

NOV 16 2012



**MINISTER OF
CONSERVATION AND WATER STEWARDSHIP**

Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

NOV 14 2012

Mr. Terry Sargeant
Chair
Clean Environment Commission
Room 305 – 155 Carlton Street
Winnipeg MB R3C 3H8

Dear Mr. Sargeant:

Pursuant to Section 6 *The Environment Act* (the Act), I hereby request the Clean Environment Commission to hold public hearings on the proposed Keeyask Generation Project. I have enclosed Terms of Reference specifying the scope of your review.

In accordance with Section 7 of the Act, please provide me with a report containing the Commission's advice and recommendations on the proposed project following the completion of the hearings.

You may contact Tracey Braun of the Environmental Approvals Branch regarding information obtained through the environmental assessment process. The Keeyask Generation Project is also subject to the federal Canadian Environmental Assessment Act. As such, the regulatory process was done in accordance the Canada-Manitoba Agreement on Environmental Assessment Cooperation.

Yours sincerely,


Gord Mackintosh
Minister

Enclosure

cc: Tracey Braun

Terms of Reference
Clean Environment Commission
Keeyask Generation Project (the Project)

Background

On December 9, 2011, the Keeyask Hydropower Limited Partnership (the Partnership) filed an Environment Act Proposal (EAP) for the Keeyask Generation Project with the Environmental Approvals Branch (EAB) of Conservation and Water Stewardship. In addition to the EAP, the Partnership provided a draft scoping document outlining their proposed scope for the Environmental Impact Statement (EIS). The scoping document was subjected to a Technical Advisory Committee (TAC) and public review period. Subsequently, the Environmental Impact Statement (EIS) was submitted on July 6, 2012.

As authorized under *The Environment Act* (the Act), the Minister of Conservation and Water Stewardship has decided that the assessment of the Keeyask Generation Project will include a review by the Clean Environment Commission (the Commission).

In accordance with the Canada/Manitoba Agreement on Environmental Assessment Cooperation, a cooperative federal-provincial environmental assessment is being conducted for the project, with environmental assessment information being shared by both Canada and Manitoba in support of each government's respective regulatory requirements.

Terms of Reference

Pursuant to Section 6 (5.1) of the Act, the Minister has determined that the Terms of Reference the Commission is to follow are:

- 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;
- To hold public hearings for the Commission to consider stakeholder and public input; and,
- 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. The report should be filed within ninety (90) days from the date of completion of hearings as per Section 7(3) of the Act.

Mandate of the Hearings

The Commission shall conduct the hearings in general accordance with its Process Guidelines Respecting Public Hearings.

The Commission may, at any time, request that the Minister of Conservation and Water Stewardship review or clarify these Terms of Reference.

Hearings should be located in areas that will allow reasonable access to potential stakeholders, including in the project area and Winnipeg.

The Commission shall, within the mandate of the hearing and the Terms of Reference provided by the Minister as noted above, provide a report recommending:

- Whether an Environment Act licence should be issued to Keeyask Hydropower Limited Partnership for the Keeyask Generation Project.
- Should the Commission recommend issuance of a licence, any conditions should be included in the recommendation.

The Commission's recommendation shall incorporate, where appropriate, the Principles of Sustainable Development and Guidelines for Sustainable Development as contained in *Sustainable Development Strategy for Manitoba*.

Manitoba's licensing process will provide an opportunity for First Nations, Metis and other Aboriginal communities to advise of any concerns about potential adverse effects of the project on the exercise of Aboriginal or treaty rights. While the eventual licensing decision pursuant to The Act will consider the results of the consultation process, Crown-Aboriginal consultation is a distinct process from the public review process, including hearings to be conducted by the Commission. As such, the Commission is not being called on to conduct a Crown-Aboriginal consultation process or to consider the appropriateness or adequacy of the consultation process for the Project. The Commission also need not assess whether identified impacts may constitute an effect on the exercise of Aboriginal or treaty rights.

In the near future, government plans to conduct a detailed and comprehensive Needs For and Alternatives To (NFAAT) assessment of Manitoba Hydro's preferred development plan, including the proposed Keeyask Generation Station. As such, the NFAAT, as it relates to Keeyask, should not form part of this Commission's review because it will be assessed separately as part of a larger NFAAT assessment.

November 14, 2012