

THE MANITOBA CLEAN ENVIRONMENT COMMISSION

IN THE MATTER OF: The Manitoba Clean Environment Commission
Technical Review and Public Hearing
respecting the proposed Vivian Silica Sand
Extraction Project

AND IN THE MATTER OF: Section 6 of *The Environment Act*, CCSM
c.E125

AND IN THE MATTER OF: Section 88(1) of *The Manitoba Evidence Act*,
CCSM c.E150

NOTICE OF MOTION of the MUNICIPAL SILICA SAND ADVISORY COMMITTEE

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TAKE NOTICE THAT a motion will be made on behalf of the Municipal Silica Sand Advisory Committee before the Manitoba Clean Environment Commission (the “CEC”, the “Commission”) on a day to be determined by the Panel of the Commission and at a location to be determined by the Panel of the Commission.

This motion is for:

1. An Order:
 - a. directing Sio Silica Corporation (the “Proponent”) to file materials rectifying the material deficiencies in its Application identified in the “Hydrogeology Technical Review” and “Geotechnical Technical Review” Reports a minimum of 60 days prior to the setting of dates for the Hearing;

b. directing the Proponent to provide Participants with the Stantec Geotechnical Report a minimum of 60 days prior to the setting of dates for the Hearing.

The grounds of this motion are:

2. The Municipal Silica Sand Advisory Committee (“MSSAC”) is a Participant in this matter.
3. The mandate of MSSAC is to, on behalf of its member municipalities, assess any risks posed by the Proponent’s project and to study the Proponent’s project to ensure that the resources of the municipalities and their ratepayers are not harmed.
4. The deficiencies present in the Proponent’s materials and the failure to provide the Stantec Geotechnical Report impairs the ability of the Participants and the Commission to fully assess the risks of the Proponent’s project, preventing the Participants’ meaningful participation in this matter and their ability to assist the Commission in fulfilling its mandate.
5. The incompleteness of the Proponent’s submissions impairs the ability of the Commission to fulfill its mandate as set out in statute and the Minister’s Terms of Reference to develop evidence-based advice and recommendations for the Minister.
6. There are significant issues related to the geotechnical and hydrogeological analyses provided by the Proponent, as identified by the third-party experts retained by the Commission.

7. Until the Proponent fixes the deficiencies in its submissions and provides the Stantec Geotechnical Reports, the Participants and the Public will not be able to fully understand the project and participate in the process.

8. Section 6(8) of *The Environment Act*, CCSM c E125 authorizes the Commission to “make rules governing its procedure,” including postponing any scheduled dates in the process.

9. Section 6(6) of *The Environment Act*, CCSM c E125 and section 88(1) of *The Manitoba Evidence Act*, CCSM c E150 grant the Commission the power to require the production of “such documents and things as the commissioners deem requisite to the full investigation of the matter into which they are appointed to inquire.” The Commission can require the Proponent to provide information to address the deficiencies in its submissions and to provide the Stantec Geotechnical Reports.

Statement of Facts:

10. The Minister of Conservation and Climate (now Environment, Climate and Parks) issued Terms of Reference on November 21, 2021 directing the Commission to undertake a technical review and a public hearing regarding the Proponent’s application for a license under *The Environment Act*,

11. The Commission retained Technical Advisors to prepare Technical Reports assessing the Proponent’s application, which were released to hearing Participants on September 26, 2022;

12. The Technical Reports characterize the application as containing material omissions and significant deficiencies, explaining that “the potential impacts [of the project] are many and not all the relevant issues were identified and resolved with the work described in the proposal;”

13. The Minister’s Terms of Reference and the Commission’s statutory mandate together require the Commission to assess the potential environmental impacts of the proposal and develop advice and recommendations for the Minister respecting the Proponent’s Application;

14. The Participants have a responsibility to assist the Commission in developing its advice and recommendations through the examination of evidence and the making of submissions;

15. The facilitation of meaningful public participation is among the purposes of the statutory licensing regime and the Commission’s public hearing process; and

16. Such further and other grounds as counsel may advise and as the Commission may allow.

The following evidence is relied upon in this motion:

17. “Technical Review: Sio Silica Corporation’s Environment Act Project Proposal”, 19 September 2022, prepared by Dr. Hartmut Holländer and Dr. Allan Woodbury;

18. “Technical Review of Sio Silica Corporation’s Environment Act Project Proposal”, 13 September 2022, prepared by Arcadis Canada Inc.;

19. Manitoba Clean Environment Commission Process Guidelines Respecting Public Hearings;

20. Manitoba Clean Environment Commission Hearing Directive for the Vivian Silica Sand Extraction Project; and

21. Such further and other materials as counsel may advise and the Commission may permit.

DATED this 14th day of October, 2022.



Krista Boryskavich

Counsel to
the Municipal Silica Sand
Advisory Committee