - CEC Request of Department (Request Round 1)
- TAB 30.** IR No. 1 - CEC Request of Department (Department Reply 1)
- 30.1** Appendix A.1 – Routine Water Quality Monitoring Parameters
- 30.2** Appendix A.2 – “DATA\_WILLOW CREEK\_ALL HISTORICAL(2024)\_ALL PARAMETERS\_RAW\_2026Feb20” [See Excel Document Data]
- 30.3** Appendix A.3 – “DATA SUMMARY\_WILLOW CREEK\_MB05SBS279\_PARAMETER RANGES\_2026Feb20” [See Excel Document Data]
- TAB 31.** IR No. 1 - CEC Request of Department (Request Round 2)
- TAB 32.** IR No. 1 - CEC Request of Department (Department Reply 2) (Pending)

## **B. LIST OF AUTHORITIES REFERENCED**

### **Book of Documents No. 3**

- TAB 1.** *The Environment Act*, C.C.S.M. c. E125.
- TAB 2.** *Classes of Development Regulation*, MR 164/88.
- TAB 3.** *Licensing Procedures Regulation*, MR 163/88.
- TAB 4.** Manitoba, Environmental Approvals Branch, Manitoba Environment and Climate Change, *Information Bulletin – Environment Act Proposal Report Guidelines (2023)*.
- TAB 5.** Manitoba, Environmental Approvals Branch, Manitoba Environment and Climate Change, *Information Bulletin – Design Objectives for Wastewater Treatment Lagoons (2022)*.
- TAB 6.** *Manitoba Water Quality Standards, Objectives and Guidelines Regulation* MR 196/2011.
- TAB 7.** *Wastewater Systems Effluent Regulations*, SOR/2012-139.

- TAB 8.** Manitoba, Manitoba Water Stewardship, *Manitoba Water Quality Standards, Objectives, and Guidelines* (2011).
- TAB 9.** *The Water Rights Act*, C.C.S.M. c. W80.
- TAB 10.** *Water Rights Regulation*, MR 126/87.
- TAB 11.** Manitoba, Conservation and Water Stewardship, *Information Bulletin – Public Registry Guide* (2013).
- TAB 12.** *The Water Protection Act*, C.C.S.M. c. W65.
- TAB 13.** *Fisheries Act*, R.S.C. 1985, c. F-14.
- TAB 14.** *Gimli Zoning By-law*, Rural Municipality of Gimli By-law 11-0013.
- TAB 15.** *Zoning Districts, Settlement Centre Zoning Districts, Rural Zoning Districts*, Rural Municipality of Armstrong By-law No. 6/2004.
- TAB 16.** *RM of Armstrong Zoning By-Law, Map 1B: Overall Zoning District Map*, Rural Municipality of Armstrong By-Law No. 6/2004.

## **C. INTRODUCTION**

1. These submissions are filed on behalf of the Proponent, Harbour Holding Co. Ltd., formerly 7317434 Manitoba Ltd.<sup>1</sup> (**the “Proponent” or “Harbour Colony”**), in support of the proposed wastewater treatment lagoon for the Harbour Colony development in the Rural Municipality of Armstrong (**the “Project”**).
2. The Proponent filed an Environment Act Proposal on August 17, 2023, for a domestic wastewater treatment lagoon intended to serve the future Harbour Colony population, an abattoir for on-colony consumption, and associated wastewater sources (**the “EAP”**). While it was the recommendation of the Environmental Approvals Branch that the matter does not proceed to a public hearing before the Clean Environment Commission (**hereafter, the “Commission”**), that decision was appealed to the Minister of Environment and Climate Change (**“MECC”**), who ordered the within hearing.
3. The task before the Clean Environment Commission is not the approval of an entire colony development. It is the environmental review of a wastewater treatment lagoon proposal under *The Environment Act*, C.C.S.M. c. E125 (**“The Environment Act”**) in accordance with section 6(5)(b) of *The Environment Act* and the Minister’s September 17, 2025, terms of reference. Those terms of reference are:

- 1. The CEC will conduct a public hearing relating to The Environment Act proposal and the environmental assessment report and**

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<sup>1</sup> Book of Documents No. 1, Tab 24.

***provide advice and recommendations to the Minister regarding potential environmental effects of the proposed wastewater treatment lagoon.***

***2. The CEC will provide members of the public the opportunity for input regarding the Crystal Spring Colony wastewater treatment lagoon proposal as part of the public hearing in a location consistent with the affected community.<sup>2</sup>***

4. The Project was designed as a “facultative two-cell lagoon system,” with a primary cell and a secondary cell, containing a synthetic liner and a controlled discharge. The Project has been the subject of a lengthy review process extending over multiple rounds of technical comments, public comments, alteration review, and further information requests.
5. The Proponent submits that the Project meets the applicable approval framework under *The Environment Act* and other applicable regulations, processes, and guidelines. The Project has been engineered by qualified professionals, reviewed repeatedly by the relevant provincial branches and government stakeholders, revised where necessary, and designed to operate subject to the standard and project-specific conditions required for the requested license.
6. The Proponent does not minimize the concerns raised by nearby landowners, citizens, or adjacent municipalities concerned about potential environmental impacts. Those concerns have shaped the development and review history of the Project. But concern alone is not the test. The question for this Commission is whether, on the evidence before it and with appropriate license conditions, the

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<sup>2</sup> Book of Documents No 1, Tab 20, Page 3.

Project is environmentally acceptable and legally approvable. The Proponent submits that it is.

7. The Proponent therefore asks the Commission to recommend that the Project proceed and that the requisite approval pursuant to *The Environment Act* be recommended to the Minister, subject to such reasonable terms and license conditions as the Commission considers appropriate.

#### **D. ABOUT THE PROPONENT**

8. The Proponent was originally identified in the EAP as 7317434 Manitoba Ltd. The corporate name has since been changed to Harbour Colony Holding Co. Ltd. Harbour Colony is a daughter colony of Crystal Spring Hutterite Colony (**“Crystal Spring Colony”**), located near Ste. Agathe, Manitoba.
9. While the Proponent is a corporation, the Commission and public should recognize that these proceedings and the Project itself, do not concern a strictly commercial affair. This Project is about building a new home for the families of the future Harbour Colony for generations to come.
10. Hutterites, such as the members of Crystal Spring Colony and the future Harbour Colony, are part of the Anabaptist movement, which originated in Germany in 1525 during the Reformation. Unlike most other Anabaptist groups, Hutterites live in communities where sharing all things in common is foundational to their way of life. Throughout their more than 400-year history, Hutterites have migrated many times because of their faith. They moved from Central Europe (Tyrol and Moravia) to

Ukraine in the late 1700s, then to the United States in 1874, and later to Canada around 1918. Today, most Hutterite colonies are found in Western Canada.

11. The first Hutterite communities in Manitoba were established in the Rural Municipality of Cartier, where they soon developed close relationships with nearby Métis and First Nations communities. These relationships were shaped by a shared historical experience: each group understood what it meant to be marginalized, displaced, and, at times, misunderstood or excluded by wider society. This common ground fostered mutual respect and connection. For Hutterites in particular, this experience of marginalization became especially pronounced during the period between the two world wars, when their German language, communal lifestyle, and pacifist beliefs led to public suspicion, criticism, and at times hostility from the broader Canadian public.
12. Despite these early challenges, relationships gradually strengthened and Hutterite communities began to take root and flourish. In time, initial hostilities gave way to greater understanding and cooperation. Today, Hutterites contribute over \$5 billion annually to the Canadian economy. They also support local hospitals, food banks, and aid programs such as MCC, Canada's Foodgrains Bank, Siloam Mission, Grow Hope, and many other charitable initiatives. These broader contributions are also reflected at the local level in the communities where Hutterites live and work.
13. The establishment of new Hutterite communities also brings important local economic benefits. Through their farming and business operations, colonies supply fresh produce and high-quality goods to surrounding areas. They regularly hire local

contractors and service providers for construction, maintenance, and specialized work, while also purchasing equipment and supplies from nearby businesses. In this way, Hutterite communities support the local workforce, strengthen rural economies, and contribute to the overall vitality of the regions in which they are located. Crystal Spring Colony provides a clear example of this pattern in practice.

14. Crystal Spring Colony was established in 1954 as a branch of the Sturgeon Creek Hutterite Colony located near Headingley. Like most Hutterite communities in Manitoba, Crystal Spring Colony is primarily an agricultural colony, focusing on mixed grain and oilseed crops as well as livestock operations. It was also one of the first Hutterite colonies to expand into manufacturing. Today, Crystal Spring Hog Equipment is recognized worldwide for its quality and durability. Crystal Spring Colony also produces Black Earth Grills, a premium Canadian-made hybrid grill that combines propane grilling with wood-pellet smoking technology. As part of these operations, the colony employs off-site, non-colony workers in skilled roles such as welding and equipment assembly, thereby contributing to local employment. As the colony grew and reached the traditional size for expansion, it began the process of establishing a new daughter colony.
  
15. Harbour Colony, located in the Rural Municipality of Armstrong, first began development in 2019, when members of the Crystal Spring Colony purchased land to form this new colony. Traditionally, when a Hutterite colony reaches about 150 to 200 people, it establishes a new settlement. Crystal Spring Colony considered several locations before choosing the Rural Municipality of Armstrong. The area's undeveloped landscape, abundant wildlife, and forests were major attractions for

the members of Crystal Spring Colony. The name “Harbour” was chosen for its proximity to Lake Winnipeg. Living in harmony with nature, protecting and nurturing wildlife, planting trees, and sustainably managing natural resources, has long been central to the Hutterite way of life. For Hutterites, community lands, forests, rivers, lakes, and wildlife are not possessions, but a shared inheritance held in trust for future generations.

16. Harbour Colony’s proximity to Lake Winnipeg was another key factor in Crystal Spring Colony’s decision to purchase the property. Like many Manitobans, Hutterites value fishing and boating and care deeply about the lake’s health and well-being. With this in mind, Crystal Spring Colony engaged Burns Maendel Consulting Engineers Ltd. (“**BMCE**”), a Brandon, Manitoba-based firm known for its innovative civil, municipal, and structural design, to develop sustainable infrastructure plans for the Project.
17. The concerns many local residents have raised about a development of this scale are understood and taken seriously. Such projects are complex and require careful planning, development, and landscaping. Best practice standards are applied wherever reasonably possible, in line with the long-term vision for the environmental well-being of the area surrounding Harbour Colony. As stewards of the land, members of Harbour Colony are committed to ensuring that the heritage they pass on to the next generation can be celebrated and enjoyed for many years to come.

## **E. PROJECT HISTORY & ENVIRONMENTAL ASSESSMENT PROCESS**

16. On August 17, 2023, BMCE, on behalf of the Proponent, submitted the EAP for the proposed domestic wastewater lagoon in the Rural Municipality of Armstrong.<sup>3</sup>
17. The EAP details Harbour Colony's plans for their new home: residences, communal buildings including kitchen facilities, a school, church, several industrial shops, and a farm-based operation including light manufacturing and livestock production. As part of the residential and related development, a wastewater treatment solution was required.<sup>4</sup>
18. The EAP further stated that, due to the isolated nature of the site and its proximity to a natural drainage path, a facultative wastewater lagoon was selected as the most suitable method of treatment.<sup>5</sup>
19. The EAP included, among other things, the detailed proposal report itself, sealed engineering drawings, a certificate of title, a heritage resource impact assessment, a geotechnical review, and a hydrologic and hydraulic assessment.<sup>6</sup>
20. BMCE engaged TREK Geotechnical Inc. to complete a geotechnical investigation<sup>7</sup> for the proposed community development, including:
  - (a) a sub-surface investigation;<sup>8</sup>

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<sup>3</sup> Book of Documents No. 1, Tab 1.

<sup>4</sup> Book of Documents No. 1, Tab 1, Page 5 (Executive Summary) and § 10.

<sup>5</sup> Book of Documents No. 1, Tab 1, Page 5 (Executive Summary).

<sup>6</sup> Book of Documents No. 1, Tab 1, Table of Contents and appendices; Book of Documents No. 1, Tab 1.1, Geotechnical Review; Book of Documents No. 1, Tab 1.2, Hydrologic and Hydraulic Assessment.

<sup>7</sup> Book of Documents No. 1, Tab 1.1, §§ 1, 9.

<sup>8</sup> Book of Documents No. 1, Tab 1.1, § 4.1.

- (b) laboratory testing; and
  - (c) provision of geotechnical recommendations for development.<sup>9</sup>
21. In support of the Project and the EAP, TREK Geotechnical also prepared and submitted a hydrologic and hydraulic assessment report, dated November 21, 2022. The report *“analyses the existing channel and culvert capacities and makes maintenance and conveyance upgrade recommendations South Malonton Drain and Unnamed Drain reaches which are located adjacent to the new colony development.”*<sup>10</sup>
22. Public notice of the EAP was then given by way of notices dated October 16, 2023, and November 14, 2023, respectively.<sup>11</sup> A series of public comments followed in late November 2023.<sup>12</sup> Public comments raised a broad range of concerns, including alleged project splitting between the domestic sewage lagoon and other components of the Harbour Colony development, cumulative environmental effects, flood risk, downstream water quality, fish spawning, groundwater, species at risk, odour, property value impacts, and adequacy of consultation.<sup>13</sup> The concerns raised will be addressed in a later section of these submissions.
23. On December 7, 2023, the Rural Municipality of Gimli (**“Gimli”**), through counsel, also filed a formal objection letter enclosing comments from Dillon Consulting Limited (**“Dillon”**) and expressly requesting that the matter be treated as an

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<sup>9</sup> Book of Documents No. 1, Tab 1.1 § 1.

<sup>10</sup> Book of Documents No. 1, Tab 1.2, Page 2.

<sup>11</sup> Book of Documents No. 1, Tabs 2.1 and 2.2.

<sup>12</sup> Book of Documents No. 1, Tabs 3-8.

<sup>13</sup> Book of Documents No. 1, Tabs 3-8.

objection to the proposed development and as support for a public hearing.<sup>14</sup> The concerns raised by Gimli will be addressed in a later section of these submissions.

24. As a part of the Technical Advisory Committee (“**TAC**”) review process, the Project was circulated to a range of provincial and federal technical reviewers, including Environmental Approvals Branch, Environmental Compliance and Enforcement, Office of Drinking Water, Water Science and Watershed Management, Wildlife and Fisheries, Natural Resources and Indigenous Futures, Fisheries and Oceans Canada, and others.<sup>15</sup>
25. On April 15, 2024, BMCE submitted a consolidated response to comments from the first-round TAC reviewers, the Rural Municipality of Armstrong, Gimli, and the general public.<sup>16</sup>
26. In response to certain issues raised by Gimli, Dillon, and the public, on April 16, 2024, BMCE filed a Notice of Alteration of the EAP.<sup>17</sup> The Notice of Alteration revised the EAP by increasing the primary cell capacity to accommodate isolation of the secondary cell throughout the extended trickle discharge period and added additional tree planting to improve sight lines around the lagoon.<sup>18</sup>
27. On January 17, 2025, the second round of TAC comments were posted on the public registry, although they had been submitted by reviewers in the spring of 2024 and circulated to the Proponent prior to posting.<sup>19</sup> BMCE responded to

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<sup>14</sup> Book of Documents No. 1, Tab 8, Pages 4-15.

<sup>15</sup> Book of Documents No. 1, Tab 9.

<sup>16</sup> Book of Documents No. 1, Tab 10.

<sup>17</sup> Book of Documents No. 1, Tab 11.

<sup>18</sup> Book of Documents No. 1, Tab 11, § 1.

<sup>19</sup> Book of Documents No. 1, Tab 13.

outstanding TAC comments in correspondence dated October 22, 2024, addressing two specific issues: contingency planning for weeping tile management and provision of a 200-year flood-protection supplement, the latter of which entailed the commissioning of a supplemental report from TREK Geotechnical.<sup>20</sup>

28. A third-round of TAC comments dated November 6, 2024, from Manitoba Transportation and Infrastructure simply indicated that there were no further concerns from that department as it related to potential flooding.<sup>21</sup> This concluded the TAC review process.
29. Notwithstanding the conclusion of the formal TAC review process, on December 20, 2024, in reply to an inquiry from the Environmental Approvals Branch, BMCE provided additional information respecting biosolids land application, advising that Harbour Colony farms more than 3,700 acres within a 10 km radius to which biosolids from the lagoon could be applied when necessary, subject to applicable regulatory and approval processes.<sup>22</sup>
30. On March 10, 2025, Agnes Wittman, Director of the Environmental Approvals Branch, submitted her letter advising the Proponent that a public hearing was not being recommended, stating:

*“The potential environmental impacts of this proposal are well known and can be mitigated. At this time, I am not recommending a Clean Environment*

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<sup>20</sup> Book of Documents No. 1, Tab 14.

<sup>21</sup> Book of Documents No. 1, Tab 15.

<sup>22</sup> Book of Documents No. 1, Tab 16.

*Commission public hearing to the Minister of Environment and Climate Change.”*

**(the “Director’s Decision”).<sup>23</sup>**

31. A community learning session was then announced for June 4, 2025, and supporting presentation materials were later prepared and posted to the public registry.<sup>24</sup> It is the Proponent’s understanding that this session was held at the request of the Minister in connection with appeals of the Director’s Decision.
32. To the Proponent’s frustration, there was no opportunity provided to the Proponent to participate in the appeal process at any point. The Proponent had no opportunity to oppose, comment upon, rebut, or even review the contents of appeals submitted to the Minister prior to the Minister’s decision to recommend the hearing before the Commission. The appeal process unfolded entirely behind closed doors with the only representations heard being those of the unnamed appellants.
33. The Proponent sought disclosure of the appellants’ submissions, and Crown counsel ultimately provided the Proponent with redacted copies of the appeal materials on November 7, 2025, after the matter had already been referred to the Commission.<sup>25</sup> This was the first opportunity the Proponent had to review any of the submissions upon which it understands the Minister’s decision was made.
34. Based on the comments of the appellants (whose identities still remain unknown to the Proponent), the Minister requested the Commission conduct a public hearing

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<sup>23</sup> Book of Documents No. 1, Tab 17.

<sup>24</sup> Book of Documents No. 1, Tabs 19.1 and 19.2.

<sup>25</sup> Book of Documents No. 1, Tabs 21.1, 21.2, 22, 23.1 and 23.2.

under section 6(5)(b) of *The Environment Act* respecting the proposed wastewater treatment lagoon and to provide a final report, including recommended licensing conditions, by February 28, 2026.<sup>26</sup>

## **F. PROJECT DESIGN AND CONSTRUCTION**

35. Wastewater treatment lagoons, such as the Project, use natural processes including wind/wave aeration, naturally occurring microorganisms, natural sunlight, and settling of solid-waste (biosolids) prior to effluent discharge in accordance with provincially prescribed criteria. Biosolids are periodically removed and can be spread on adjacent land. This type of wastewater treatment solution is common in rural Manitoba, with nearly 350 such lagoons currently operating in Manitoba under license issued pursuant to *The Environment Act*.<sup>27</sup> When properly designed, operated and maintained wastewater treatment lagoons are an operationally simple, energy efficient, and cost-effective method of treating wastewater.
36. The Proponent, on the recommendation of BMCE, selected a passively aerated facultative lagoon design rather than a mechanically aerated system. The former is considered by BMCE to be desirable in the circumstance due to its simple design, lower operational complexity, and increased reliability when compared to a mechanically aerated lagoon.<sup>28</sup>

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<sup>26</sup> Book of Documents No. 1, Tab 20; Book of Documents No. 3, Tab 1 §§ 6(5)(b), 7(3).

<sup>27</sup> Book of Documents No. 1, Tab 19.2, Pages 25-29.

<sup>28</sup> Book of Documents No. 2, Tab 20, Pages 1 and 2.

37. Typical of such lagoons, the Project features a two-cell lagoon system, consisting of a primary cell with a capacity of +/- 9,908.6 m<sup>3</sup> and a secondary cell with a capacity of +/- 21,953.7 m<sup>3</sup>, for a total lagoon volume of +/- 31,862.3 m<sup>3</sup>.<sup>29</sup>
38. The function of the primary cell is to receive wastewater from the influent sources,<sup>30</sup> namely:
- (a) colony residences, estimated to contribute an average of 75.00 m<sup>3</sup>/day to the lagoon at full capacity;
  - (b) an abattoir for on-colony consumption, estimated to contribute an average of 1.39 m<sup>3</sup>/day to the lagoon at full capacity;
  - (c) truck wash, estimated to contribute an average of 3.89 m<sup>3</sup>/day to the lagoon at full capacity;
  - (d) backwash, estimated to contribute an average of 13.27 m<sup>3</sup>/day to the lagoon at full capacity; and
  - (e) residential weeping tile system, estimated to contribute an average of 14.15 m<sup>3</sup>/day to the lagoon at full capacity.<sup>31</sup>
39. The function of the secondary cell, the larger of the two cells, is to receive the partially treated wastewater from the primary cell. The secondary cell continues to further treat the effluent received from the primary cell in preparation for future

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<sup>29</sup> Book of Documents No. 1, Tab 11, Page 12.

<sup>30</sup> Book of Documents No. 1, Tab 1, § 2.4.2.

<sup>31</sup> Book of Documents No. 1, Tab 1, Table 3; Book of Documents No. 2, Tab 20, IR No. 5.

discharge. Wastewater polishing occurs throughout several natural processes, which break down and remove contaminants from the water using a combination of sunlight, sedimentation, wind/wave action, and anaerobic and aerobic decomposition.<sup>32</sup> At least two weeks prior to discharge, the pipe connecting the primary and secondary cells is closed using a control valve to allow for isolation.<sup>33</sup> Water contained in the secondary cell is tested to ensure compliance with all regulatory and license conditions prior to discharge.<sup>34</sup>

40. BMCE adopted a conservative approach in determining the appropriate size of the lagoon. As detailed in the EAP, the Project is designed to treat wastewater for a population of 250 people, while the maximum anticipated population of Harbour Colony prior to a future split is only 200 people.<sup>35</sup>
41. The EAP and BMCE response materials also indicate that the lagoon includes a synthetic high-density polyurethane (“**HDPE**”) liner and a gas venting system.<sup>36</sup>
42. The lagoon design includes a leak detection system consisting of a series of collection pipes and sump pits installed beneath the lagoon. In the unlikely event of failure of the HDPE liner, any leaked wastewater will be collected by this water collection system to prevent environmental contamination. The leak collection system will be inspected regularly – any leaks will be evident and detected and

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<sup>32</sup> Book of Documents No. 1, Tab 19.2, Pages 25-29.

<sup>33</sup> Book of Documents No. 1, Tab 1, §§ 2.8.

<sup>34</sup> Book of Documents No. 1, Tab 1, §§ 2.8.

<sup>35</sup> Book of Documents No. 1, Tab 1, §§ 1.1.1.

<sup>36</sup> Book of Documents No. 1, Tab 1, Page 5 (Executive Summary); Book of Documents No. 1, Tab 10, Page 20, A49.

remediated in a timely manner, although when operated correctly failure of the 60 Mil HDPE liner is exceedingly rare.<sup>37</sup>

43. The EAP describes the intended discharge route as initial discharge into the Road 15E drain, north to Willow Creek, and then east along Willow Creek for approximately 15 km to Lake Winnipeg.<sup>38</sup>
44. The response from BMCE dated April 15, 2024, adds important operational detail to the discharge process. It states that the lagoon is to be discharged by controlled trickle discharge over a period of approximately two weeks, rather than by a single rapid release. At maximum capacity, the average discharge flow rate would be approximately 14 L/s.<sup>39</sup>
45. In the same response set, BMCE estimated annual maximum discharge volumes at 17,048 m<sup>3</sup> in the spring and 10,006 m<sup>3</sup> in the fall, for a total of 27,054 m<sup>3</sup> annually, while emphasizing that full build-out could take many years and that those maximum volumes may not be realized for more than 20 years.<sup>40</sup>
46. During the Information Request process, the Proponent refined that estimate and described a maximum spring release of approximately 17,075 m<sup>3</sup> and a fall release of approximately 8,300 m<sup>3</sup>, for a total annual discharge of approximately 25,375 m<sup>3</sup>.<sup>41</sup> For present purposes, the precise annual number is less important than two

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<sup>37</sup> Book of Documents No. 1, Tab 10, Page 20, A49.

<sup>38</sup> Book of Documents No. 1, Tab 1, Page 5 (Executive Summary).

<sup>39</sup> Book of Documents No. 1, Tab 10, Page 24, A76.

<sup>40</sup> Book of Documents No. 1, Tab 10, Page 22, A60.

<sup>41</sup> Book of Documents No. 2, Tab 22, Reply to Follow-Up Request 1(b).

broader points: first, the discharge is intended to be controlled and gradual; and second, the design is a conservative, full-build-out case.<sup>42</sup>

47. The operating window is also significant. BMCE's materials state that discharge would occur between June 15 and November 1, that is, during the dry season rather than during spring ice-jam or freshet conditions.<sup>43</sup>
48. BMCE further states that the lagoon was designed with 1.0 m of freeboard and with 15% excess volume, and that if conditions are such that discharge cannot reasonably occur, MECC would be contacted for emergency direction. If necessary, wastewater could be pumped and/or hauled to an appropriate treatment facility.<sup>44</sup>
49. With respect to flood and surface-water, the Proponent states that it obtained approval for water control works under Water Control Works License No. 2023-WCW-0172. The Proponent also obtained a Provincial Water Infrastructure Permit identified as File 31E.05 for the runoff works associated with the Harbour Colony site and lagoon.<sup>45</sup>
50. Those works are described as including appropriate drain crossings, removal of one approach, on-site water retention, re-grading a portion of the drain on Proponent-controlled lands, and the creation of the drainage path on Proponent-controlled lands necessary to convey effluent to the existing drainage network.<sup>46</sup>

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<sup>42</sup> Book of Documents No. 1, Tab 10, Page 22, A60, Page 24, A76.

<sup>43</sup> Book of Documents No. 1, Tab 10, Page 4, A6, Page 7, A11.

<sup>44</sup> Book of Documents No. 1, Tab 10, Page 4, A5, Page 4, A6, Page 21, A56.

<sup>45</sup> Book of Documents No. 1, Tab 10, Page 4, A6, Page 21, A55.

<sup>46</sup> Book of Documents No. 1, Tab 10, Page 4, A6, Page 7, A10, Page 21, A55; Book of Documents No. 2, Tab 22.

51. The Proponent also states that the Project includes construction of a shallow ditch from the southeast corner of the lagoon to the west roadside ditch of Road 15E, identified as part of the South Malonton Drain, and that the required permit for same from Manitoba Transportation and Infrastructure was granted on December 20, 2024.<sup>47</sup>

## **G. COMPLIANCE WITH APPLICABLE LEGISLATION & REGULATIONS**

52. The legal framework applicable to the Project begins with *The Environment Act*. A wastewater treatment lagoon is expressly identified in the *Classes of Development Regulation*, MR 164/88 as a Class 2 development. As a result, the Project requires review and licensing under *The Environment Act*.<sup>48</sup>

53. From its inception, the EAP was guided by the factors enumerated in section 1(1) of the *Licensing Procedures Regulation*, M.R. 163/88, including extensive details about the Project and consideration of various environmental and socioeconomic impacts.<sup>49</sup>

54. The proposal was further supported by an EAP report and technical appendices of the kind outlined in the Province's EAP guidance,<sup>50</sup> including engineering, geotechnical, hydraulic, heritage, and site information.<sup>51</sup>

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<sup>47</sup> Book of Documents No. 2, Tab 22.

<sup>48</sup> Book of Documents No. 3, Tab 2, § 3.

<sup>49</sup> Book of Documents No. 1, Tab 1, generally; Book of Documents No. 3, Tab 3, § 1(1).

<sup>50</sup> Book of Documents No. 3, Tab 4.

<sup>51</sup> Book of Documents No. 1, Tabs 1, 1.1, and 1.2; Book of Documents No. 3, Tab 4.

55. The lagoon design itself was developed using the framework contemplated by the Province's *Design Objectives for Wastewater Treatment Lagoons*, including professional engineering involvement, design for future loading, use of lagoon-specific design specifications, and operation under a license issued pursuant to *The Environment Act*.<sup>52</sup>
56. The BMCE materials indicate the lagoon is intended to treat wastewater from all identified sources at Harbour Colony and to discharge only after testing confirms compliance with regulatory and license conditions. That is consistent with the standard regulatory model for lagoon licensing in Manitoba.<sup>53</sup>
57. With respect to effluent quality, discharge testing results must be conducted by an accredited laboratory prior to every discharge to ensure discharge criteria are met. If discharge criteria are not met, discharge cannot occur without approval from MECC.<sup>54</sup>
58. Effluent must meet the following effluent quality requirements, as determined by the province, prior to discharge:
- (a) five-day carbonaceous biochemical oxygen demand (CBOD5) – not to exceed 25 milligrams per litre;

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<sup>52</sup> Book of Documents No. 1, Tab 1; Book of Documents No. 3, Tab 5.

<sup>53</sup> Book of Documents No. 1, Tab 1, Page 5 (Executive Summary); Book of Documents No. 1, Tab 10, Page 22, A62-A63.

<sup>54</sup> Book of Documents No. 1, Tab 10, Page 22, A62; Book of Documents No. 3, Tab 6, § 3(3).

- (b) total suspended solids (TSS) – not to exceed 25 milligrams per litre unless caused by algae;
- (c) fecal coliform content or Escherichia coli (E. Coli) content as indicated by the MPN index - not to exceed 200 per 100 millilitres;
- (d) un-ionized ammonia content expressed as nitrogen (N), at 15°C ±1°C – not to exceed 1.25 milligrams per litre for intermittently discharging facilities; and
- (e) total phosphorus – not to exceed one milligram per litre; or a demonstrated nutrient reduction strategy for facilities discharging less than 820 kg/year of total phosphorus (a population equivalent of under 2000 people.) For facilities proposing a nutrient reduction strategy, strategies will be evaluated on a site specific basis, and strategies which do not offer a reasonable likelihood of attaining a total phosphorus content of one milligram per litre at a significant downstream waterway will not be approved.<sup>55</sup>

59. Additionally, section 6(1) of the *Wastewater Systems Effluent Regulations* SOR/2012-139 (the “*WSER*”), enacted pursuant to the *Fisheries Act*, R.S.C. 1985, c. F-14, is consistent with the provincial effluent standards outlined above. The *WSER* authorizes the deposit of wastewater into any water if the following conditions are met:

- (a) the effluent is not acutely lethal as determined in accordance with section 15;

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<sup>55</sup> Book of Documents No. 3, Tab 6; Book of Documents No. 3, Tab 8.

- (b) the maximum concentration of un-ionized ammonia in the effluent is less than 1.25 mg/L, expressed as nitrogen (N), at 15°C ± 1°C, and — during the previous calendar year, previous quarter or previous month, as the case may be;
- (c) the average carbonaceous biochemical oxygen demand due to the quantity of CBOD matter in the effluent did not exceed 25 mg/L;
- (d) the average concentration of suspended solids in the effluent did not exceed 25 mg/L; and
- (e) the average concentration of total residual chlorine in the effluent did not exceed 0.02 mg/L, if chlorine, or one of its compounds, was used in the treatment of wastewater.<sup>56</sup>

60. The Proponent, based on the Project design and BMCE's professional experience, submits that the Project as proposed will effectively treat the effluent to meet or exceed the provincial and federal regulatory standards described above.

61. Further, the BMCE response materials links recreational-surface-water benchmarks under Manitoba's *Water Quality Standards, Objectives and Guidelines* to the anticipated discharge parameters, and states BMCE's position that the anticipated wastewater lagoon discharge parameters align with the recommended limits for recreational water use.<sup>57</sup>

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<sup>56</sup> Book of Documents No. 3, Tab 7 § 6(1).

<sup>57</sup> Book of Documents No. 1, Tab 10, Page 21, A59; Book of Documents No. 3, Tab 6; Book of Documents No. 3, Tab 8.

62. The Proponent acknowledges that final compliance is not established merely by design aspiration. Final compliance is secured through the license itself, including effluent criteria, pre-discharge sampling, reporting, operational controls, and enforcement mechanisms. The Proponent confidently submits the Project adequately addresses the foregoing factors such that final compliance can be achieved.<sup>58</sup>
63. The groundwater-protection features also support compliance. The EAP identifies a lined lagoon, leak-detection system, groundwater level monitoring and drainage features. Further, the geotechnical and IR materials emphasize substantial overburden between surface conditions and the deeper carbonate aquifer.<sup>59</sup>
64. BMCE states that there is over 100 feet of till and clay overburden between the surface and the carbonate aquifer and, in their professional opinion, discharge to Willow Creek would have no or negligible impacts on groundwater, given the extensive overburden and the operating conditions described in the EAP.<sup>60</sup>
65. The Project also reflects parallel compliance with water-control and water-infrastructure authorizations outside *The Environment Act* process. BMCE states that it obtained Water Control Works License No. 2023-WCW-0172 under *The Water Rights Act* and Provincial Water Infrastructure Permit File 31E.05 for the runoff and drainage works associated with the colony site and lagoon.<sup>61</sup>

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<sup>58</sup> Book of Documents No. 3, Tab 1; Book of Documents No. 1, Tab 17; Book of Documents No. 3, Tab 6 § 3 and related provisions.

<sup>59</sup> Book of Documents No. 1, Tab 1; Book of Documents No. 1, Tab 1.1; Book of Documents No. 2, Tab 19.

<sup>60</sup> Book of Documents No. 2, Tab 19, Page 2.

<sup>61</sup> Book of Documents No. 1, Tab 10, Page 4, A6, Page 21, A55; Book of Documents No. 3, Tab 9.

66. Those authorizations matter because several objections assert that the lagoon cannot lawfully function without off-site drainage modifications outside the Proponent's control. The Proponent's response is that the required authorizations have in fact been sought and obtained such that the Proponent may perform the relevant works. Further, costs of the works will be borne by the Proponent rather than by neighboring municipalities.<sup>62</sup>
67. The Proponent has also addressed wetland concerns under *The Water Rights Act* and the *Water Rights Regulation*, MR 126/87.<sup>63</sup> In response to public and TAC concerns about Class 4 and 5 wetlands, BMCE states that Harbour Colony and the Manitoba Water Stewardship Division worked together to identify wetlands on site in June 2023, that no Class IV or V wetlands were identified, and that any altered wetlands would be compensated under the applicable legislation and regulation upon receipt of the lagoon license.<sup>64</sup>
68. As to wildlife, species at risk, and fish habitat, the EAP contains dedicated sections on surface water, fish and fish habitat, wildlife, and rare/threatened species.<sup>65</sup>
69. BMCE's April 15, 2024, response further states that fish-spawning concerns were considered with reference to the aquatic information reviewed and that central mudminnow and northern pike at the identified catch site spawn in early spring, whereas the lagoon would not discharge until June 16 at the earliest.<sup>66</sup>

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<sup>62</sup> Book of Documents No. 2, Tab 22.

<sup>63</sup> Book of Documents No. 3, Tabs 9 and 10.

<sup>64</sup> Book of Documents No. 1, Tab 10, A54; Book of Documents No. 3, Tab 9; Book of Documents No. 3, Tab 10.

<sup>65</sup> Book of Documents No. 1, Tab 1, §§ 3.7, 4.5-4.7.

<sup>66</sup> Book of Documents No. 1, Tab 10, Page 7, A11.

70. BMCE likewise states that recommendations from the Manitoba Conservation Data Centre respecting sensitive species were implemented as requirements for lagoon construction.<sup>67</sup>
71. The Proponent also addresses human-health and emergency planning concerns through conservative design volume, freeboard, contingency planning, the possibility of hauling if discharge cannot occur, and regulator-directed emergency procedures where necessary.<sup>68</sup>
72. On the question of alternatives, BMCE states that a domestic wastewater lagoon is the preferred treatment technology for a population of this size in a rural setting and that, where regulations and guidelines are met or exceeded, an alternative treatment method is typically not considered necessary.<sup>69</sup> That is not a bare assertion made for this hearing. It reflects the practical and regulatory reality recognized in the province's own lagoon design-objectives guidance for rural wastewater treatment lagoons.<sup>70</sup>
73. The Proponent also submits that the environmental review process itself complied with the procedural framework under *The Environment Act*. There was an EAP filing, public notice, a public registry, circulation to TAC members, receipt of written objections, iterative response rounds, a public information session, and, when

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<sup>67</sup> Book of Documents No. 1, Tab 10, Page 7, A12.

<sup>68</sup> Book of Documents No. 1, Tab 10, Page 4, A5, Page 20, A49, Page 21, A56; Book of Documents No. 1, Tab 14; Book of Documents No. 2, Tab 21.

<sup>69</sup> Book of Documents No. 1, Tab 10, Page 5, A8.

<sup>70</sup> Book of Documents No. 3, Tab 5.

appeals and additional public concerns persisted, a ministerial referral to the Commission.<sup>71</sup>

74. The Minister's terms of reference are inherently narrow and instructive. They ask the Commission to conduct a public hearing "relating to *The Environment Act* proposal and the environmental assessment report" and to provide advice and recommendations regarding the potential environmental effects of the proposed wastewater treatment lagoon.<sup>72</sup> That wording confirms that the Commission's mandate is to assess the lagoon proposal and its environmental effects, not to undertake a free-ranging review of every aspect of colony life, every historical grievance in the area, or every regulatory regime that may apply to separate works.<sup>73</sup>
75. That does not mean cumulative effects or surrounding conditions are irrelevant. It means they must be considered in their legally and factually proper relation to the lagoon proposal under review.
76. In several places, opponents characterize the Project as "project splitting." That criticism is overstated and fails to consider the respective regulatory processes through which the Proponent is legally mandated to apply and seek approval for various components of the development of Harbour Colony. An EAP was required for the Project because a wastewater treatment lagoon is itself a listed Class 2 development under the *Classes of Development Regulation*, MR 164/88. The fact

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<sup>71</sup> Book of Documents No. 1, Tabs 1-20, 23.1, 23.2; Book of Documents No. 3, Tab 11.

<sup>72</sup> Book of Documents No. 1, Tab 20, Page 3.

<sup>73</sup> Book of Documents No. 1, Tab 20.

that Harbour Colony as a whole has other components, subject to other regulatory regimes, does not negate the legal necessity of *lagoon-specific* review under *The Environment Act*.<sup>74</sup>

77. Gimli and others say more consultation ought to have occurred. The Proponent submits that the consultation phase of the Project has been extensive, thorough, and prolonged. From the submission of the EAP to the hearing before the Commission will be a period of over two and a half years, including extensions to permit public comment for a period far exceeding the timelines prescribed under sections 3 through 5 of the *Licensing Procedures Regulation*, M.R. 163/88.<sup>75</sup>
78. In total, the legal and regulatory picture presented is one of compliance, not evasion: the Project was filed under the correct statute;<sup>76</sup> reviewed as the correct class of development;<sup>77</sup> designed in accordance with the applicable regulatory requirements and guidance;<sup>78</sup> supported by engineering and specialty reports;<sup>79</sup> revised through an alteration process;<sup>80</sup> assessed by TAC reviewers;<sup>81</sup> subject to public comments and the Proponent's replies to same;<sup>82</sup> connected to parallel water-control authorizations for certain drainage works;<sup>83</sup> and referred to the Commission when the Minister decided that a hearing was warranted on appeal.<sup>84</sup>

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<sup>74</sup> Book of Documents No. 3, Tab 2; Book of Documents No. 1, Tabs 3-8.

<sup>75</sup> Book of Documents No. 3, Tab 3.

<sup>76</sup> Book of Documents No. 3, Tab 1.

<sup>77</sup> Book of Documents No. 3, Tab 2.

<sup>78</sup> Book of Documents No. 3, Tabs 3 and 5.

<sup>79</sup> Book of Documents No. 1, Tabs 1, 1.1, 1.2.

<sup>80</sup> Book of Documents No. 1, Tabs 11 and 12.

<sup>81</sup> Book of Documents No. 1, Tabs 9, 13 and 15.

<sup>82</sup> Book of Documents No. 1, Tabs 3-8, 10.

<sup>83</sup> Book of Documents No. 1, Tab 10, Page 20, A54, Page 21, A55.

<sup>84</sup> Book of Documents No. 1, Tab 20.

79. The Commission can therefore properly conclude that the lagoon proposal is capable of approval under the applicable statutory and regulatory framework, subject to any reasonable license conditions it sees fit to recommend.

## **H. SUMMARY OF RESPONSE TO GIMLI**

80. Gimli's December 7, 2023 objection and the subsequent information requests provide the most organized and technically framed opposition in the current record.<sup>85</sup> Those concerns may be grouped as follows: (a) flooding and incompatibility with watershed planning; (b) water quality and nutrient loading to Willow Creek/Lake Winnipeg; (c) fish and recreational activity effects; (d) groundwater effects; (e) the appropriateness of facultative design versus aeration or land discharge; (f) emergency discharge planning; and (g) adequacy of public/Indigenous consultation.

### **Flooding, Watershed Planning, and Off-Site Works**

81. Gimli says the lagoon is in a high-risk flooding area and that the drainage modifications necessary to make the Project function are contrary to the Willow Creek Integrated Watershed Management Plan<sup>86</sup> and are beyond the Proponent's control.<sup>87</sup>

82. In response, BMCE says no significant drainage-improvement options are proposed for the lagoon, other than maintaining the drainage path on Proponent-

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<sup>85</sup> Book of Documents No. 1, Tab 8, Pages 4-15; Book of Documents No. 2, Tabs 17-22.

<sup>86</sup> Book of Documents No. 2, Tab 1.1.

<sup>87</sup> Book of Documents No. 1, Tab 8, Page 5; Book of Documents No. 2, Tab 17.

owned land, and later explains that the required connection to the South Malonton Drain has been permitted by MTI and will be built at the Proponent's cost.<sup>88</sup>

83. The Proponent also relies on TREK's hydrologic and hydraulic assessment and later flood-protection supplementation, and notes that the discharge rate of approximately 14 L/s is minuscule compared to modeled event flows in Willow Creek.<sup>89</sup>
84. To the extent Gimli invokes the Willow Creek Watershed Management Plan objectives, the Proponent submits that those objectives are important contextual considerations but do not displace the actual statutory approvals framework. The relevant question is whether the lagoon can be licensed under Manitoba law having regard to those downstream considerations. The Proponent confidently submits that it can.<sup>90</sup>

### **Water Quality, Nutrients, and Lake Winnipeg**

85. Gimli and Dillon say the proposal addresses BOD<sub>5</sub> but not nitrogen and phosphorus concentrations, and that the proposal has not quantitatively demonstrated that no significant negative effect on water quality will occur.<sup>91</sup>
86. The Proponent's response is as set out in Replies to Information Requests from Gimli. A receiving-water assessment to develop site-specific effluent discharge criteria for the Willow Creek watershed was not required by legislation, and

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<sup>88</sup> Book of Documents No. 1, Tab 10, Page 7, A10; Book of Documents No. 2, Tab 22.

<sup>89</sup> Book of Documents No. 1, Tab 1.2; Book of Documents No. 1, Tab 14; Book of Documents No. 2, Tab 22.

<sup>90</sup> Book of Documents No. 2, Tab 18.

<sup>91</sup> Book of Documents No. 1, Tab 8, Page 11; Book of Documents No. 2, Tab 18.

accordingly, not completed.<sup>92</sup> That answer may not satisfy Gimli, but it must be read within the context of the applicable legal framework: the lagoon is subject to Manitoba's EAP licensing regime, pre-discharge sampling and report, and the Water Quality Standards, Objectives and Guidelines framework.<sup>93</sup> The Proponent has met or exceeded the *applicable* environmental guardrails in place to mitigate impact to the environment.

87. In other words, the Project is not being approved to discharge unabated. It is being reviewed for licensing under a regime that regulates effluent quality on a concentration-basis and can impose more stringent limits where required.<sup>94</sup>
88. The Proponent further notes that downstream movement does not equal downstream harm. Controlled seasonal trickle discharge, coupled with ditch transit and receiving-system capacity, materially reduces the risk of unacceptable downstream effects.<sup>95</sup>

### **Fish, Fish Habitat, and Recreational Use**

89. Gimli's objection letter places major emphasis on Willow Creek's fisheries and the importance of commercial and recreational fishing to Gimli.<sup>96</sup>

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<sup>92</sup> Book of Documents No. 2, Tab 18.

<sup>93</sup> Book of Documents No. 1, Tab 10, Page 21 A59, Page 22, A62; Book of Documents No. 3, Tab 6.

<sup>94</sup> Book of Documents No. 3, Tab 6 M.R. 196/2011, § 3(4); Book of Documents No. 3, Tabs 1-8, 10, 12, and 13.

<sup>95</sup> Book of Documents No. 1, Tab 10, Page 24, A76-A77; Book of Documents No. 2, Tab 22.

<sup>96</sup> Book of Documents No. 1, Tab 8.

90. The Proponent's evidence is that discharge would not occur until June 16<sup>th</sup> at the earliest, whereas the identified fish species of concern spawn in the early spring, and that no impact on spawning is anticipated.<sup>97</sup>
91. BMCE also states that no impact on recreation is anticipated, as expected discharge parameters are designed to meet or exceed the province's recreational-water benchmarks.<sup>98</sup>
92. The Commission may ultimately wish to recommend license conditions respecting timing, testing, and reporting around discharge windows. But those would be conditions of refinement, not evidence that the design is fundamentally incapable of approval.

### **Groundwater Concerns**

93. Dillon and Gimli have also pressed for more explanation of the Project's impact on groundwater, including the possibility that repeated discharge over time could affect groundwater.<sup>99</sup>
94. In response, the Proponent relies on the operating timing of the discharge, vegetative uptake, evaporative conditions, and the thickness of overburden above the carbonate aquifer in reaching the conclusion that no groundwater impacts are expected as a result of the Project.<sup>100</sup>

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<sup>97</sup> Book of Documents No. 1, Tab 10, Page 7, A11.

<sup>98</sup> Book of Documents No. 1, Tab 10, Page 21, A59.

<sup>99</sup> Book of Documents No. 2, Tab 19.

<sup>100</sup> Book of Documents No. 2, Tab 24.

95. On the record presently available, there is no competing hydrogeological report in the disclosed materials that positively demonstrates likely groundwater harm from the proposed discharge process.

### **Facultative Lagoon Versus Lagoon Alternatives**

96. Gimli asks why the Proponent is not proposing an aerated secondary cell or alternative disposal approaches seen at other Manitoba facilities.<sup>101</sup>
97. The Proponent's answer is practical and site-specific: this is not a large commercial abattoir operation; Harbour Colony will process livestock for its own consumption on a periodic basis; available land permitted optimum surface area and depth for a facultative lagoon; and facultative lagoons are simpler and generally preferable for small lagoon systems, with reduced risk of mechanical failure.<sup>102</sup> That is a rational engineering choice, especially where the regulatory review focuses on whether the selected design can meet the applicable criteria, not whether every conceivable design alternative has been exhausted.

### **Emergency Discharge Planning**

98. Gimli's Information Requests also raise emergency discharge planning and ask why an alum-addition protocol of the kind used in some Ontario settings has not been proposed.<sup>103</sup> The Proponent answers that Manitoba's regulatory framework is the applicable governing scheme; that the lagoon has been conservatively

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<sup>101</sup> Book of Documents No. 2, Tab 20.

<sup>102</sup> Book of Documents No. 2, Tab 20.

<sup>103</sup> Book of Documents No. 2, Tab 21.

designed to minimize the risk of emergency discharge; and that MECC would direct any required emergency response.<sup>104</sup>

99. While the Proponent is not averse to the addition of alum where required to meet discharge criteria, the record discloses multiple contingency elements already built into the Project, including freeboard exceeding 200-year flood levels, conservative loading rate and population estimates, excess capacity in both primary and secondary cells, and the possibility of pumping and hauling effluent if discharge cannot occur.<sup>105</sup>
100. If the Commission considers it appropriate, it could recommend a license condition requiring a written emergency and contingency response protocol. Such a condition would be consistent with the Proponent's position and would address the concerns raised by Gimli and others without warranting refusal of the Project.

### **Consultation with Surrounding Communities**

101. Gimli also objects that there was insufficient consultation with adjacent landowners, municipalities, and First Nations communities.<sup>106</sup>
102. The Proponent reiterates that the statutory process has, in fact, included notice, registry disclosure, objections, TAC review, appeals, a public information session, and now a public hearing before the Commission. To the extent constitutional consultation obligations arise with respect to Aboriginal or treaty rights, those are

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<sup>104</sup> Book of Documents No. 2, Tab 21; Book of Documents No. 1, Tab 10, Page 21, A56.

<sup>105</sup> Book of Documents No. 1, Tab 10, Page 4, A5, Page 21, A56, Page 22, A61, Page 24, A76; Book of Documents No. 1, Tab 14.

<sup>106</sup> Book of Documents No. 1, Tab 8, Page 8.

duties of the Crown, not of the private Proponent.<sup>107</sup> Nothing in the present record establishes that the Project should be refused because of a failure by the Proponent to discharge a legal duty that rests elsewhere.

103. In sum, Gimli and Dillon have identified issues worth serious examination. But the disclosed record shows that those issues have not gone unanswered. They have been met with engineering responses, regulatory responses, design revisions, additional disclosure, and, where appropriate, proposals that can readily be converted into licensing conditions.
104. The Commission should therefore not treat Gimli's concerns as demonstrating fatal non-compliance. It should treat them as issues already substantially addressed by the Proponent and, to the extent necessary, addressable through targeted licensing conditions.

## **I. SUMMARY OF RESPONSE TO PUBLIC CONCERNS**

105. The public comments raise a number of concerns. For clarity, they can be grouped into eight principal themes: (a) alleged project splitting and cumulative effects; (b) flooding, drainage, and surface-water transport; (c) groundwater and liner integrity; (d) fish, Willow Creek, and Lake Winnipeg; (e) species at risk and wildlife; (f) odour, air quality, and health; (g) consultation and process fairness; and (h) social and property-value impacts.<sup>108</sup>

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<sup>107</sup> Book of Documents No. 1, Tab 10, Page 9, A13.

<sup>108</sup> Book of Documents No. 1, Tabs 3-8.

## **Project Splitting and Cumulative Effects**

106. Opposing parties repeatedly argue that the lagoon is only one component of the broader Harbour Colony development, including hydro, gas, agricultural, livestock, and abattoir-related works, and that the environmental review is therefore improperly fragmented.<sup>109</sup>
107. The Proponent's answer is twofold: First, the lagoon is itself a listed development under the *Classes of Development Regulation*, Man Reg 164/88 and therefore properly required its own review pursuant to *The Environment Act*.<sup>110</sup> Second, the EAP does not pretend the lagoon exists in a vacuum; it expressly identifies the context of Harbour Colony, anticipated population, abattoir contribution, weeping tile inflow, and broader development characteristics.<sup>111</sup>
108. In that sense, the proposed Project has not ignored the broader development context. It has considered that context to the extent relevant to the design, loading, operation, and effects of the lagoon presently before the Commission.
109. To the extent opponents contend that entirely separate approvals should also have been sought for other works, that issue cannot be resolved by refusing an otherwise compliant lagoon proposal if the lagoon itself meets the governing test. The Commission's statutory task is to assess the lagoon proposal referred to it by the Minister. Other elements of the broader Harbour Colony development will be

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<sup>109</sup> Book of Documents No. 1, Tabs 3-8.

<sup>110</sup> Book of Documents No. 3, Tabs 1 and 2.

<sup>111</sup> Book of Documents No. 1, Tab 1.

subject to the appropriate review process in accordance with the *relevant* regulatory framework.

### **Flooding, Drainage, and Downstream Conveyance**

110. Flood risk and drainage are among the most persistent concerns raised in both public comments and through the TAC process. Commenters say the Project is in an area prone to flooding; that nearby drains are undersized; that climate change increases risk; and that the Proponent depends on drainage changes outside its control.<sup>112</sup>
111. BMCE's design of the Project was guided throughout by the periodic overland flooding history of the Project site. For this reason BMCE commissioned the hydraulic assessment; the flood-protection review and later 200-year flood supplement from TREK Geotechnical.<sup>113</sup> Based on the findings and recommendations of both BMCE and TREK, the Project has numerous design, constructions and operational features which ensure the safe and effective operation of the Project in the event of periodic overland flooding.<sup>114</sup> These include:
- (a) discharge only occurs in the dry season between June 15 and November 1, which directly addresses the concern that discharge could occur during spring ice-jam or freshet conditions;<sup>115</sup>

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<sup>112</sup> Book of Documents No. 1, Tabs 3, 8, 10; Book of Documents No. 2, Tabs 17 and 22.

<sup>113</sup> Book of Documents No. 1, Tabs 1.2, 14.

<sup>114</sup> Book of Documents No. 1, Tabs 1.2, 10, 11, 14, 15; Book of Documents No. 2, Tab 22.

<sup>115</sup> Book of Documents No. 1, Tab 10, Page 4, A6.

- (b) the lagoon is designed to have freeboard 0.44m higher than the 200-year flood level;<sup>116</sup>
- (c) the lagoon is designed to have 1.0m freeboard, providing an additional 92 days of storage at the maximum hydraulic loading rate in emergency circumstances. This provides significant time for water levels to recede prior to discharge during times of overland flooding surrounding the lagoon;<sup>117</sup> and
- (d) the residential weeping tile sump assemblies are designed to include a directional control valve, which allows water from residential weeping tiles to be diverted away from the lagoon during periods of heavy rainfall/spring runoff or near-capacity of the lagoon.<sup>118</sup>

### **Groundwater, Liner Integrity, and Leakage**

112. Public commenters express concern that the liner could fail, that pollutants could move into groundwater, and that local wells could be affected.<sup>119</sup> In response, the Proponent submits that the synthetic HDPE liner, 100' of clay and till overburden above the carbonate aquifer, and water collection and leak detection system installed under the lagoon ensure adequate protection of groundwater.<sup>120</sup>

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<sup>116</sup> Book of Documents No. 1, Tab 14, Page 1.

<sup>117</sup> Book of Documents No. 2, Tab 25, Page 4.

<sup>118</sup> Book of Documents No. 1, Tab 14, Page 1.

<sup>119</sup> Book of Documents No. 1, Tabs 3-7.

<sup>120</sup> Book of Documents No. 2, Tab 26.

113. The EAP also notes that no registered points of use greater than 25,000 L/day were identified downstream of the discharge path and that the nearest domestic well user identified from well logs was approximately 2 km downstream.<sup>121</sup>
114. The public concern is understandable, but there is no evidentiary basis on the record to conclude that groundwater contamination is likely. The proper conclusion is that groundwater protection has been expressly built into the lagoon design and siting analysis.

### **Willow Creek, Fish Habitat, and Lake Winnipeg**

115. Several public comments and the objection from Gimli focus on the fact that the discharge path ultimately leads to Willow Creek and then to Lake Winnipeg.<sup>122</sup>
116. The Proponent's response is not that the downstream environment is irrelevant. The response is that the Project has been designed so that discharge occurs only after testing and compliance with regulatory standards, at a controlled rate, during a season intended to avoid spawning concerns, and in circumstances where BMCE does not anticipate adverse impacts on fish, recreation, or Lake Winnipeg.<sup>123</sup>
117. BMCE also states that the 14 L/s controlled discharge is very small relative to modeled flows in the receiving system and that vegetation along the approximately

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<sup>121</sup> Book of Documents No. 1, Tab 1, Page 5 (Executive Summary).

<sup>122</sup> Book of Documents No. 1, Tabs 3-8.

<sup>123</sup> Book of Documents No. 1, Tab 10, Page 7, A11, Page 21, A57-A59, Page 22, A62.

1.1 km ditch prior to Willow Creek would provide additional polishing and uptake of nutrients.<sup>124</sup>

### **Species at Risk and Wildlife**

118. Public commenters identify species-at-risk and wildlife concerns, including birds and other fauna said to be present in the area.<sup>125</sup>
119. The EAP expressly addresses rare, threatened, protected, or endangered species, and BMCE's response states that recommendations from the Manitoba Conservation Data Centre were incorporated as requirements of construction.<sup>126</sup> The potential existence of species at risk in a broader landscape around the Project site does not itself establish that the lagoon, if constructed and operated in accordance with required mitigation measures, will cause unacceptable effects.

### **Odour, Air Quality, and Human Health**

120. Commenters raise concern about odour, air quality, stress, and the possible psychological or social consequences of the lagoon and associated development.<sup>127</sup>
121. The Proponent recognizes that these concerns are sincerely held. At the same time, the environmental analysis must remain anchored to evidence. The EAP addresses air quality, human health, and socioeconomic effects, and BMCE's

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<sup>124</sup> Book of Documents No. 1, Tab 10, Page 24, A76-A77; Book of Documents No. 2, Tab 22.

<sup>125</sup> Book of Documents No. 1, Tabs 3-7.

<sup>126</sup> Book of Documents No. 1, Tab 1, §§ 3.7.3 and 4.7; Book of Documents No. 1, Tab 10, Pages 7-8, A12.

<sup>127</sup> Book of Documents No. 1, Tabs 3-7.

responses emphasize that the lagoon is a standard and widely used rural wastewater treatment technology. The abattoir component is periodic, non-commercial, and accounted for in loading design.<sup>128</sup>

122. To the extent odour or nuisance conditions are a concern, those matters are ordinarily managed through siting, setbacks, construction measures such as shelterbelts, operation, and license compliance rather than by assuming, without evidence, that the lagoon will be intolerable.
123. Further with respect to odour, the Project design exceeds provincial odour mitigation guidelines. Per the Information Bulletin – Design Objectives for Wastewater Treatment Lagoons, 2022: “*Five day biochemical oxygen demand (BOD<sub>5</sub>) loading of 56 kg/ha/d should not be exceeded,*” as loading beyond that threshold may contribute to odour issues.<sup>129</sup> Odour mitigation is expressly built into the design of the Project, as the dimensions of the primary cell are calculated to facilitate organic loading to comply with the 56 kg/ha/d threshold identified by the province.<sup>130</sup> The anticipated *BOD<sub>5</sub>* is in fact approximately half of the provincial maximum.
124. The Project has been designed to exceed all applicable setback requirements, with the nearest individual residence located 525.9 m from the lagoon, 175% of the

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<sup>128</sup> Book of Documents No. 1, Tab 1, §§ 4.1, 4.9, 4.10; Book of Documents No. 2, Tab 20.

<sup>129</sup> Book of Documents No. 3, Tab 5, Page 1.

<sup>130</sup> Book of Documents No. 1, Tab 1, Table 3; Book of Documents No. 3, Tab 5, Page 1.

minimum of 300 m required pursuant to the *Information Bulletin – Design Objectives for Wastewater Treatment Lagoons, 2022*.<sup>131</sup>

### **Consultation and Procedural Fairness**

125. Some members of the public state that they did not receive direct notice, learned of the Project through informal channels, or believe broader public consultation should have occurred.<sup>132</sup> The Proponent's response is that the statutory process did in fact involve public notice, a public registry, written objection opportunities, TAC review, a community learning session, appeals, and ultimately, this public hearing.<sup>133</sup>
126. That is not to say the process felt satisfactory to every participant. It is to say that the process has been materially consultative and procedurally robust.

### **Property Value and Social Impacts**

127. The public comments also contain allegations about property values, neighbourhood character, and changed land-use expectations.<sup>134</sup> Those are real local concerns. But they are not, standing alone, a basis to reject a wastewater lagoon that otherwise satisfies all applicable environmental and regulatory criteria. The Commission's task is to assess environmental and public-health effects of the proposed lagoon, not to adjudicate all neighbouring land-use dissatisfaction.<sup>135</sup>

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<sup>131</sup> Book of Documents No. 1, Tab 11, Page 12; Book of Documents No. 3, Tab 5, Page 2.

<sup>132</sup> Book of Documents No. 1, Tabs 3-7.

<sup>133</sup> Book of Documents No. 1, Tabs 2.1, 2.2, 3-10, 19.1, 19.2, 20.

<sup>134</sup> Book of Documents No. 1, Tabs 3-7.

<sup>135</sup> Book of Documents No. 1, Tab 20, Page 3.

Further, the Project complies with all applicable zoning classifications.<sup>136</sup> To the extent other elements of the broader development of Harbour Colony require conditional use approval, such approval will be obtained prior to development.

128. For the foregoing reasons, the Proponent submits that the principal public concerns, taken seriously and considered cumulatively, do not demonstrate that the Project should be refused. They demonstrate, rather, why the Project should proceed under a license properly framed pursuant to *The Environment Act*. That is precisely what the current process is designed to produce.

## **J. CONCLUSION**

129. The Project before the Commission is a wastewater treatment lagoon proposal referred to the Commission under s. 6(5)(b) of *The Environment Act*. It has been proceeded through various stages of review since August 17, 2023, scrutinized through public comment, TAC review, an alteration process, additional information requests, appeal materials, and now a Commission hearing.<sup>137</sup>
130. The documentary record shows a professionally designed and extensively reviewed lagoon project, including: a lined two-cell facultative lagoon, designed for staged build-out of Harbour Colony, controlled seasonal trickle discharge, and operation subject to regulatory conditions prior to each discharge event.<sup>138</sup>

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<sup>136</sup> Book of Documents No. 1, Tab 1 § 2.3.1; Book of Documents No. 3, Tabs 14 at § 3.38, 15 at § 12.7(1) and 16.

<sup>137</sup> Book of Documents No. 1, Tabs 1-23.

<sup>138</sup> Book of Documents No. 1, Tab 1; Book of Documents No. 1, Tab 10; Book of Documents No. 2, Tab 22.

131. The Proponent has engaged with and addressed the principal concerns raised by the public and by Gimli: flooding, drainage, groundwater, species at risk, fish habitat, Willow Creek, Lake Winnipeg, assessment of alternatives, and emergency planning. Those concerns have not been ignored. They have been answered, supplemented, and where necessary, incorporated into the evolving design and operational plans for the Project.<sup>139</sup>
132. To the extent any residual concern remains, those are the types of concern ordinarily managed through license conditions rather than through refusal of the Project. Examples could include conditions respecting pre-discharge testing and approval, discharge timing, reporting, monitoring, emergency planning, and implementation of required mitigation measures for construction and operation.
133. The Proponent therefore submits that the record supports the following findings:
- (a) the Project has proceeded through the correct statutory approval process;
  - (b) the Project has been supported by competent engineering and technical review;
  - (c) the disclosed evidence does not establish that the lagoon will cause unacceptable environmental or public-health effects if licensed and operated as designed; and

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<sup>139</sup> Book of Documents No. 1, Tabs 10-16; Book of Documents No. 2, Tabs 17-22.

(d) the concerns raised by opponents can be addressed within the ordinary licensing framework and, if the Commission wishes, through additional reasonable conditions.<sup>140</sup>

161. The Proponent accordingly asks the Commission to recommend the Project proceed and that a license under *The Environment Act* be issued, subject to such reasonable terms and conditions as the Environmental Approvals Branch may recommend and the Commission considers appropriate.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS DATE:**

April 7, 2026

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<sup>140</sup> Book of Documents No. 1, Tab 20; Book of Documents No. 3, Tabs 1 and 2.