

Manitoba Clean Environment Commission

Review Directive
for the
Public Outreach
on the
Regional Cumulative Effects Assessment
For Hydroelectric Developments
on the
Churchill, Burntwood and Nelson River Systems

AMENDED MARCH 2017

***Note:** This document is for information only; and is subject to change at any time. Addenda will be issued as information comes available, e.g. timetables, meetings,*



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1. Introduction

On March 2, 2017, the Minister of Sustainable Development provided a revised Terms of Reference requesting that the Clean Environment Commission conduct public outreach on the final report for the Regional Cumulative Effects Assessment (RCEA) that was completed by the Manitoba government and Manitoba Hydro for the Nelson, Burntwood and Churchill River systems.

The minister's letter included Terms of Reference specifying the mandate of the review.

The Review Panel (panel) is issuing this revised Review Directive to outline the process. The review process is designed to gather information from all viewpoints. The ultimate goal is to provide the panel with a record of evidence sufficient for it to provide sound advice to the minister.

The process is public and open to anyone who wishes to participate. The continued participation of all those affected by past hydro development is important to the panel as it will consider all relevant information received in making its recommendations.

This directive is intended to be a reference guide to help individuals understand the review process. It outlines the ways in which interested people, including members of the public, as well as Indigenous and community groups, may participate in this review. Throughout this document, you will find details on key process steps and the timelines associated with the review.

2. Background

In its 2013 report on the Bipole III Project, the Clean Environment Commission (the Commission) made the following recommendation:

“Manitoba Hydro, in cooperation with the Manitoba Government, conduct a Regional Cumulative Effects Assessment for all Manitoba Hydro projects and associated infrastructure in the Nelson River sub-watershed; and that this be undertaken prior to the licensing of any additional projects in the Nelson River sub-watershed after the Bipole III project.”

This recommendation was accepted by Manitoba and a Terms of Reference for a regional cumulative effects assessment of hydroelectric developments was agreed to by Manitoba and Manitoba Hydro in May 2014. It should be noted the scope was expanded to include areas beyond that identified in the Commission's recommendation to include the Churchill, Burntwood and Nelson River systems. The study was completed in two phases. The first phase was completed in May 2014, and included a compilation of available data and a description of the assessment approach to be used to analyze the data in the second phase. The second phase report was released in December 2015.

3. Terms of Reference

Pursuant to Section 6 (5.1) of the Act, the Minister has determined that the Terms of Reference the Commission shall follow for this public outreach are:

- To review the final Phase I and Phase II reports on the regional cumulative effects assessment;
- To carry out a Participant Program with limited funding;
- To invite all affected First Nations and communities identified in the assessment study area and the Manitoba Metis Federation to provide written input on the regional cumulative effects assessment **and its accuracy in presenting past effects and community perspectives and concerns, and to provide any additional information relevant to the assessment;**
- To facilitate a web-based review of the final Phase II report for interested parties outside the Region of Interest;
- To write back to communities who have already responded to the CEC inviting them to once again provide written comments, and offering a small amount of funding to facilitate their participation. If a community really expresses a desire to meet in person with the CEC, it could be accommodated. and
- To prepare and file a separate report with the Minister of Sustainable Development summarizing what was received from participants during the course of the public outreach program, including any comments received

through the web-based review. The report should be filed within four months from the date of completion of the meetings.

Meetings

Where determined by the Commission to be necessary, meetings may be conducted by the Commission with affected First Nations and communities in the study area. Any meetings should be conducted in a manner that encourages inclusiveness and minimizes formality.

This proceeding differs from a typical Clean Environment Commission review in a number of significant ways:

1. There is no proposed development under consideration. Thus, there is no application for licence approval, under *The Environment Act* or any other statute of the Province of Manitoba.
2. While there is no project-specific Environmental Impact Statement, upon which to focus the review, there is a broad assessment of the cumulative effects resulting from all of Manitoba Hydro's developments throughout the region.

The review will be less formal, largely community-focussed and facilitated by written submissions. It will address the cumulative effects of the impacts of hydro development in the identified region.

The ultimate goal for the review panel will be to determine the extent to which the assessment conducted by Manitoba and Manitoba Hydro accurately describes and appropriately addresses the cumulative impacts of hydro development in the region. The panel, with the input gained from participating communities, will make suggestions for improvements and for future steps in better understanding impacts

Those wishing to participate should read this directive very carefully in order to understand the approach being used by the commission in this review. Parties should also read the Terms of Reference issued by the Minister of Sustainable Development, available in Appendix 1, and discussed within this document.

4. The Issues

In reviewing the RCEA, the scope of the issues addressed will be limited to the cumulative effects of direct environmental impacts caused by hydroelectric development in the study area over the past 50+ years. This includes physical and socio-economic effects on communities and in their traditional territories.

In this review, the Commission will focus on the technical content of the reports.

Topics to be addressed are:

- The accuracy of the RCEA in presenting past and current effects and community perspectives and concerns in this regard:

Does the information in the reports accurately reflect the impact of Manitoba Hydro projects on your community over the past 50+ years?

- The availability of any additional information relevant to the assessment:

Identify what is missing, what may have been misinterpreted, what needs to be changed and/or what additional available information should be added?

Topics to be reviewed **do not** include:

- The history, effectiveness, implementation or application of treaties, the Northern Flood Agreement, or other agreements. It is not in the Commission's mandate to address such issues.

The review may identify areas where additional or different mitigation measures might be beneficial. In such cases, the commission will provide such advice to the minister. However, the commission does not have a mandate to address issues of concern that go beyond cumulative effects and, therefore, may not include all matters of concern to a specific community.

N.B – **“Region of Interest”** – In the documents, Manitoba and Manitoba Hydro use this term to describe the area in which they have conducted the RCEA. It includes the Churchill, Burntwood and Nelson River systems.

5. The Panel

A Clean Environment Commission review panel is an independent panel appointed to provide advice to the minister as requested. The panels are selected on the basis of their knowledge and expertise to review and assess a proposed project.

In coming to conclusions, panel members will, among other things:

- conduct a consultative review of all of the documentation filed by Manitoba and Manitoba Hydro and include its findings in the report to the minister;
- provide ways in which affected communities and parties may participate in the review process;
- ensure that, at the conclusion of the process, the record is sufficiently complete for the panel to provide well-informed advice. The record will include information submitted by Manitoba and Manitoba Hydro; affected communities; participants, as well as members of the public.

Based on the record, the panel will produce a report to the minister which includes a summary of the public response and opinions, as well as the panel's commentary and suggestions for future actions.

Who are the Panel members?

The panel will consist of five members. The Chair of the Clean Environment Commission, Serge Scrafield, will chair the panel. The other members will be: Neil Harden, Terry Johnson, Glennis Lewis and Tim Sopuck.

6. The Proceedings

The minister has asked the commission to carry out public outreach to gain feedback on the final RCEA report. This will include written input and may include, where desired and deemed appropriate, holding meetings in communities or with community representatives.

Community Profiles

Manitoba and Manitoba Hydro have prepared profiles for each of the affected communities in the region of interest. These are based on a broad base of existing, publicly available information. Manitoba and Manitoba Hydro have committed to encouraging the respective communities to review and provide feedback, prior to these profiles being placed on the public record.

The commission will take comments on the profiles at any time until the record closes. If no objections are received, the profile and comments will be put on the public record at the same time as the commission's report is released.

Community Meetings

The panel will endeavour to accommodate the request of a community with a strong desire to meet the commission panel, to hear their input into the regional cumulative effects assessment.

These will include First Nations and others identified in the assessment area, as well as the Manitoba Metis Federation.

In requesting a community meeting, a comprehensive summary of topics to be discussed, expected outcomes and an estimated budget are required before consideration for such a meeting will be given.

The input provided in the submissions and any meetings should be based on a technical review of the documents produced by Manitoba and Manitoba Hydro. The technical review may incorporate traditional knowledge and/or western scientific knowledge.

Communities may apply to the commission for a small amount of financial assistance to conduct the technical review.

7. How to Participate

Web-based review/Written Submission

The minister has asked the commission to provide a web-based process for individuals, who do not live in the region of interest, to provide input. The

Review Directive for RCEA – January 2016 –updated March 2017

documents under review are available on-line and comments may be made by submitting a written submission.

Any member of the public may make a written presentation expressing their views on the RCEA. Written submissions become part of the record and receive equal consideration to all other evidence before the panel.

Please consult the website: www.cecmanitoba.ca for further information.

Participant Funding

Limited funding will be available, upon successful application, for organizations and communities wishing to actively participate in the RCEA review.

The funding application period is now closed. Funding allocations will be confirmed.

8. Process Guidelines

The Review will be conducted in general accordance with the commission's *Process Guidelines respecting Public Hearings*. The guidelines are intended to ensure fairness and efficiency in the review process. They can be accessed at www.cecmanitoba.ca, as part of the Procedural Manual.

The guidelines include a number of Practice Directions and a Code of Conduct. All those participating in the proceeding are expected to be knowledgeable of, and abide by, the guidelines.

Further guidelines, including deadlines for certain steps will be provided as they are determined.

Deadlines

Throughout the review the proceedings, the commission will establish deadlines for certain activities, including participant assistance, written submissions, filing of documents, etc. The deadlines are firm, without exceptions.

The commission will notify those participating of the deadlines; and will post them on the website.

Interpretation

Parties are welcome to make oral presentations to the panel in an Indigenous language. However, we ask that the party identify an interpreter and contact the Commission Secretary to make the appropriate arrangements.

Transcripts

All meetings will be recorded and transcribed. Electronic versions of the transcripts will be available through the commission's website site at: www.cecmanitoba.ca.

Printed versions can be purchased directly from the transcription company at your cost.

9. Contact Information

Manitoba Clean Environment Commission
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www.cecmanitoba.ca

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MINISTER OF
SUSTAINABLE DEVELOPMENT

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Chair
Clean Environment Commission
Room 305 – 155 Carlton Street
Winnipeg MB R3C 3H8

MAR 02 2017

Dear Mr. Scrafield:

A handwritten signature in dark ink, appearing to read "Serge", written over the name "Mr. Scrafield".

On August 20, 2015, the Clean Environment Commission was requested to conduct a series of public outreach meetings on the final report of the Regional Cumulative Effects Assessment completed by Manitoba and Manitoba Hydro for the Nelson, Burntwood and Churchill River systems. Since that time, the final report has been completed, and there has been an opportunity for all involved parties to consider the very large amount of information in the final report.

Upon this consideration, I am amending the Commission's Terms of Reference to more closely focus the public outreach on information that will supplement the final report and assist in future steps. I have enclosed updated Terms of Reference to guide your review.

Following the review, please provide me with a report summarizing the input received through the public outreach program.

For any information needed on the Regional Cumulative Effects Assessment, you may contact Ms. Tracey Braun, the Director of the Environmental Approvals Branch, at (204) 945-7071.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Cathy Cox", written over the printed name and title.

Cathy Cox
Minister

c. Tracey Braun

Terms of Reference
Clean Environment Commission
Regional Cumulative Effects Assessment of the Nelson, Burntwood and Churchill Rivers
System (the project)

Background

In its 2013 report on the Bipole III Project, the Clean Environment Commission (the Commission) made the following recommendation:

“Manitoba Hydro, in cooperation with the Manitoba Government, conduct a Regional Cumulative Effects Assessment for all Manitoba Hydro projects and associated infrastructure in the Nelson River sub-watershed; and that this be undertaken prior to the licensing of any additional projects in the Nelson River sub-watershed after the Bipole III project.”

This recommendation was accepted by Manitoba and a Terms of Reference for a regional cumulative effects assessment of hydroelectric developments was agreed to in May 2014. It should be noted the scope was expanded to include areas beyond that identified in the Commission’s recommendation to include the Churchill, Burntwood and Nelson River systems. The study was completed in two phases. The first phase was completed in May 2014, and included a compilation of available data and a description of the assessment approach to be used to analyze the data in the second phase. The second phase report was completed in December 2015.

The second phase report analysed available data and studies and documented what is known from a technical perspective about the cumulative effects of hydro-electric development on the land, water and people within the region. The report is deemed to have met the Commission’s recommendation as noted above.

There was considerable public interest in the regional cumulative effects assessment and limited opportunities for affected study area residents and communities to participate in the completion of either of the phases of the assessment. Therefore, a public outreach program should be implemented to supplement the findings of the second phase report. These terms of reference describe the work expected from this review which will be conducted by the Commission.

Terms of Reference

Pursuant to Section 6 (5.1) of the Act, the Minister has determined that the Terms of Reference the Commission shall follow for this public outreach are:

- To review the final Phase I and Phase II reports on the regional cumulative effects assessment;
- To carry out a Participant Program with limited funding available;

- To invite all affected First Nations, and communities identified in the assessment study area and the Manitoba Metis Federation to provide written input on the regional cumulative effects assessment and its accuracy in presenting past effects and community perspectives and concerns, and to provide any additional information relevant to the assessment;
- To facilitate a web-based review of the final Phase II report for interested parties outside the Region of Interest;
- To write back to the communities who have already responded to the CEC inviting them to once again provide written comments, and offering a small amount of funding to facilitate their participation. If a community really expresses a desire to meet in person with the CEC, it could be accommodated. and
- To prepare and file a separate report with the Minister of Sustainable Development summarizing what was received from participants during the course of the public outreach program, including any comments received through the web-based review. The report should be filed within four months from the date of completion of the review.

Meetings

Where determined by the Commission to be necessary, meetings may be conducted by the Commission with affected First Nations and communities in the study area. Any meetings should be conducted in a manner that encourages inclusiveness and minimizes formality.

Review and Clarification

The Commission may, at any time, request that the Minister of Sustainable Development review or clarify these Terms of Reference.

February 15, 2017