
Manitoba Clean Environment Commission

Hearing Directive
for the
Vivian Silica Sand Extraction Project

February 2022

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,



Manitoba Clean Environment Commission

305-155 Carlton St.

Winnipeg, Manitoba

R3C 3H8

204-945-7091

FAX 204-945-0090

www.cecmanitoba.ca

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for the
Vivian Silica Sand Extraction Project
February 2022**

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1. Introduction

On November 15, 2021, the Minister of Conservation and Climate (now Environment, Climate and Parks) (Minister) requested the Clean Environment Commission (CEC) undertake a technical review and a public hearing regarding a silica sand extraction project (Project) proposal submitted by Sio Silica Corporation (formerly CanWhite Sands Inc) (Proponent) for a license required by The Environmental Act (Act)¹.

The Minister's letter includes [terms of reference](#) specifying the mandate of the review. The terms of reference are also available in Appendix III.

The review Panel (Panel) is issuing the Hearing Directive pursuant to section 6(8) of the Act to outline the review and hearing process.

The CEC review and hearing is designed to supplement the ongoing provincial review process, and gather information from all viewpoints. The hearing process is public and open to anyone wishing to participate. The continued participation of all those affected by the Project is important to the CEC as it will consider all relevant information received in developing advice to the Minister.

The Hearing Directive is intended to help all those wishing to participate to understand the hearing process. It outlines the ways in which interested people, including members of the public, and Indigenous groups and communities, may participate in the review process. Throughout this document, you will find details on key process steps, including information about hearings and the timelines associated with the review process.

The List of Issues for the Panel's review of the Project is in Appendix I. A tentative timeline is in Appendix II.

2. The Project

The Project includes the sequential installation, operation and decommissioning of silica sand extraction wells to remove water and silica sand from groundwater at various locations on private land in the Rural Municipality of Springfield.

The Project proposal submitted by the Proponent, comments from the Technical Advisory Committee, local government and members of the public as well as responses from the Proponent can be accessed on the environmental [Public Registry](#).

¹ The Environment Act, C.C.S.M. c. E125

3. The Review Process

Regulatory Framework

Provincial environmental review

The Environmental Approvals Branch of Environment, Climate and Parks is responsible for coordinating the provincial environmental review. Under the provisions of The Environment Act, the Minister has requested that the CEC conduct a technical review and public hearing and make recommendations as part of the provincial review.

Crown consultations with Indigenous communities

Governments have a duty to consult and, if appropriate, to accommodate the concerns of Indigenous peoples prior to acting in a manner (for example issuing licenses or permits) that may have adverse consequences for treaty or Indigenous rights. This duty arises out of Section 35 of the Canadian Constitution².

The provincial consultation process is being led by Manitoba Natural Resources and Northern Development. The Clean Environment Commission plays a role in gathering input relevant to the consultation process; however, the provincial Crown retains ultimate responsibility to ensure that the necessary consultation and accommodation has occurred.

For more information on Crown consultations for the Project, please contact Manitoba Natural Resources and Northern Development.

Decision to issue a licence

Given that the Project falls within the definition of a Class 2 development, the Director of Environmental Approvals Branch is responsible for deciding whether or not to issue a licence for the Project, and on what terms and conditions. The director will consider the advice provided to the Minister by the CEC, information gathered in the provincial review process and Indigenous consultations.

² Specifically The Constitution Act, 1982, enacted as Schedule B to the Canada Act 1982, (UK), 1982, c 11.

Terms of Reference

The terms of reference received from the Minister are as follows:

In accordance with section 6(5) (a) and (b) of The Environment Act, the CEC, at the request of the Minister of Conservation and Climate, shall conduct a technical review and a public hearing to consider the potential environmental effects of the proposed CanWhite Sands silica sand extraction project.

- 1. The CEC will conduct a technical review of The Environment Act proposal and the hydrogeology and geochemistry assessment report and provide advice and recommendations to the minister regarding potential environmental and health effects of the proposed sequential installation, operation and decommissioning of silica sand extraction wells for the silica sand extraction project.*
- 2. In providing advice and recommendations, the CEC will provide members of the public the opportunity for input regarding the CanWhite Sands silica sand extraction project proposal at a public hearing in a location consistent with the affected community.*

Review Process Overview

The hearing occurs at the end of a process that includes many steps in preparation. The steps and responsibilities of those participating are outlined in the following sections. Some of the major steps include the identification of parties in the process, a procedure to request clarification or additional information, the hearing sitting and preparation of a report to the Minister.

The hearings will be conducted consistent with the commission's [Process Guidelines Respecting Public Hearings](#). The guidelines are intended to ensure fairness and efficiency in the hearing process. They can be accessed at www.cecmanitoba.ca.

The guidelines include a number of Practice Directions and a Code of Conduct. All Parties to the process are expected to be knowledgeable of, and abide by, the guidelines.

The deadlines for some steps of the review process are identified within the various sections of this hearing directive and are summarized in Appendix II.

The Panel

The Act allows the Minister to refer an application to the CEC for public hearings when a project may cause significant adverse environmental effects or where there is a high degree of public concern. The Minister has decided the Project warrants a CEC review.

The four member Panel for this Project is John (Jay) Doering (Chair), Ian Gillies, Terry Johnson and Laurie Streich.

How will advice and recommendations be developed?

In developing advice and recommendations, the Panel will, among other things:

- engage a qualified third party to conduct a technical review of the Project proposal and make that review public
- review all elements of the Project proposal as well as Technical Advisory Committee and public comments and the Proponent's responses
- provide opportunity for interested organizations and individuals to participate in the review process, including a public hearing to receive relevant information about the Project

Based on the information submitted by the Proponent, government departments and the public through the provincial environmental licensing process and information collected during the hearing process, the Panel will produce a report to the Minister. The report will provide an overview of the proposed Project, a summary of public concerns and the CEC's advice and recommendations regarding environmental impacts and health effects as well as potential licensing conditions.

4. How to Participate

The following definitions are relevant to the hearing process:

“Participant” means a person or group of persons designated as such by the Panel.

“Party” is an all-inclusive term referring to all persons or organizations granted standing in a proceeding and may include: the Project Proponent, government officials, Participants and Presenters

“Presenter” means any group or person wishing to make a presentation to the panel who is not designated as a Participant, including members of the public who present their views to the Panel

“Proponent” Sio Silica Corporation and their representatives

There are three options for participating in the hearing process:

1. provide a **written submission**
2. make an **oral presentation**
3. apply to become a **Participant**

These options are explained more fully below, including deadlines for the steps in the review process.

Participation in CEC Hearings

Written Submissions from Members of the Public

It is always open to any member of the public to submit a written presentation expressing their views on the Project. Written submissions become part of the hearing file and receive equal consideration with all other evidence before the Panel.

Written submissions allow groups or individuals to provide the Panel with their knowledge, views or concerns on the Project. The submission should describe the nature of the group’s or individual’s interest in the Project and provide any relevant information that explains or supports their comments.

Written submissions become public documents, and may be posted on the CEC’s website with other presentations. While a person’s name should appear on the submission, no other identifying information should be provided. A cover letter or accompanying email is to be provided which includes your name, full mailing address, phone number, and the name of your organization if you are representing one. This information will **not** become part of the public record or be posted.

If an individual or group has submitted a written submission through the provincial review process, these comments will automatically be considered in the CEC’s review. However, the opportunity to add information is still available.

To submit your letter of comment, you can:

1. use the [link](#) on the Commission website, under the Participation tab
2. send it by e-mail to cec@gov.mb.ca, or
3. mail it to the address indicated below:

Secretary
Clean Environment Commission
305 – 155 Carlton Street
Winnipeg, Mb
R3C 3H8

*A **Written Submission** is a way of providing your knowledge and views on the Project to the Panel.*

Oral Presentation

An oral presentation is a way for groups and individuals to provide the Panel with their knowledge, views or concerns on the Project **in person** during the public hearings. An oral statement should describe the nature of the interest in the Project and provide any relevant information that explains or supports their statement. The CEC will schedule sessions dedicated to hearing oral presentations. These may be scheduled for both daytimes and evenings.

Presenters can refer to notes during their presentation. Presenters are asked to provide at least one copy of their notes, preferably printed. Additional copies will be needed for use by the Panel and other Parties. CEC staff may be able to assist in these logistics. We encourage the submission of electronic versions as well.

At the time of the oral presentation, Presenters will be asked to confirm that the content of their statement is accurate to the best of their knowledge.

Oral presentations must not exceed 15 minutes in length, unless approved in advance by the Commission Secretary.

Oral presentations are subject to questions of clarification from the Panel and, by the Proponent, with permission of the Chair of the Panel.

Alternate presentation arrangements will be made should COVID 19 restrictions prevent in-person participation.

While it is not a requirement, it is preferred that those wishing to make an oral presentation register in advance by contacting the Commission at:

1. by telephone at 204-945-7091
2. by email at cec@gov.mb.ca
3. through the Commission [website](#), under the Participation tab or
4. at a public hearing session.

*An **oral statement** allows you to provide the Panel with your knowledge and views on the project in person during hearings.*

*Oral statements are to be no longer than **15 minutes**.*

Alternate presentation arrangements will be made should COVID 19 restrictions limit in-person participation.

Participants

Those wishing to become Participants must apply and be granted status by the Panel. The application process and responsibilities of a Participant are summarized below. Participants (sometimes referred to as Interveners) are generally involved in all of the key steps of the process. Being a Participant carries certain privileges, but also responsibilities. Both are set out in the *Party Status* Practice Direction in the [Process Guidelines](#).

Participants who give evidence to the Panel will be asked to confirm that the content of their evidence is accurate to the best of their knowledge. Their evidence is subject to questioning by the Panel, the Proponent and other Participants only if it is adverse in interest to them. This affirmation and questioning will also apply to any persons giving evidence on behalf of a Participant.

How to Apply for Participant Status

Parties interested in becoming Participants must apply for status in accordance with the *Party Status* Practice Direction in the [Process Guidelines](#).

To apply for Participant status, please contact the Commission:

1. by telephone at 204-945-7091
2. by email at cec@gov.mb.ca
3. through the CEC [website](#), under the Participation tab.

Applications will be accepted **no later than four weeks** before the commencement of the hearings. The earlier one applies for Participant status the better, as documentation and information from the other Parties will not be provided until status is granted.

The decision as to whether or not to grant Participant status rests with the Panel.

5. Steps in the Process

The following outlines some of the key steps of the review process.

Circulation of Material to Parties

Once decisions are made on Participant status, the CEC will provide Parties with a contact list. The list will include the Proponent, Participants, the Director of the Environmental Approvals Branch and program staff, as well as contacts at the CEC.

Once the list has been developed, all Parties filing or submitting any evidence, information, procedural motions, etc. **must circulate it to the entire list.**

If a Party's contact information changes, that Party must inform the CEC of the new contact information immediately.

Submitted information will be posted on the CEC website and form part of the Record.

Proponent Information

The Proponent **must** send an electronic and/or hard copy of its Environment Act Proposal and all related materials to each Party who requests a copy.

Pre-Hearing Meetings

The Panel may hold one or more pre-hearing meetings with the Proponent, Participants, and other Parties as deemed appropriate by the Panel. Such meetings will address procedural matters, such as scheduling, issue determination, document exchanges, etc., as well as the hearing of motions.

The Panel will give the Parties notice of a pre-hearing meeting. The notice will include the date, time and place of the meeting and a brief description of the agenda.

Pre-hearing meetings are open to the public.

Technical Evaluation

The CEC will engage a qualified third party to conduct a technical review of the Project proposal. Once this review is complete, the results may be posted on the website.

The authors of the review will be made available, during the hearing process, to the Proponent and Participants for questions of clarification.

Information Requests

An Information Request (IR) is a written question to the Proponent asking for additional information about or clarification of evidence already submitted, including the Project proposal and related documentation. Participants with questions regarding the Project can direct these to the Proponent in writing as IRs during the times specified below. All IRs must be sent, in the form prescribed, to the CEC and the Proponent.

Participants must also send copies of IRs to all Parties. The Proponent must submit its responses to the information requests to the CEC and send a copy to all Parties.

There will be two rounds of IRs:

- The first round will occur over several weeks, beginning after Participants are identified and the technical review results are made available. The Proponent will then have a few weeks to provide its responses.
- The second round of IRs is limited to seeking clarification of first round questions and responses; **not new matters**. This second round will close two weeks following the receipt of the first-round responses, and the Proponent will have two weeks to provide its responses.

Multiple IRs can be submitted during each round as long as they are received prior to the stated deadlines. The Panel will provide the precise dates associated with each round as soon as they are known.

*An **Information Request** is a written question to the Proponent asking for additional information about or clarification of evidence already submitted, i.e. the Environmental Act Proposal and responses to the TAC.*

Motions

The CEC's [Process Guidelines](#) allow the Proponent or Participants to file motions raising questions of procedure or substance that require a Panel decision. For the most part, such motions are to be filed and heard prior to the commencement of the hearings.

With leave of the Panel, motions may be heard during the course of the hearings. Motions must set out:

- a statement of the facts;
- the grounds for the request;
- the decision or relief requested; and
- the evidence supporting the request.

If case law is being relied on, a case book must be submitted and the specific passages of the cases being relied on must be highlighted or side-barred. The person raising a motion must submit a copy to the CEC and send a copy to all Parties.

6. Procedural Requirements

Submissions from Participants

Two weeks (14 days) prior to the commencement of the hearings, Participants must submit to the CEC an outline of their submission, as well as any written evidence they wish the Panel to consider.

Final versions of Participant submissions are to be filed **seven** days prior to the date on which they are to be presented.

A copy of these materials must be sent to all other Parties by the deadlines.

Evidence refers to reports, statements, photographs and other material or information that supports the view that you are presenting.

Submitting Documents

When the Hearing process requires the submission of documents by certain deadlines, the documents are only considered to meet the deadline when the Commission Secretary receives them.

Documents must be received in the CEC office by NOON, Central Time, on the date of the deadline.

Documents may be submitted by personal delivery, registered mail, courier, fax, e-mail or other means as determined by the Commission.

The commission requires that **all material filed must be in electronic format**. Depending upon the nature of the materials (e.g. maps, charts), printed copies may also be required.

Pages must be numbered consecutively, including blank pages.

Where required, documents are to be signed. Documents must clearly show the name of the party filing them. As noted above, though, do not include personal identifiers, such as home addresses or phone numbers.

A copy – hard or electronic – of any submitted document(s) must be sent to all Parties on the List of Parties.

For materials to be presented at the hearings, Parties must make copies of any documents to be used for the Panel, the Proponent and Participants, as well as some for members of the public. Parties will be advised of the number required prior to the commencement of the hearings.

Written Submissions – by the Public

Written submissions may be filed with the Commission at its office by personal delivery, registered mail, courier, fax, e-mail or through the [link](#) on the website.

The Commission will ensure that such submissions are circulated to the other Parties, as required.

A deadline for filing of written submissions will be determined and posted on the website.

References to Websites

If you are making a reference to information on a website in a document to be submitted to the Panel, please ensure that:

a) a direct link to the website is inserted, or a reference that is sufficient to allow any person accessing the website to know the exact information which is being referenced, and

b) the website does not require a password or subscription in order to access the information

7. The Hearings

The review process will include hearings in the Project area.

The hearing agenda can be broadly grouped into three parts (see definitions below):

1. Proponent's presentation – which will include an overview describing the Project, a summary of the geotechnical environment and the environmental assessment methodologies and findings. This will be subject to questioning by Participants, and the Panel.
2. Participants' presentations – which will set out the views on certain aspects of the Project and may include expert witness testimony. These presentations will be subject to questioning by the Proponent and other Participants only if the evidence is adverse in interest to them. The Panel may also question Participants.
3. Public presentations – at specific times, members of the public may make oral presentations and ask questions of the Proponent about the Project.

The hearings are expected to take place in the later part of 2022.

The locations and dates for all hearing sessions will be announced at a later date. These hearings are fully open to the public to attend and observe.

Hearings may be conducted virtually depending on applicable COVID 19 restrictions.

All hearings will be conducted in compliance with applicable COVID 19 restrictions.

Interpretation

Parties wishing to make oral presentations to the Panel in an Indigenous language must identify an interpreter and contact the Commission Secretary to make the appropriate arrangements.

Those wishing to make an oral presentation in French, must advise the commission Secretary at least two (2) weeks prior to their appearance so that appropriate arrangements can be made.

Transcripts

All hearings will be recorded and transcribed daily. Electronic versions of the transcripts will be available through the [Commission's website](#).

8. Review Completion

Once the hearings are completed the Panel will have up to 90 days to provide a report to the Minister. The Panel will consider all available information from the provincial environmental licensing process and that collected through the hearing process in developing advice to the Minister. The report will provide an overview of the proposed Project, a summary of what was heard at the hearing and the CEC's advice and recommendations regarding environmental impacts and health effects as well as potential licensing conditions.

9. Contact Information

Manitoba Clean Environment Commission
305-155 Carlton Street
Winnipeg, MB R3C 3H8
Phone: 204-945-0594 or 1-800-597-3556
FAX: 204-945-0090
Email: cec@gov.mb.ca
www.cecmanitoba.ca

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Appendix I - List of Issues

In reviewing the Proponent's project proposal, the Panel's assessment of the Project will include, but not be limited to, consideration of the following:

Public Involvement

The Proponent's process of consultation with the public and Indigenous groups on the Project.

Project Description

Suitability of the proposed design (including project components and geotechnical components), construction, operation and decommissioning of the project.

Regulatory Environmental Assessment

Consideration of the Proponent's approach to environmental assessment.

Environmental Effects Assessment

Potential effects on the environment including:

- groundwater (supply and quality)
- surface water
- fish and fish habitat
- climate and greenhouse gas emissions
- vegetation
- wildlife
- water, hydrology, and wetlands
- soils, terrain and geology
- air quality

Potential effects on socio- economic matters, including:

- labour force and employment
- infrastructure and services
- heritage resources
- land resource use
- human health
- traffic
- aesthetics
- visual quality

Environmental Effects on the Project

The effect of weather and other environmental factors on the physical and operational aspects of the Project.

Cumulative Effects Assessment

Potential effects of the Project, in combination with the effects of past and future projects and activities, on both the biophysical and socio-economic environment.

Monitoring and Follow-Up

Follow-up and monitoring plans for the Project, including consideration of draft plans.

Sustainability

The Project and long-term sustainability.

Recommendations, Terms and Conditions

Recommendations to be included in the Panel report.

Terms and conditions to be included in any advice the Panel may issue.

Note: The Panel will consider recommendations for changes to this list of issues.

Appendix II - Schedule

Schedule of Events <i>Subject to Change</i>	Activities	Deadline
Date		
July 23, 2021	Environment Act Proposal submitted to Environmental Approvals Branch	
November 15, 2021	Clean Environment Commission received Terms of Reference	
February 3, 2022	Proposal and Public/TAC comments received from Environmental Approvals Branch	
February 25, 2022	Call for Participants	
Spring 2022	Technical Review tabled	
Spring 2022	Pre-Hearing meeting	Date, Time & Place TBD
Start IR process (3-4 weeks)	Information Request Round #1 Deadline	Noon, Central time Commission Office & all Parties
Continue IR process (2-3 weeks)	Proponent Response to Round #1	Noon, Central time Commission Office & all Parties
Continue IR process (2 weeks)	IR Round #2 deadline	Noon, Central time Commission Office & all Parties
Finish IR process (2 weeks)	Proponent response to IR Round # 2	Noon, Central time Commission Office & all Parties
Six weeks prior to Hearings	Pre-Hearing meeting	Date, Time & Place TBD
Four weeks prior to Hearings	Deadline for Applications for Participant Status	Noon, Central time Commission Office

Two Weeks prior to Hearings

Participants file evidence

Noon, Central time
Commission Office & all Parties

Late Summer/Fall 2022

Hearings Commence

Dates, Times & Place TBD



**MINISTER OF
CONSERVATION AND CLIMATE**

Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

NOV 15 2021

Serge Scrafield
Chair
Clean Environment Commission
305-155 Carlton Street
Winnipeg MB R3C 3H8
Serge.Scrafield@gov.mb.ca

Dear Serge Scrafield:

In accordance with section 6(5) of The Environment Act, I hereby request the Clean Environment Commission (CEC) to conduct a public hearing regarding the proposed CanWhite Sands Corp. silica sand extraction project.

I am requesting that the CEC review process begin as soon as possible, and I have provided a review mandate and Terms of Reference to guide your exercise as enclosed. Additionally, I am requesting a final report with recommendations, including on licensing conditions, in accordance with section 7(3) of The Environment Act. The CEC may ask for clarification on this request at any time.

Please contact Laura Pyles, Acting Director, Environmental Approvals Branch, regarding information obtained through the environmental assessment process should you wish to discuss this request further.

Warm regards,

A handwritten signature in black ink, appearing to read "Sarah".

Sarah Guillemard
Minister

Enclosure

c. Laura Pyles

Terms of Reference

Clean Environment Commission Review of

CanWhite Sands Corp. Silica Sand Extraction Project Environment Act Proposal

Background

On July 23, 2021, CanWhite Sands Corp. submitted an Environment Act Proposal for the sequential installation, operation and decommissioning of silica sand extraction wells to remove water and silica sand from groundwater at various locations on private land within the R.M. of Springfield.

The water from the silica sand slurry brought to the surface from the wells would be separated from the sand on site, undergo UV treatment and returned down the wells. The separated silica sand would be transported to a previously proposed sand processing facility using a slurry transport line operating in a loop system. The proposal includes a comprehensive hydrogeology and geochemistry assessment report and independent third-party review.

During the public comment period, requests for a Clean Environment Commission hearing were made by members of the public. The Rural Municipality of Springfield formally requested a Clean Environment Commission Hearing and provided a certified Resolution of Council in that regard.

Mandate of the Review

In accordance with section 6(5) (a) and (b) of The Environment Act, the CEC, at the request of the Minister of Conservation and Climate, shall conduct a technical review and a public hearing to consider the potential environmental effects of the proposed CanWhite Sands silica sand extraction project.

The CEC shall conduct the hearing in general accordance with its *Process Guidelines Respecting Public Hearings*.

The CEC will provide advice and recommendations to the Minister in the form of a report pursuant to section 7(3) of The Environment Act and in accordance with the following terms of reference.

Terms of Reference

1. The CEC will conduct a technical review of the Environment Act proposal and the hydrogeology and geochemistry assessment report and provide advice and recommendations to the Minister regarding potential environmental and health effects of the proposed sequential installation, operation and decommissioning of silica sand extraction wells for the silica sand extraction project.
2. In providing advice and recommendations, the CEC will provide members of the public the opportunity for input regarding the CanWhite Sands silica sand extraction project proposal at a public hearing in a location consistent with the affected community.

The CEC review process should begin as soon as possible and be completed by March 15, 2022