Manitoba Clean Environment Commission

Annual Report 2013-2014
Manitoba Clean Environment Commission
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Manitoba Clean Environment Commission

Annual Report 2013-2014
His Honour
The Honourable Philip Lee, C. M., O. M.
Lieutenant-Governor of Manitoba
Room 235 Legislative Building
Winnipeg, Manitoba
R3C 0V8

Your Honour:

The undersigned has the honour to present the Annual Report of the Clean Environment Commission detailing its activities for the fiscal year ending March 31, 2014.

Sincerely,

original signed by

Gord Mackintosh
Minister
Office of the Chairperson

The Honourable Gord Mackintosh
Minister of Conservation
Room 330 Legislative Building
Winnipeg, Manitoba
R3C 0V8

Dear Mr. Mackintosh:

Pursuant to the provisions of Section 6(10) of The Environment Act I am pleased to submit to you the Commission’s annual report for the year ending March 31, 2014.

Submitted on behalf of the Commission.

original signed by

Terry Sargeant
Chair
# Table of Contents

The Manitoba Clean Environment Commission .................................................... 3

Role and Responsibilities ...................................................................................... 4

<table>
<thead>
<tr>
<th>Mandate</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Hearings</td>
<td>4</td>
</tr>
<tr>
<td>Investigations</td>
<td>5</td>
</tr>
<tr>
<td>Mediation</td>
<td>5</td>
</tr>
</tbody>
</table>

Rôle et responsabilités ..................................................................................... 6

<table>
<thead>
<tr>
<th>Mandat</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Audiences publiques</td>
<td>6</td>
</tr>
<tr>
<td>Enquêtes</td>
<td>7</td>
</tr>
<tr>
<td>Médiation</td>
<td>7</td>
</tr>
</tbody>
</table>

Message from the Chairperson .......................................................................... 8

Message du président ......................................................................................... 10

Hearings ............................................................................................................. 12

<table>
<thead>
<tr>
<th>Lake Winnipeg Regulation</th>
<th>12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bipole III Transmission Project</td>
<td>12</td>
</tr>
<tr>
<td>Keeyask Generation Project</td>
<td>15</td>
</tr>
</tbody>
</table>

Investigations .................................................................................................... 16

Other Activities ................................................................................................... 16

| Professional Development and Training | 16 |

Manitoba Clean Environment Commission Publications .................................... 17
The Manitoba Clean Environment Commission

The Minister responsible for *The Environment Act* during the 2013-2014 fiscal year was the Honourable Gord Mackintosh. Commission membership consisted of a full-time Chairperson and citizen appointees. They were:

- Terry Sargeant (Chairperson)
- Judy Bradley
- Kenneth Gibbons
- Ian Halket
- Judy Head
- Brian Kaplan
- Gerard Lecuyer
- Patricia MacKay
- Aurelie Mogan
- Wayne Motheral
- Reg Nepinak
- Wayne Sato
- Jim Shaw
- Muriel Smith
- Ken Wait
- Edwin Yee

* Interim appointment for the Keeyask Generation Project hearing.
Role and Responsibilities

Mandate

The Clean Environment Commission is established under *The Environment Act* (1988) to provide an avenue through which the public can participate in the decision making process regarding the environment in Manitoba. The Commission also provides advice and recommendations to the Minister and plays a role in the application of *The Contaminated Sites Remediation Act* and *The Drinking Water Safety Act*.

Commission membership includes a full-time Chairperson and part-time Commissioners appointed by Order-in-Council. Commissioners come from a wide variety of backgrounds and disciplines as well as different regions of the province.

The Commission may engage in the following activities to assist in environmental management.

Public Hearings

As part of the provincial environmental assessment process, the public is invited to submit comments and/or objections regarding a proposed project through the Public Registry. In response to valid concerns, the Minister of Conservation may request the Clean Environment Commission to convene a public hearing. During such a hearing the Commission receives representations from the project proponent and the general public—both supporters and opponents. The Commission reviews the evidence and information presented at the hearing and prepares a report containing advice and recommendations for the Minister.

Upon receipt of the Commission’s report, the Minister may choose to accept all or part of its recommendations but is under no legal obligation to do so. If, however, the Commission’s recommendations are not acted upon, or incorporated into the licence under review, written reasons must be provided by the Minister or the Department of Conservation and Water Stewardship and these must be filed in the Public Registry.

In addition to licensing matters, some environmental issues require public involvement before government policy can be developed. In these cases, the Minister of Conservation can request that the Commission convene a hearing to gather public opinion.

Manitoba Conservation has also signed onto a Canada-Manitoba Agreement on Environmental Assessment Cooperation with Environment Canada. As part of this agreement, regarding
projects where there is also federal jurisdiction, a process is set out respecting joint review. Commission hearings may be used as a source of information for the federal review or there may be a joint review panel formed for specific projects. Commission members would be part of these panels.

Investigations

*The Environment Act* allows the Commission to investigate any matter of environmental concern and to provide advice and recommendations to the Minister of Conservation.

Mediation

The Commission can provide mediation services to parties involved in an environmental management dispute. These activities are undertaken at the request of the Minister of Conservation. The Commission reports to the Minister regarding the outcome of any mediation exercises in which it becomes involved.
Rôle et responsabilités

Mandat


La Commission est composée d’un président à plein temps et de commissaires à temps partiel nommés par décret. Les commissaires représentent des disciplines et des horizons différents et viennent aussi de différentes régions de la province.

La Commission peut entreprendre les activités suivantes afin d’aider à la gestion environnementale :

Audiences publiques


Une fois qu’il a reçu le rapport de la Commission, le ministre peut choisir d’accepter une partie ou la totalité des recommandations, mais n’est nullement tenu de le faire en vertu de la loi. Cependant, si aucune mesure n’est prise suite aux recommandations de la Commission, ou si ces dernières ne sont pas incorporées dans la licence examinée, le ministre ou le ministère de la Conservation and Water Stewardship doit fournir des raisons écrites qui seront versées dans le registre public.

En plus des questions de licence, certaines considérations environnementales requièrent la participation du public avant qu’une politique gouvernementale puisse être élaborée. En pareil
cas, le ministre de la Conservation peut demander à la Commission d’organiser une audience afin de recueillir l’opinion du public.

Conservation Manitoba a aussi signé une Entente Canada-Manitoba d’harmonisation de l’évaluation environnementale avec Environnement Canada. Dans le cadre de cette entente, lorsqu’un projet relève aussi du gouvernement fédéral, un processus est établi relativement à un examen conjoint. L’examen fédéral peut utiliser les audiences de la Commission comme source de renseignements, ou on peut créer un comité d’expertise conjoint pour des projets précis. Les membres de la Commission font alors partie de ces comités.

**Enquêtes**

La *Loi sur l’environnement* autorise la Commission à procéder à des enquêtes à l’égard de questions portant sur l’environnement et à fournir des conseils et des recommandations au ministre de la Conservation.

**Médiation**

La Commission peut fournir des services de médiation à des parties opposées dans un différend portant sur la gestion environnementale. Elle entreprend ces activités à la demande du ministre de la Conservation, puis lui rend compte des résultats de chaque médiation.
Message from the Chairperson

The year 2013-14 was another very busy one for the Commission.

As the year began, the hearings for the Bipole III Transmission Project had just concluded, and the Panel was preparing its report and recommendations to the minister. This was sent to the minister in June 2013. Details about the hearings are covered later in this annual report.

At the same time, preparatory work for the review of the Keeyask Generation Project began in earnest. Parties were identified; Participant Assistance funding was allocated; review processes were implemented; and the hearing schedule was prepared. Hearings began in September 2013 in northern Manitoba; and, in October, in Winnipeg, continuing into January 2014. As the reporting year ended, the Panel was in the final stages of preparing the report on these hearings, which will be delivered to the minister before the end of April 2014. The outcome will be covered in some detail in next year’s report.

Next up for the Commission is the reference, received in 2011, in regard to Manitoba Hydro’s application for a Final Licence for its regulation of Lake Winnipeg. Some preparatory work on this review has occurred in the past year, with hearings tentatively scheduled for late summer and fall of 2014.

The Environment Act of Manitoba, which establishes the Clean Environment Commission, gives it an important role in environmental protection, in particular by developing and maintaining public participation in environmental matters. The Commission – with roots that go back to 1935 – has always taken this role very seriously. In fulfilling its mandate, the Commission seeks to contribute to improving the art and science of environmental assessment. To that end, for many years, the Commission has offered advice to the Province of Manitoba as to how the Commission believes the process can be improved.

The past year has seen a number of positive steps in this regard. The minister accepted all of the advisory recommendations that were in the Bipole report. These included a
recommendation to conduct a regional cumulative effects assessment of hydroelectric development in northern Manitoba; and recommendations to improve the process of environmental assessment in the province. While undertaking such activities is beyond the mandate of the Commission, we are pleased to note that work had commenced on these issues very shortly after the minister’s acceptance. When combined with other initiatives by the Manitoba Law Reform Commission and the Council of Canadian Ministers of the Environment, environmental assessment in Manitoba appears to be headed in a very positive direction.

Commission membership was stable in the past year, with no changes.

The Commission looks forward to continuing to play its role in environmental stewardship in Manitoba in the coming year.

_Terry Sargeant_
Message du président

Comme les précédents, l’exercice 2013-2014 a été très chargé pour la Commission de protection de l’environnement.


La prochaine tâche de la Commission est l’étude de la demande de Manitoba Hydro visant l’obtention d’une licence définitive pour la régularisation du Lac Winnipeg. Du travail préparatif visant cet examen a été réalisé l’an dernier, et des audiences sont provisoirement prévues pour la fin de l’été et l’automne 2014.

La Commission a été créée sous le régime de la Loi sur l’environnement du Manitoba. Celle-ci lui a attribué un rôle important en matière de protection de l’environnement, dont les éléments principaux sont le développement et le maintien de la participation du public à l’égard de questions liées à l’environnement. La Commission, dont les racines remontent à 1935, a toujours été soucieuse d’assumer sérieusement ce rôle. Dans le cadre de son mandat, elle s’efforce de contribuer à l’amélioration de l’art et de la science de l’évaluation environnementale; c’est pourquoi, depuis de nombreuses années, la Commission offre ses conseils à la Province du Manitoba sur les moyens d’améliorer ce processus.
D’importants progrès ont été réalisés à cet égard lors du dernier exercice. Le ministre a accepté toutes les recommandations du rapport sur le projet Bipolaire III, y compris celle visant l’évaluation des effets régionaux cumulatifs du développement hydroélectrique dans le nord du Manitoba et celles portant sur l’amélioration du processus d’évaluation environnementale dans toute la province. Bien que ces tâches dépassent le mandat de la Commission, nous avons le plaisir d’annoncer que le travail visant les mesures recommandées a été entrepris très rapidement après l’acceptation de celles-ci par le ministre. Ces mesures, en combinaison avec d’autres initiatives de la Commission de réforme du droit du Manitoba et du Conseil canadien des ministres de l’environnement, indiquent que l’évaluation environnementale semble s’avancer sur une voie très positive au Manitoba.

Les effectifs de la Commission n’ont pas changé au cours du dernier exercice.

Au cours du prochain exercice, la Commission entend bien continuer à jouer son rôle de gestion de l’environnement au Manitoba.

_Terry Sargeant_
Hearings

Lake Winnipeg Regulation

On July 5, 2011, the Minister of Conservation, at the request of the Minister of Water Stewardship, issued a reference to the Clean Environment Commission regarding the regulation of Lake Winnipeg under The Water Power Act. The Commission has been asked to review the application by Manitoba Hydro for a final licence for the project. The request included the following Terms of Reference:

1. Review the broader public policy rationale regarding the regulation of lake levels on Lake Winnipeg in effect at the time leading up to the issuance of the Interim Licence in 1970.

2. Hear evidence from Manitobans regarding the effects and impacts of Lake Winnipeg regulation since the project was put into commercial use by Manitoba Hydro on August 1, 1976.

3. Review the successes and failures of the implementation of those broader public policy goals that led up to the issuance of the Interim Licence and the construction and subsequent operation of the project.

4. Summarize and make comment on the concerns raised pertaining to the issuance of a final licence to Manitoba Hydro under The Water Power Act including but not limited to future monitoring and research that may be beneficial to the project and Lake Winnipeg.

Planning for this project began in 2011/12 and it was soon realized that additional information would be required to undertake a review that included the components set out in the Terms of Reference. The Commission has requested this additional information from Manitoba Hydro. Manitoba Hydro has indicated that it will take some time to compile the information in the format requested; any further activities regarding this hearing have been postponed until further information is available. The result will be reported on in a future annual report.

Bipole III Transmission Project

A public hearing on the Bipole III Transmission Project began in the 2011-12 fiscal year and was completed in 2012-13. The hearing took place in October and November 2012, included a recess and resumption in March 2013. The report and recommendations were delivered to the Minister of Conservation and Water Stewardship in June 2013.
Manitoba Hydro, the proponent, proposed to build a high voltage direct-current transmission line originating at a new converter station located near Gillam and terminating at a second new converter site east of Winnipeg. The Bipole III transmission line will be approximately 1,385 km in length and will cross diverse regions of Manitoba from the boreal forest in the north, through the aspen parkland on the west side of the province to the agricultural areas of the south.

On December 5, 2011, the Minister of Conservation provided a reference to the Clean Environment Commission requesting that it conduct public hearings on the proposed Bipole III Transmission Project. The request included the following Terms of Reference:

1. To review and evaluate the Environmental Impact Statement (EIS) and proponent’s public consultation summary;

2. To hold public hearings to provide an opportunity for the Commission to consider stakeholder and public input as part of their project assessment. The locations of hearings must include Winnipeg, but other locations also should be considered along the proposed route to allow easier access to those members of the public that do not live in Winnipeg but may be affected by the project; and

3. To prepare and file a report with the Minister of Conservation outlining the results of the Commission’s review and providing recommendations for the Minister’s consideration.

The five-person hearing panel consisted of Mr. Terry Sargeant (Chairperson), Patricia MacKay, Ken Gibbons, Brian Kaplan and Wayne Motheral.

The Commission conducted 37 days of hearings in Winnipeg, Gillam, Thompson, The Pas, Dauphin, Portage la Prairie and Niverville. The hearing began October 1, 2012 and was recessed on November 22, 2012 so that the proponent could conduct further consultation on required route changes. The hearing reconvened on March 4, 2013 and the record was closed March 21, 2013. Manitoba Hydro, participants and presenters made statements and were questioned by the Commission panel.

The Commission used two different terms to describe members of the public who participated in the hearing process: Participants and Presenters. Participants were organizations and their representatives who were involved in both the pre-hearing processes and the formal hearing proceedings. Aside from making presentations at the hearing, many Participants retained experts to make submissions on particular topics and issues, and participated in questioning of the
proponent. Presenters were organizations and members of the public who attended and spoke only during the formal hearing proceedings. To allow meaningful participation in the hearing, five different Participants received a total of $945,935 in funding through the Participant Assistance Program. The Panel heard from 29 witnesses called by the Proponent, 45 witnesses called by the Participants and statements from 95 Presenters.

The Commission heard many issues raised, some regarding the proposal under review as well as concerns with previous Manitoba Hydro projects and their past, on-going and cumulative impacts on northern residents and the environment.

The Commission recommended that an Environment Act licence be issued. A total of 43 recommendations were made to the minister. Some of these related directly to the proposal, Manitoba Hydro’s environmental assessment methodologies and the provincial environmental review process.

Recommendations provided guidance on the mandated issues such as, routing and mitigation along the transmission line, as well as suggested improvements for Manitoba Hydro’s environmental assessment process and those of the Province.

A major non-licensing recommendation that came out of this report is:


The Commission again reiterated its concern with the practice of environmental assessment in the province. The Commission is encouraging the Province to enhance the standards through whatever means necessary and ensure these standards are effectively conveyed to proponents and practitioners.

Keeyask Generation Project

On November 14, 2012, the Minister of Conservation provided a reference to the Clean Environment Commission requesting that it conduct public hearings on the proposed Keeyask Generation Project. The request included the following Terms of Reference:

1. To review the EIS, including the proponent’s public consultation summary. Note that a detailed technical review will be done by the provincial and federal specialist agencies who are members of the TAC. As such, documents produced during this assessment should be considered by the Commission as input for the hearings;

2. To hold public hearings for the Commission to consider stakeholder and public input;

3. To prepare and file a report with the Minister of Conservation and Water Stewardship outlining the results of the Commission’s review and providing recommendations for the Minister’s consideration.

A panel was appointed and the hearing proceeded. The results will be reported in a future annual report.
Investigations

No investigations took place in 2013-2014.

Other Activities

Professional Development and Training

Commission members and staff attended workshops and conferences that provided professional development in the area of tribunals and hearings, environmental assessments and current environmental topics and issues. Examples of the workshops and conferences included: 29th Annual Canadian Council on Administrative Tribunals Conference, Manitoba Council of Administrative Tribunals (MCAT) Eighth Annual Conference, Supreme Court Justice Rothstein presentation, Manitoba Director Training and Board Development Program and MCAT new members training.
Manitoba Clean Environment Commission Publications

Copies of all Commission reports are available from the Commission office upon request and are also available on the website www.cecmanitoba.ca.


Report on a Proposal Concerning Surface Water Quality Objectives and Stream Classification for the Province of Manitoba (1979)

Report on a Proposal for the Classification of Manitoba’s Surface Water Souris River Principal Watershed Division (1980)


Report on a Proposal for the Classification of Manitoba’s Surface Water Red River Principal Watershed Division (1981)


Report on Mosquito Control Programs in Manitoba (1982)


Report on Hazardous and Special Wastes Stage 1 of Phase 1 of Program (1983 & 1984)


Report on Shell Prairie Inn and Gas Station Wastewater Treatment and Disposal System (1989)


Report on City of Portage la Prairie Sewage Sludge Disposal Project (1989)


Report on Town of Beausejour Sewage Lagoon Expansion (1989)


Report on Airport Holding Co. Ltd. Domestic Wastewater Treatment Lagoon (1990)


Report on Village of St. Claude Sewage Lagoon and Discharge Route (1990)

Report on Ducks Unlimited Canada Oak Hammock Marsh Conservation Centre/Office Proposal (1990)


Report on Application of Water Quality Objectives for the Watershed Classification of the Red and Assiniboine Rivers and Tributaries Within and Downstream of the City of Winnipeg (1992)


Report on Good Hope Holding Company Ltd. Wastewater Treatment Lagoon, Rural Municipality of Portage la Prairie (1992)


Manitoba and Climate Change: A Primer (2001)


Rapport au gouvernement du Manitoba sur les audiences publiques relatives aux solutions en matière de protection contre les inondations pour la ville de Winnipeg (2002)


Participate in an Environmental Hearing. (2005) Brochure


Environmental Sustainability and Hog Production in Manitoba (2007)

An investigation into nutrient reduction and ammonia treatment at the City of Winnipeg’s wastewater treatment facilities (2009)

An investigation into changes requested to Louisiana-Pacific Environment Act Licence (2010)
Supplement to an investigation into nutrient reduction and ammonia treatment at the City of Winnipeg’s wastewater treatment facilities (2011)
