
Manitoba Clean Environment Commission

Annual Report
2020-2021



Manitoba Clean Environment Commission

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**MINISTER OF
SUSTAINABLE DEVELOPMENT**

Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

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

Your Honour:

I am pleased to present the Annual Report of the Clean Environment Commission detailing its activities for the fiscal year ending March 31, 2021.

Warm Regards,

Original Signed by

Sarah Guillemard



Office of the Chairperson
Clean Environment Commission

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

Dear Minister Guillemard:

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, 2021.

Submitted on behalf of the Commission.

Original signed by

Serge Scrafield
Chair

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The Manitoba Clean Environment Commission

The minister responsible for The Environment Act during the 2020-2021 fiscal year was 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

Mandate

The Clean Environment Commission is established under The Environment Act to provide advice and recommendations to the minister, to develop and maintain public participation in environmental matters and to carry out functions that it is required or permitted to carry out under *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.

When requested by the minister, the commission must do one or more of the following in accordance with any terms of reference specified by the minister:

- (a) provide advice and recommendations to the minister;
- (b) conduct public meetings or hearings and provide advice and recommendations to the minister;
- (c) conduct investigations into specific environmental concerns and report back to the minister;
- (d) act as a mediator between two or more parties to an environmental dispute and report back to the minister.

The commission may on its own volition conduct an investigation into any environmental matter, except a matter involving the gathering of evidence to determine whether or not a specific proponent is complying with the provisions of this Act and the regulations, and advise and make recommendations thereon to the minister.

Mandat

La Commission de protection de l'environnement est établie en vertu de la *Loi sur l'environnement* afin de fournir des conseils et de faire des recommandations au ministre, de favoriser et de maintenir la participation du public à l'égard des questions liées à l'environnement et de s'acquitter des fonctions qu'elle peut ou doit exercer en vertu de la *Loi sur l'assainissement des lieux contaminés* et de la *Loi sur la 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.

À la demande du ministre et selon le mandat qu'il précise, la Commission prend l'une ou plusieurs des mesures suivantes :

- (a) lui fournit des conseils et des recommandations;
- (b) tient des réunions ou des audiences publiques et fournit des conseils et des recommandations au ministre;
- (c) procède à des enquêtes à l'égard de questions précises portant sur l'environnement et en fait rapport au ministre;
- (d) agit à titre de médiateur entre plusieurs parties à un différend portant sur l'environnement et rend compte de sa médiation au ministre.

La Commission peut de sa propre initiative procéder à une enquête en matière d'environnement, sauf à l'égard d'une question portant sur la récolte des éléments de preuve en vue de déterminer si un promoteur particulier se conforme ou non aux dispositions de la présente loi ou des règlements, et fournir des conseils et des recommandations au ministre à cet égard.

Message from the Chair

During 2020-2021, the commission concluded its review of two different subjects, as requested the previous year by the Minister of Conservation and Climate, and provided reports to the minister on each of these.

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 minister asked the commission to conduct a review and comparison of the approval processes for forest management activities in other Canadian jurisdictions. Over the next five 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 representative in other provinces. The commission submitted its report and recommendations, entitled Forest Management Plan Approval Process, on May 15, 2020. The commission also presented the report to interested members of the public through EngageMB, in the fall of 2020.

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 panel conducted an extensive review of contaminated site legislation and practices in Manitoba and in all other Canadian jurisdictions. The panel also held meetings with representatives of industry, the legal profession and municipalities. The commission submitted its report and recommendations, entitled Review of Legislation and Programs for Sites Impacted by Development, on December 4, 2020.

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 2019-2020 year and received a background package from the director in early 2021. The matter was in the appeal process as of March 31, 2021.

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.

Staff from the commission also contributed to COVID 19 efforts in the last quarter of 2020-2021.

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

Serge Scrafield

Message du président

En 2020-2021, la Commission a conclu son examen de deux questions distinctes en réponse à la demande de la ministre de la Conservation et du Climat présentée au cours de l'exercice précédent, pour ensuite lui remettre les rapports afférents.

Le 19 décembre 2019, la Commission a reçu une demande et un mandat de la ministre pour examiner le processus d'approbation du plan de gestion forestière du Manitoba et pour lui fournir un rapport comprenant des conseils et des recommandations. Dans le cadre de cette demande, la ministre 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 cinq mois suivants, un comité de la Commission a examiné le processus actuellement mis en œuvre au Manitoba et les processus similaires dans l'ensemble des provinces et territoires canadiens. Le comité a aussi rencontré des fonctionnaires du gouvernement du Manitoba et des représentants de l'industrie forestière de la province, et a consulté des représentants de gouvernements d'autres provinces. La Commission a déposé son rapport et ses recommandations, intitulé Processus d'approbation du plan de gestion forestière du Manitoba, le 15 mai 2020. La Commission a également présenté le rapport aux membres du public intéressés par l'entremise de Participation MB à l'automne 2020.

Le 19 mars 2020, la Commission a reçu une demande et un mandat de la ministre pour effectuer un examen et rédiger un document d'options politiques sur une approche de « pollueur-payeur » en matière de responsabilité environnementale liée aux sites contaminés de la province. Le comité de la Commission a procédé à un examen détaillé de la législation sur les sites contaminés et les pratiques en cours au Manitoba et dans les autres provinces et territoires canadiens. Le comité a également tenu des réunions avec des représentants de l'industrie, de la profession juridique et des municipalités. La Commission a déposé son rapport et ses recommandations, intitulé Review of Legislation and Programs for Sites Impacted by Development (examen de la législation et des programmes pour les lieux touchés par le développement), le 4 décembre 2020.

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 autre appel pendant l'exercice 2019-2020, ainsi que des documents d'information de la part du directeur au début de 2021. L'affaire était en processus d'appel le 31 mars 2021.

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.

Le personnel de la Commission a également contribué aux efforts en réponse à la COVID-19 au cours du dernier trimestre de 2020-2021.

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 2020-2021.

Contaminated Sites Remediation Act

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

Investigations

Forest Management Plan Approval Process

On December 19, 2019 and amended on May 7, 2020 the Minister of Conservation and Climate requested the Clean Environment Commission review the existing approval process for Forest Management Plans. The request included the following Terms of Reference:

- *Review the current approval process for an FMP under The Forest Act and The Environment Act.*
- *Conduct a comparison of the FMP approval processes for forest management activities in Canadian jurisdictions.*
- *Provide advice on gaps and opportunities in consideration of the conditions set out in section 11(2) of The Environment Act and the current FMP approval process under The Forest Act.*
- *Based on the review and analysis, develop recommendations regarding an FMP approval process that would meet the requirements of both The Forest Act and The Environment Act.*
- *Provide a report to the minister on the finding along with recommendations regarding an FMP approval process.*
- *The report must be submitted by July 1, 2020.*

The four-person panel consisted of Serge Scrafield (Chair), Ian Gillies, Betty Leitch and Vince Tacan.

In accordance with the terms of reference, the commission reviewed forest management activities in other Canadian jurisdictions. They also received comments from Manitoba industry representatives and sought clarification on current practices from Manitoba government staff.

A review across Canada revealed that all jurisdictions have a consistent approach to forest management planning based on the application of sustainable forest management with guidance from the Canadian Council of Forest Ministers. Forest management plan development is a collaborative process involving government, industry and the public, with direction coming from legislation and comprehensive planning manuals.

The panel found that in practice, Manitoba's forest management planning is as robust as in other Canadian jurisdictions. However, legislative support could be stronger and publicly available information on the process needs improvement. The environmental assessment process is well organized and has authority in legislation, but adds an additional separate public process using similar information as for the forest management process.

The government and the commission panel each conducted a gap analysis between the forestry and environmental assessment processes. Recommendations and suggestions on how to address identified gaps were provided.

The commission recommended, after consideration of all information, an integrated single forest management plan approval process incorporating environmental assessment requirements and a collaborative staged approach for plan development. Also recommended was that information about the process and opportunities for input be extended to the public at large and a wider range of government departments.

Review of Legislation and Program for Sites Impacted by Development

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 request for clarification of the terms of reference was made by the commission and the final terms of reference were included in the final report.

A panel was formed to conduct this review. An interim report was delivered to the minister in September 2020 and the final report in December 2020.

Other Activities

Professional Development and Training

Commission members and staff attended virtual 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, Decision Writing sponsored by the Manitoba Council of Administrative

Tribunals, Principles of Public Participation sponsored by the Consumers' Association of Canada, Implementation of UNDRIP into environmental effects assessment sponsored by Ontario Association on Impact Assessment and What are ESGs sponsored by the International Association for Impact Assessment. Also viewed were webinars and presentations sponsored by the Canadian Water Resources Association, and Global Water Futures 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. Namew 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)

Forest Management Plan Approval Process. (2020)