

DLN Vivian Sands CEC Opening Statement

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The Vivian Silica Sand Project has been characterized by missing, inadequate and misleading information and evidence from the outset. The Project should never have proceeded to this stage without the information deficient being addressed. Two requests for IAAC designation for the Vivian Sand Projects have been denied. The first reason for denial on Nov. 16, 2020 included the statement;

There is limited information available to assess whether the Vivian Sand Extraction Project has the potential to cause adverse effects within federal jurisdiction or adverse direct or incidental effects.

The limited Project information has never been properly addressed.

The second reason for denial of Dec. 7, 2021 included the statement;

“Provincial regulatory and legislative mechanisms include;

- *Provincial Crown consultations that will be carried out for the physical activities to understand the potential impacts to Indigenous peoples and their rights as recognized and affirmed under section 35 of the Constitution Act, 1982;”*

The Manitoba Department of Manitoba Natural Resources and Northern Development responsible for implement the Section 35 consultations has not responded to a request concerning the scheduling of the provincial crown indigenous consultations. The Hearing has been allowed to proceed without the input from Provincial Crown led Section 35 indigenous consultations.

Most to the evidence of project detriment given in my public comments submission and the submission of others in the approvals process prior to the Hearing have not been addressed.

Three motions before the information requests procedures from OLS&MBEN, MSSAC and DLN requesting delay of the Hearing until rectification of material Project deficiencies and completion of six material actions that could not be addressed in the IRs were denied.

The 20 IR request documents from me, participant DLN, in the in two rounds were inadequately answered or deemed irrelevant to the extraction proposal by Sio Silica confirming the completion of the material actions requested in the DLN Motion were required.

An IR dispute request filed by me with the CEC that requested Hearing procedures for resolution of IR disputes be followed was refused by the Panel on the grounds that the issues could be addressed during the Hearing. The missing information and evidence required to resolve the IR disputes requires extensive field testing, data gathering and analysis that cannot be addressed by examination of Sio Silica witnesses during the Hearing.

On Jan 24, 2023 Sio Silica after closure of the IR process filed a revised extraction plan that constituted a major project alteration. The revised plan was missing essential information such as the extraction cavity span resulting from various numbers of wells per cluster, separation distance between extraction clusters, and proposed year of extraction. I submitted a motion requesting the data, supporting calculations and missing information for the revised plan be submitted by Sio Silica. The Panel denied this motion stating the issues

could be raised during examination of Sio Silica witnesses. Missing information of the type requested cannot or will not be provided by examination of Sio Silica witnesses during the Hearing. If the missing information that was not provided in writing for IR requests and the requested information is not provided during examination of witnesses there is no further recourse for such essential information to be provided.

In my opinion the completion of Hearing schedule without delay has been given precedent over the requirement of the Proponent to supply essential missing information thus damaging the entire process.

The serious potential serious environmental and public detriment from this project cannot be properly addressed in the Hearing as presently constituted due to the persistent lack of essential information. Nevertheless I plan to proceed as a participant in order to get on record the evidence supporting the potential detrimental consequences of the Project. The lack of information is a systemic problem that is beyond the powers and mandate of the CEC Hearing to address. When I was engaged as the developer of the vault model for Canada's high level nuclear waste disposal concept, the funding and project management was from a third party independent Waste Management Organization not directly from the nuclear industry. Similarly project assessment throughout Canada should be managed by a third party government agency funded by the proponent. The agency would be responsible for hiring the technical expertise necessary to conduct the environmental assessments. The systemic problem of missing information and only information presented that is beneficial to the proponent will persist until independent third party funding is implemented for project assessments.