October, 2002

His Honour
The Honourable Peter M. Liba, C.M., O.M.
Lieutenant-Governor of Manitoba
Room 255, Legislative Building
Winnipeg MB 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, 2002.

Yours sincerely,

Steve Ashton
Minister of Conservation
The Honourable Steve Ashton
Minister of Conservation
Room 333 Legislative Building
Winnipeg, Manitoba
R3C 0V8

Dear Mr. Ashton,

Pursuant to the provisions of Section 6(3) of The Environment Act, I am pleased to submit to you the Commission’s annual report for the year ending March 31, 2002.

Submitted on behalf of the Commission.

[Signature]

Terry Ogilvie
Chairman
The Manitoba Clean Environment Commission

During the 2001-02 year, Commission membership consisted of the following citizen appointees and full-time chairperson. The Minister responsible for The Environment Act for the period under review was the Honourable Oscar Lathlin.

Nick Carter, Winnipeg  
Lissa Donner, Winnipeg  
Terry Duguid, Chairman, Winnipeg  
Kenneth Gibbons, Winnipeg  
Ian Halket, Winnipeg  
Judy Head, The Pas  
John Hreno, Winnipeg  
Gerard Lecuyer, Winnipeg  
Moses Okimaw, Winnipeg  
Archie Phillips, Winnipeg  
Constance Pringle, Thompson  
Wayne Sato, Winnipeg  
Myrle Traverse, Winnipeg  
Ken Wait, Balmoral  
Barrie Webster, Winnipeg  
John Whitaker, Erickson
Role and Responsibilities

Under The Environment Act (1988) the Clean Environment Commission provides a process through which the public can participate in the environmental decision making process in Manitoba. The Commission also provides advice and recommendations to the provincial Conservation Minister with respect to environmental issues and licensing matters.

Commission membership includes a full-time Chairperson and part-time Commissioners appointed by Order-in Council. Members come from a wide variety of occupations and reside in different regions of the province.

The Commission utilizes the following mechanisms to assist in the environmental management process:

Public Hearings

During the environmental assessment process, the public is invited to submit comments and/or objections respecting a proposed development project. In response to valid concerns, the Conservation Minister can ask the Clean Environment Commission to convene a public hearing. During such a hearing the Commission receives representations from the project proponent, the general public - both supporters and opponents, and from the various government departments responsible for reviewing the proposal. 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 Conservation Department and these must be filed in the Public Registry.

Environmental Mediation

Conflicts can occur when two opposing but environmentally sound ideas are proposed for the same location or resource. Providing all parties agree, the Commission can provide environmental mediation services to resolve these conflicts.

Investigations

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

In performing its various functions under The Environment Act, the Clean Environment Commission strives to encourage and facilitate public involvement in the environmental management process in Manitoba. The opinions of all participants in Commission proceedings are treated fairly and with due respect and consideration.
Report from the Chair

The past year has been an exciting one for Manitoba’s Clean Environment Commission. Indeed, it has been a year of firsts. The newly appointed Commission conducted its first public hearing (Simplot Canada) - the province’s first in almost five years - and facilitated the review of applications under Manitoba’s first Participant Assistance Program. In addition, the CEC was called upon to exercise some of its flexible mandate by supervising a series of public meetings respecting flood protection options (Red River Valley) - another first for the Commission.

The past year also witnessed a continuation of the Commission’s drive to develop its expertise in alternate dispute resolution. The Commission’s successful mediation of a dispute between a group of residents in an urban neighborhood and a local industry (Rothsay Rendering) illustrate the effectiveness of this collaborative approach to the resolution of environmental disputes.

At the same time, the Commission continued to be involved in raising awareness of environmental and sustainable development issues. In March, the Commission hosted a full-day public forum on the Boreal forest, which was attended by over 600 people. The participants at the forum included representatives from the business, scientific, government and environmental communities along with a significant number of students and members of the general public. It was particularly heartening to see a large youth contingent attending the forum along with many from aboriginal communities.

One of the most rewarding activities during the past year was that of serving as Secretariat to the Manitoba Climate Change Task Force which was chaired by the Honourable Lloyd Axworthy. The work of this Task Force has served as the blueprint for climate change action in Manitoba and was the catalyst for some of the national leadership that the province is now demonstrating on climate change and the ratification of the Kyoto Protocol.

I believe that all these activities, particularly those that constitute first endeavors for the CEC, demonstrate the commitment of the government to utilize the wide range of mechanisms that are available under the Commission’s legislated mandate to encourage and facilitate public participation in the management of the province’s environment. It has been my impression over the past year that the new initiatives undertaken by the Commission have been well received by the public and have proved the Commission’s ability to respond to the challenges of effective public engagement with innovated programs.

It has been a challenging year that has brought forward a number of rewarding opportunities. I extend my sincere appreciation to the members of the Commission for their ongoing commitment and for the time and energy they devote to the service of their fellow Manitobans.

Terry Duguid
Hearings

Simplot Canada Ltd.: Potato Processing Plant, Portage la Prairie/City of Portage la Prairie: Water Pollution Control Facility Alterations

In December 2001 and January 2002 the Commission conducted a public hearing to receive comments on two Environment Act License proposals.

The first was a new license proposal from Simplot Canada Limited for the construction and operation of a potato processing plant. The second was from the City of Portage la Prairie for alterations to its Water Pollution Control Facility for treatment of the Simplot Canada plant’s effluent.

The Commission held four days of hearings and heard presentations on behalf of many interested parties who attended and asked questions of the proponents and various government officials. Panel members reviewed the extensive documentation that was made available prior to and during the hearings, and questioned the presenters in order to draw out all relevant information and views.

Following the hearing, the Commission issued a report to the Minister detailing the proceedings and providing advice and recommendations respecting the two proposals.

The Commission recommended the issuance of the license requested by Simplot Canada Limited, noting the company’s strong commitment to operate with due regard to environmental sustainability.

The Commission also recommended that the City of Portage la Prairie Water Pollution Control facility be permitted the license alteration it was requested. In this instance, the Commission proposed that certain conditions be met and other initiatives be undertaken to deal with perceived risks and to mitigate environmental impacts.

The Commission recommended that phosphorus removal should be initiated, and that this reduction in Portage la Prairie’s effluent should be consistent with measures already taken by other prairie cities.

The Commission also recommended that the facility’s ammonia concentration be limited at current levels, and that monitoring for ammonia, phenols and acute lethality of the effluent be maintained.

A recommendation for continued “participant funding” for future Commission hearings was included. (See “Participant Assistance Program” below.)

Among the Commission’s twelve observations, it was noted that future nutrient removal requirements should be anticipated, and that communities should adopt water conservation programs across Manitoba.

The Commission suggested that a regional pilot project for the Assiniboine basin should be considered in order to demonstrate how a watershed authority could operate to improve water management.

The report also advised that project proposals for Environment Act licensing should specifically include First Nations considerations and directly address the points contained in Manitoba’s Sustainable Development Principles and Guidelines.

Other observations included the need for monitoring and enforcement of water licenses and the encouragement of more extensive metering of water use.
Participant Assistance Program

On October 31, 2001 the Minister of Conservation announced that, under provisions contained in Manitoba Regulation 125/91, financial assistance would be made available to assist groups participating in the Clean Environment Commission public hearings respecting the Simplot Canada/City of Portage la Prairie proposals for the development of a potato processing plant and related water pollution control facility upgrades. At the same time, the Minister announced that the Commission would be asked to form a committee to review and provide recommendations on the various funding applications received.

Accordingly, the Participant Assistance Review Committee was formed consisting of three Commissioners separate from the actual hearing panel. Applications were reviewed and all applicants were provided with an opportunity to meet with the Committee to respond to questions and provide further explanation of their individual funding applications.

The Committee recommended a total of $50,000 in financial assistance be provided to four groups. With minor adjustments, all of the Committee’s recommendations were accepted by the Minister and the program was implemented.

Investigations

The Commission did not undertake any “Investigations”, as defined under Section 6(5)(c) of the Environment Act during the 2001 - 2002 fiscal year.

Environmental Mediation

Maple Leaf Foods (Rothsay Rendering) - St. Boniface Area Residents Mediation

On February 26, 2001 the Minister of Conservation requested that the Commission investigate the possibility of pursuing a mediation exercise to address the ongoing dispute between Maple Leaf Foods Ltd. and residents in the St. Boniface area of Winnipeg with respect to odour emissions from the Rothsay Rendering plant on Dawson Road. In response, the Commission coordinated and facilitated a number of mediation sessions during the 2001-2002 fiscal year involving all parties to the dispute. (At the time of the preparation of this report, these sessions were ongoing.) To-date, the process has resulted in significant progress toward the development of a satisfactory, long-term solution to the issue.

Detailed reporting on this mediation exercise will be included in a subsequent annual report of the commission.
Public Education and Environmental Awareness

Boreal Forum

The Commission, in partnership with the Manitoba Model Forest hosted a public forum on the Boreal Forest on March 5, 2002.

Over 500 participants, including representatives of governments, First Nations, industry, environmental organizations and educational institutions, attended the Forum.

The forum provided an opportunity for the sharing of knowledge and perspectives on the Boreal and sought to encourage the continuation of a dialogue that would seek sustainable solutions for the many issues identified.

Following the forum, official “Proceedings” were prepared and made available as a permanent record of the event.

Special Projects

Manitoba Climate Change Task Force

In March 2001, Premier Gary Doer and Conservation Minister Oscar Lathlin announced the establishment of an eight-member task force that would assist in the development of Manitoba’s strategy on climate change.

Chaired by the Honourable Lloyd Axworthy, the Manitoba Climate Change Task Force was asked to address and advise on the environmental challenges and economic opportunities associated with climate change.

The Commission was instructed to serve as Secretariat to the task force and to provide all necessary administrative and logistical support.

The task force sought Manitobans’ ideas on climate change and appropriate strategies to meet this challenge through a series of formal public meetings held in Winnipeg and Brandon in May and in Thompson in June, 2001. As well, the Manitoba Climate Change Task Force solicited presentations from specific experts and youth and established its own Web site through which comments could be submitted by the general public.

The Manitoba Climate Change Task Force released its final report in September 2001. This report addresses the implications of climate change for Manitobans and how action may be taken to reduce emissions and slow the rate of change. It contains specific recommendations related to government action, agriculture, transportation, the North, emissions trading and public education and outreach. The task force’s report provides the basis from which the Manitoba government can develop its own climate change action plan.

Hearing Effectiveness Survey

In keeping with the Commission’s commitment to remain responsive to public needs and expectations respecting its procedures and operating practices, the Natural Resources Institute (NRI) was engaged in February, 2001, to conduct an “Effectiveness Survey” of groups and individuals who have participated in CEC hearings over the past 8-10 years to determine their level of satisfaction with the process.
This Survey, which involved a series of one-on-one interviews conducted by NRI students, asked respondents a number of open-ended questions aimed at assessing their CEC hearing “experience”.

Following the interview phase of the Survey, a half-day consultation workshop was convened to bring respondents together to discuss measures that might be undertaken to improve the Commission’s hearing process.


This report included eighteen recommendations for change. Eight of these (2, 6, 8, 9, 11, 15, 16, and 17) require legislative changes. The remaining ten require changes to CEC policies and procedures.

In summary form, the recommendations submitted were as follows:

1. The CEC should hold hearings in or near affected communities as well as in the City of Winnipeg.

2. The Commission should lobby or negotiate with government to amend The Environment Act by removing the provision that allows for staged assessments, and should not convene hearings in cases where staged assessments are allowed.

3. The CEC should encourage broader participation in its hearings and should try to hear from as many key publics as possible to ensure the best information is available before its recommendations are made.

4. The CEC should be more proactive in encouraging participation by advertising hearings through innovative means in local media, including television and radio.

5. The CEC should lobby or negotiate with government to make use of the provisions of The Environment Act that permit participant funding.

6. The CEC should lobby or negotiate with the government to amend the participant funding regulation of The Environment Act to allow for the administration of funding programs by the CEC.

7. The CEC should engage in pre-hearings activities, including holding community meetings regarding both the scope of consideration for hearings and central questions to be considered in detail within that scope.

8. The CEC should improve information resources available to hearing participants.

9. The CEC should lobby or negotiate with government for clarification of the special investigations provision of The Environment Act (Section 6(3)) to provide the resources needed for panels to undertake independent research on an as needed basis either before or during a hearing.

10. The CEC should increase opportunities for interactive discussions of issues to ensure that adequate attention has been given to resolution of those issues. This could include using alternative dispute resolution techniques.
11. The CEC should lobby or negotiate with government to amend The Environment Act to incorporate the provisions of the COSDI* report regarding the assessment of environmental effects.

12. The CEC should play a more active role in monitoring and participating in proponent consultations leading to a hearing. The results should be reported to the hearing panel, and should be included in the public record.

13. The CEC should increase its accountability by presenting its findings in a public forum and by justifying its recommendations both verbally and in a more detailed written report.

14. In its final reports, the CEC should address the provincial principles and guidelines for sustainable development, contained in Section 3 of The Sustainable Development Act, providing justification for recommendations that are contrary to these principles and guidelines.

15. The CEC should lobby or negotiate with government to amend The Environment Act by establishing that panel appointments be made by The Lieutenant Governor in Council on the advise of an all party committee.

16. The CEC should lobby or negotiate with government to create an active role for itself in fulfilling the government’s fiduciary and treaty obligations to Aboriginal peoples.

17. The CEC should lobby or negotiate with government for the creation of the position of Sustainable Development Auditor who would oversee and report publicly on the implementation and monitoring of licences given under The Environment Act.

18. The CEC should strike a working group to provide further clarification on the issue of when hearings should be triggered. The current legislation is vague and leaves considerable discretion in the hands of the Director of Approvals.

* Committee on Sustainable Development Implementation

The Commission will now consider the Recommendations contained in the Report and determine what changes or amendments to its Hearings' procedures are required.

Flood Protection Options for the City of Winnipeg

At the request of the Government of Manitoba, the Clean Environment Commission held public meetings on two flood protection options for the City of Winnipeg during January 2002. The flood protection options – an expanded Red River floodway and a detention structure at Ste. Agathe – are described in the November 2001 report by the KGS Group entitled Flood Protection Studies for Winnipeg.

The purpose of the meetings, which were held in Winnipeg, Morris, Selkirk and Ste. Agathe, was to provide information on the two flood protection options, receive comments and concerns from the public, and prepare a summary report to government.
The public sessions were attended by over 1,000 individuals representing a wide range of interests including property and business owners, farmers, elected officials, organization representatives, government employees, professionals, academics and students. The majority were from the communities of Winnipeg, Ste. Agathe, Selkirk, Morris, East Selkirk, St. Jean Baptiste and St. Adolphe.

During these sessions many residents expressed a high degree of emotion over previous flooding, especially those living immediately south and north of Winnipeg. They spoke about how flooding had affected them personally and financially. Those residents immediately north and south of the floodway, who experienced flooded, expressed anger and mistrust towards government and emergency measures officials for what they felt was unfair treatment and inadequate compensation. Some residents from outside Winnipeg expressed resentment for having to pay for the protection of those living inside the city without the same benefits.

The Ste. Agathe detention structure was strongly rejected by area residents at the Morris public meeting. Most at the Winnipeg, Selkirk and Ste. Agathe sessions believed that a decision had already been made to proceed with the expanded Red River floodway option and commented on that option accordingly. However, some participants at the Winnipeg meetings did argue for the detention structure option for its additional protection and lower cost.

The public gave a strong message of getting on with the job of protecting City of Winnipeg residents as well as all Manitobans living along the entire Red River Valley from flooding. They conveyed that the needs of the few living outside Winnipeg should not be sacrificed for the benefit of the many living inside the city. The compensation issue was a common thread at all public meetings with consistent requests to settle outstanding flood damage claims and to put an effective compensation program in place before proceeding with either flood protection option. The public also expressed a desire to be involved at an early stage in the public participation and environmental assessment processes so their concerns can be addressed before the final design is complete and construction begins.

A total of 116 submissions and statements were either recorded from the four public meeting locations or were received by mail, fax or e-mail. A great variety of concerns were identified, including the following four key issues:

1. Compensation was the most dominant issue raised at the public meetings. It was brought up at each meeting with emotion and resolve. Participants requested that compensation be addressed prior to consideration of any future flood protection options.

2. Substantial concern was expressed at the public meetings over the terms of reference for the KGS study. Participants questioned why the study tended to focus on flood protection options for the City of Winnipeg and not the entire Red River Valley. Residents living south and north of the city were particularly concerned about the narrow geographic scope of the study.
3. Operation of the Red River floodway was raised at each public meeting, particularly at Ste. Agathe and Selkirk. Residents living north and south of the City of Winnipeg expressed strong concern over the floodway rules of operation. They contended that operation of the floodway has resulted in repeated flooding of their properties.

4. Many participants commented on the need to consider other flood protection options. The options most frequently mentioned included constructing a 1 in 1,200 year “super” floodway, extending the floodway all the way into Lake Winnipeg, river dredging the lower Red River between Lockport and Lake Winnipeg and developing upstream water storage structures.

The remaining issue areas included property values, the regional economy, ice jamming, fairness to all valley residents, riverbank erosion, flooding north and south of the city, full cost of flood protection, KGS report credibility, flood protection funding, river management authority, public consultation, river dredging, agricultural interests, groundwater concerns, holistic approach, First Nation interests, flood prevention, summer water levels, aquatic ecosystem protection, recreation opportunities, emergency planning and the Mid-Continent Trade Corridor.

Clean Environment Commission Publications


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 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 Good Hope Holding Company Ltd. Waste-water 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)

NOTE: Copies of all Commission reports are available from the Commission office upon request.