
Manitoba Clean Environment Commission

Annual Report
2019-2020



Manitoba Clean Environment Commission

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Manitoba Clean Environment Commission

Annual Report 2019-2020



**MINISTER OF
CONSERVATION AND CLIMATE**

Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

The Honourable Janice Filmon, C.M., O.M
Lieutenant Governor of Manitoba
Room 235 Legislative Building
Winnipeg MB R3C 0V8

Your Honour:

It is my privilege to present you with the Annual Report of the Clean Environment Commission detailing its activities for the fiscal year ending March 31, 2020.

Warm Regards,

Original signed by

Sarah Guillemard
Minister of Conservation and Climate





Manitoba

ENVIRONMENT™
C O M M I S S I O N

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The Honourable Sarah Guillemard
Minister of Conservation and Climate
Room 344 Legislative Building
Winnipeg, Manitoba
R3C 0V8

Dear Minister:

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, 2020.

Submitted on behalf of the Commission.

Serge Scrafield
Chair

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The Manitoba Clean Environment Commission

The ministers responsible for The Environment Act during the 2019-2020 fiscal year were the Honourable Rochelle Squires and the Honourable Sarah Guillemard. Commission membership consisted of a full-time chairperson and citizen appointees, namely:

Serge Scrafield (Chairperson)

Glen Cummings

John (Jay) Doering

Ian Gillies

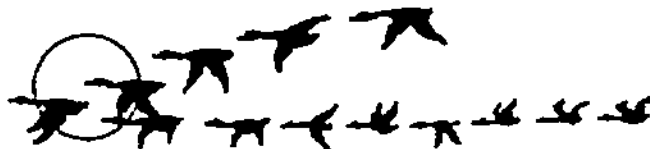
Terry Johnson

Betty Leitch

Tim Sopuck

Laurie Streich

Vincent Tacan



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 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. 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 director and these must be filed in the Public Registry.

In addition to licensing matters, some environmental issues may require public involvement before government policy is developed. In these cases, the minister can request that the commission convene a hearing to gather public opinion.

Investigations

The Environment Act allows the commission to investigate any matter of environmental concern and to provide advice and recommendations to the minister.

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. The commission reports to the minister regarding the outcome of any mediation exercises in which it becomes involved.



Rôle et responsabilités

Mandat

La commission de protection de l'environnement a été établie en vertu de la Loi sur l'environnement (1988) afin d'offrir un moyen au public de participer au processus décisionnel en ce qui a trait à l'environnement au Manitoba. La commission fournit aussi des conseils et des recommandations au ministre et joue un rôle dans l'application de la Loi sur l'assainissement des lieux contaminés et Loi sur qualité de l'eau potable.

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

Dans le cadre du processus d'évaluation environnementale provinciale, on invite le public à présenter des commentaires ou des objections concernant un projet proposé par le truchement du registre public. En réponse à des préoccupations justifiées, le ministre peut demander à la commission de protection de l'environnement d'organiser une audience publique. Pendant une telle audience, la commission reçoit des observations du promoteur du projet et du grand public. La commission examine les éléments de preuve et les renseignements présentés lors de l'audience et prépare un rapport contenant des conseils et des recommandations à l'intention du ministre.

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 directeur 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 peut demander à la commission d'organiser une audience afin de recueillir l'opinion du public.

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 le ministre.

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, puis lui rend compte des résultats de chaque médiation.



Message from the Chair

During 2019-20 the Minister of Conservation and Climate requested the commission to conduct reviews on two different subjects and provide reports on each of these. In addition, the commission undertook an investigation into one environmental matter.

On Dec. 19, 2019, the commission received a request and terms of reference from the minister to conduct a review of Manitoba's forest management plan approval process and to provide the minister with a report including advice and recommendations. As part of this request, the commission was asked to conduct a review and comparison of the approval processes for forest management activities in other Canadian jurisdictions. Over the next three months, a commission panel reviewed the process currently implemented in Manitoba and similar processes in all other Canadian jurisdictions. The panel also met with government staff in Manitoba, met with representatives of Manitoba's forest industry and consulted with government representatives in other provinces. The commission expects to submit its report early in the 2020-21 fiscal year.

On March 19th, 2020, the commission received a request and terms of reference from the minister to conduct a review and prepare a policy options paper on a polluter pays approach to environmental liabilities related to contaminated sites in Manitoba. The commission established a panel and began the review prior to the end of the fiscal year, benefitting from work undertaken earlier in the year by commission staff. The commission expects to submit its report in the second quarter of 2020-21.

Earlier in the year, the commission undertook an investigation into the management and regulation of contaminated mine sites in four Canadian provinces. The chair consulted with government staff in Manitoba and with government representatives in three other Canadian provinces. An interim report was submitted to the minister on Sept. 20th, 2019. A final report was submitted to the minister on Oct. 31st, 2019.

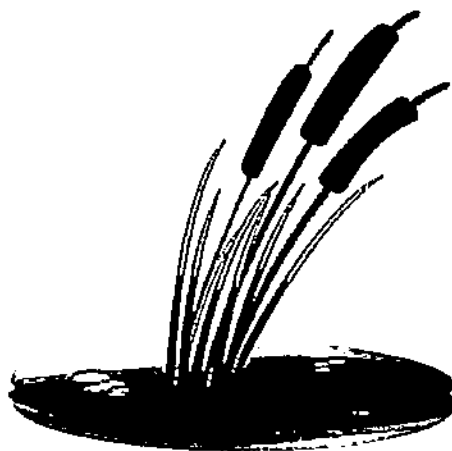
For a number of years, the Clean Environment Commission has been designated as the appeal body for certain matters under The Contaminated Sites Remediation Act. For most of that time, this resulted in little involvement by the commission. However, with amendments to the statute, some requests for adjudication related to impacted sites, have begun to arrive at

the commission. The commission continued to hold an appeal in abeyance since 2017 at the request of the parties who are attempting to negotiate a resolution of the issues. The commission received an additional appeal during the 2019-20 year and at year's end was awaiting a package of background information from the department before scheduling a hearing.

The Clean Environment Commission takes very seriously the important role in environmental protection given it by The Environment Act of Manitoba. The commission seeks to fulfill this mandate, in part, by continuing to offer advice that we believe contributes to ensuring that developments are environmentally sustainable and to improving the practice of environmental assessment in Manitoba.

I would like to thank my fellow commissioners and the staff for their contributions throughout the year.

Serge Scrafield



Message du président

Pendant l'exercice 2019-2020, le ministre de la Conservation et du Climat a demandé à la Commission d'examiner deux sujets différents et de fournir des rapports sur chacun d'eux. De plus, la Commission a entrepris une enquête sur une question environnementale.

Le 19 décembre 2019, la Commission a reçu une demande et un mandat du ministre pour examiner le processus d'approbation du plan de gestion forestière du Manitoba et pour fournir au ministre un rapport comprenant des conseils et des recommandations. Dans le cadre de cette demande, on a demandé à la Commission d'examiner et de comparer les processus d'approbation des activités de gestion forestière dans d'autres provinces et territoires canadiens. Au cours des trois mois suivants, un comité de la Commission a examiné le processus actuellement mis en œuvre au Manitoba et les processus similaires dans tous les autres territoires et provinces canadiens. Le comité a aussi rencontré le personnel du gouvernement du Manitoba et des représentants de l'industrie forestière de la province, et a consulté des représentants gouvernementaux d'autres provinces. La Commission prévoit de présenter son rapport au début de l'exercice 2020-2021.

Le 19 mars 2020, la Commission a reçu une demande et un mandat du ministre pour examiner et préparer un document d'options politiques sur une approche de « pollueur-payeur » en matière de responsabilité environnementale liée aux sites contaminés de la province. La Commission a mis sur pied un comité et a commencé l'examen avant la fin de l'exercice financier, profitant du travail entrepris plus tôt dans l'année par son personnel. La Commission prévoit de présenter son rapport au cours du deuxième trimestre de l'exercice 2020-2021.

Plus tôt dans l'année, la Commission a entrepris une enquête sur la gestion et la réglementation des sites miniers contaminés dans quatre provinces canadiennes. Le président a rencontré le personnel du gouvernement du Manitoba et des représentants de trois autres provinces canadiennes. Un rapport intermédiaire a été soumis au ministre le 20 septembre 2019. Un rapport final a été soumis au ministre le 31 octobre 2019.

Depuis un certain nombre d'années, la Commission de protection de l'environnement est désignée comme organisme d'appel pour certaines affaires en vertu de la Loi sur l'assainissement des lieux contaminés. Pendant la majeure partie de cette période, la Commission a été très peu consultée à ce sujet. Cependant, en raison de modifications à la Loi, la Commission a commencé à recevoir des demandes d'arbitrage concernant des lieux touchés. La Commission a poursuivi la suspension d'un appel datant de 2017, à la demande des parties qui essayaient de négocier une résolution des enjeux. La Commission a reçu un appel additionnel au cours de l'exercice 2019-2020 et à la fin de l'exercice, elle attendait une trousse de renseignements généraux du ministère avant de prévoir une audience.

La Commission de protection de l'environnement prend très au sérieux le rôle important de protection de l'environnement que lui confère la Loi sur l'environnement du Manitoba. La Commission s'efforce de remplir son mandat en partie en continuant à offrir des conseils qui, selon nous, contribuent à garantir que les projets de développement sont durables sur le plan environnemental et à améliorer la pratique de l'évaluation environnementale.

Je tiens à remercier mes confrères et consœurs de la Commission et le personnel de leurs contributions tout au long de l'année.

Serge Scrafield



Hearings

No hearings were held in 2019-2020.

Contaminated Sites Remediation Act

One appeal was received in 2019-2020. It will be addressed in the coming year.

Investigations

Contaminated Mine Sites in Four Canadian Provinces

The commission undertook an investigation into the management and regulation of contaminated mine sites in four Canadian provinces. The chair assessed provincial legislation, consulted with staff in Manitoba and with government representatives in three other Canadian provinces. An interim report was submitted to the minister on September 20, 2019. A final report was submitted to the minister on October 31, 2019.

Forest Management Plan Approval Process

On December 19, 2019 the Minister of Conservation and Climate made the following request of the Clean Environment Commission:

Pursuant to section 6 of The Environment Act, I hereby request that the Clean Environment Commission (the Commission) conducts the following in accordance with the attached Terms of Reference:

- *A review of the existing approval processes for Forest Management Plans;*
- *Input into parameters by which equivalency can be achieved using one approval process; and*
- *A review and comparison of the approval processes for forest management activities in other Canadian jurisdictions in relation to Manitoba's.*

In accordance with section 7 of The Environment Act, please provide me with a report including the Commission's advice and recommendations following the completion of the requested reviews.

A request for clarification of the terms of reference was made by the commission and the final terms of reference will be included with reporting on completion of the project.

The panel moved forward with activities required for this review, the project was still in progress as of March 31, 2020. The results will be reported on in the next fiscal year.

Polluter Pay and Environmental Liabilities

On March 19, 2020 the Minister of Conservation and Climate made the following request of the Clean Environment Commission:

Pursuant to Section 6(a) of The Environment Act, I hereby request that the Clean Environment Commission conduct an in-depth review to support the development of a policy options paper and recommendations on a polluters pay approach to environmental liabilities for Manitoba. The focus will be on sites under both the Orphaned and Abandoned Mine Site Rehabilitation Program and the Contaminated Sites Environmental Liabilities Program.

The Minister provided the following Terms of Reference for the Commission to carry out the project:

- *Review and propose amendments and/or consolidation of the current legislation governing contaminated sites to ensure there is consistency across government in how these sites are assessed from a risk perspective.*
- *Identify options for the development of an appropriate risk-based approach towards the identification, classification and management of all contaminated sites in Manitoba, including but not limited to, abandoned mines, abandoned oil and gas wells, quarries, and any other industrial activity that resulted in contamination.*
- *Uphold the general concept of 'polluter pays' and the appropriate apportionment of responsibility amongst responsible parties; but explore added flexibility to allow for joint and/or several liability when certain criteria are met.*
- *Reduce the liability of Manitoba associated with abandoned mine sites and other contaminated sites by providing recommendations for an updated funding structure to defray costs on behalf of Manitobans. This may include exploring options to replace the existing Environmental Remediation Fund or other similar funds (e.g. Abandonment and Reclamation Fund under The Oil and Gas Act), with a more flexible and longer-term fund*

that would draw from a variety of sources (e.g. administrative penalties, application fees, securities, and/or grants).

A panel has proceeded with this review and will report on its findings in the next fiscal year.

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 and Indigenous topics and issues. Examples of the workshops and conferences included Manitoba Council of Administrative Tribunals (MCAT) Fourteenth Annual Conference, Research for Reconciliation webinar sponsored by the Institute for Public Administration in Canada (IPAC) and Partners for Saskatchewan River Basin annual conference with the theme Lake Winnipeg: where waters meet. Also attended were webinars and luncheon information presentations, sponsored by the Canadian Water Resources Association, on water related issues.



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.

Preliminary Report on Contamination of Underground Water Sources by Refined Petroleum Products (1975)

Report on the Investigation of the Pollution of Underground Water by Refined Petroleum Products (1975)

Report on the Investigation of Smoke Problems Encountered in Southern Manitoba in 1976 (1977)

Report on an Investigation of Intensive Livestock Production Operations in Manitoba (1979)

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 Red River Waters (Proposed Classification of Surface Water Quality In Manitoba's Red River Principal Watershed Division and Certain Red River Tributaries) (1980)

Report on Proposed Classification of Surface Water Quality in Manitoba's Grass-Burntwood Rivers Principal Watershed Division (1981)

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

Report on a Proposal for the Classification of Manitoba's Surface Water Grass-Burntwood Rivers Principal Watershed Division (1982)

Report on Mosquito Control Programs in Manitoba (1982)

Report on Environmental Land Use Conflict - Balmoral, Manitoba (1983)

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

Report on the Review of the Plan for the Rehabilitation of the Site of the Domtar Inc. Former Wood Preserving Plant, Transcona, Manitoba (1984)

Report on Manitoba Hazardous Waste Management Program (Volume 1) (1987)

Report on Manitoba Hazardous Waste Management Program (Volume 2) (1987)

Report on the Draft Regulation Respecting Atmospheric Emissions of Sulphur Dioxide and Particulates From Inco Limited in Thompson and HBM & S Co. Limited in Flin Flon (1987)

Report on Investigation of Smoke Problems from Agricultural Crop Residue and Peatland Burning (1987)

Report on Netley Creek Golf Course Development Proposal (1988)

Report on Burns Rendering Plant, Brandon, Review of the Environment Department Licence Regulating the Operation of and Emissions from the Plant (1988)

Report on Village of Shoal Lake Sewage Lagoon Proposal (1988)

Report on Puffy Lake Gold Mine (1988)

Report on Bonne Homme Colony Farms, Rural Municipality of Westbourne (1988)

Report on Upland Colony Farms Sewage Lagoon System (1988)

Report on Precise-To-Form Castings Inc. Investment Casting Foundry Operation (1988)

Report on McCain Foods Limited, Portage la Prairie (1988)

Preliminary Report on a Proposal by Canamax Resources Inc. for the Development of a Potash Mine at Russell, Manitoba (1988)

Final Report on a Proposal by Canamax Resources Inc. for the Development of a Potash Mine at Russell, Manitoba (1989)

Report on Clearwater Lake Watershed Basin Surface Water Quality Classification (1989)

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

Report on Westlake Regional Water Supply Proposal (1989)

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

Report on North Duck River Headwater Storage Project (1989)

Report on Town of Beausejour Sewage Lagoon Expansion (1989)

Report on COJEF Limited Burning Site (1989)

Report on Deago Properties Sewage Treatment Plant (1989)

Report on Rural Municipality of Rhineland/Town of Altona Liquid Waste Holding Ponds for C.S.P. Foods Ltd. (1989)

Report on Namew Lake Mine/Mill (1989)

Report on Provincial Road #340 Class 2 Highway Relocation Project (1989)

Report on Repap Manitoba Inc. Phase I Modification and Expansion of the Manfor Complex (1989)

Report on Norquay Holding Company Sewage Lagoon (1989)

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

Report on Rural Municipality of Portage la Prairie Liquid Waste Disposal Facility (1990)

Report on Highway Gardens Ltd. Variation to Licence #391 (1990)

Report on Whiteshell Colony Farms Ltd. Domestic Waste-water Treatment Lagoon (1990)

Report on Pelican Lake Enhancement Project (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 Meadow Materials (Dow Corning Silicon Energy Systems, Inc.) Pilot Plant (1990)

Report on Beausejour Auto Wrecking Continuing Operation (1991)

Report on Hudson Bay Mining & Smelting Co. Ltd. Narnew Lake Mine/Mill - A Review (1991)

Report on Abitibi-Price Inc. FML #01 Forest Resource Management Plan 1991 - 1998 (1992)

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 General Scrap & Car Shredder Ltd. Review of Environment Act Licence 898VC (1992)

Report on Manitoba Hazardous Waste Management Corporation Central Hazardous Waste Management Facility Licence Application (1992)

Rapport Sur Les Audiences Publiques: Demande De Permis Relative À Un Centre de Gestion Des Déchets Dangereux Présentée Par La Corporation Manitobaine De Gestion Des Déchets Dangereux (1992)

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

Report on the Rural Municipality of Rhineland and The Town of Altona Regarding Ongoing Disposal Practices for Soap-stock and Bleaching Clay Generated by CanAmera Foods Ltd. (1992)

Report on Public Hearings: City of Winnipeg - Deacon Reservoir Expansion, Rural Municipality of Springfield (1993)

Report on Public Hearings: Village of Teulon - Wastewater Stabilization Pond and Pipeline, Rural Municipality of Rockwood (1994)

Report on Public Hearings: Pembina Valley Water Cooperative Inc. Regional Water Supply Proposal (1994)

Report on Public Hearings: Louisiana-Pacific Corporation Oriented Strand Board Plant, Rural Municipality of Minitonas (1994)

Report on Public Hearings: Asessippi Ski Hil Project, Rural Municipality of Shellmouth (1995)

Report on Public Hearings: Solid Waste Management - Capital Region (1995)

Rapport Sur Les Audiences Publiques: Concernant La Gestion Des Déchets Solides Dans La Région De La Capitale (1995)

Report on Public Hearings: Browning Ferris Industries (BFI) Waste Systems Inc. Integrated Waste Management Facility, Rural Municipality of Rosser (1995)

Report on Public Hearings: Louisiana-Pacific Canada Ltd. Ten Year Forest Management Plan 1996-2005 (1996)

Report on Public Hearings: Tolko Manitoba Inc. - Forest Management Plan 1997-2009 (1997)

Report on Public Hearings: Town of Carman Abatement Project – Linear Grain Inc. – Anhydrous Ammonia Storage Tank Relocation (1999)

Manitoba and Climate Change: A Primer (2001)

Workshop Report: Review of Electric and Magnetic Fields (EMFs) (2001)

Report on Public Hearings: Simplot Canada Ltd. Potato Processing Plant, Portage la Prairie/City of Portage la Prairie Water Pollution Control Facility (2002)

Report to the Government of Manitoba on Public Meetings: Flood Protection Options for the City of Winnipeg (2002)

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)

Report to the Minister of Conservation on Public Meetings: Draft Environmental Impact Statement Guidelines for the Wuskwatim Generation and Transmission Projects (2002)

Interim Report on Public Hearings: City of Winnipeg Wastewater Collection and Treatment Systems – "Sewage Spill" (2003)

Better Treatment – "Taking Action to Improve Water Quality". Report on Public Hearing: City of Winnipeg Wastewater Collection and Treatment System (2003)

Report on Public Hearings: City of Brandon Industrial Wastewater Treatment Facility Expansion and Maple Leaf Foods Inc. Hog Processing Plant Alteration (2003)

Report on Public Hearings: Rural Municipality of Brokenhead (Garson, Tyndall, and Henryville) Water/Sewer Infrastructure Project (2003)

Report on Public Hearings: Wuskwatim Generation and Transmission Projects (2004)

Summary of Public Hearing: Wuskwatim Generation and Transmission Projects (2004) (also available in Cree)

Report on Public Hearing: Red River Floodway Expansion (2005)

Report on Public Hearing: Pembina Valley Water Cooperative, Supplemental Groundwater Supply System (2007)

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)

Report on Public Hearing: Bipole III Transmission Project (2013)

Report on Public Hearing: Keeyask Generation Project (2014)

Lake Winnipeg Regulation (2015)

Report on Public Hearing: Manitoba-Minnesota Transmission Project (2017)

A Review of the Regional Cumulative Effects Assessment for hydroelectric development on the Nelson, Burntwood, and Churchill River Systems. (2018)

