

REPORT TO PARTIES

Pre-hearing Meeting #2
Manitoba Clean Environment Commission Proceeding
VIVIAN SAND EXTRACTION PROJECT
January 19, 2022 at 1:00 PM
Winnipeg Convention Centre [Millennium Suite]

1. Hearing Schedule
 - The tentative hearing schedule was reviewed.
2. Process Guideline – Highlights
 - Some Process Guidelines were reviewed including Communication with the Panel, Transcripts, Conduct at Hearings, Truth in Swearing in, Time Limits for Presentations and Adjournments
 - Some Practice Directions were also reviewed including Party Status, Order of Proceedings, Disclosure, Witnesses and the fourteen-day rule, Questioning, Tip Sheets and Code of Conduct
3. Important Matters
 - The Secretary spoke to a number of important administrative matters including deadlines, electronic copies, AV equipment and computers, handling electronic files, labelling of flash drives and other materials, making copies available to the CEC at the start of the day and marking personal equipment.
4. Questions Arising During Pre-hearing

This section summarizes questions asked during the pre-hearing and provides more detailed answers.

- Clarification on when participant's witnesses will be presented?
 - It is anticipated that participant presentations will begin during the second week of the hearing and if necessary be completed in the third week.
- Will CEC technical experts be submitting anything more in writing beyond what has already been submitted?
 - Testimony of all witnesses will continue to be fluid, as it takes into account new information as it is submitted (e.g., the two rounds of information requests, questions and answers that will occur during the hearing itself). There isn't a definitive answer to if anything new will be submitted in writing with respect to another report. However, CEC technical experts will present their findings and respond to questions and answers from the proponent and participants. These

exchanges are part of the record of the hearing and will be considered as the CEC makes recommendations to the Minister.

- Will the date for written submissions from the public be extended?
 - At this time, the CEC does not plan on extending the deadline for written submissions.
- Will participants have the opportunity to question CEC technical experts?
 - Yes, as per the Hearing Directive authors of the CEC review will be available to the Proponent and Participants for questions and clarification during the second week.
- What length should participant's oral presentations be?
 - As stated, participants should deliver their presentations in a reasonable amount of time. Historically, this has been between one and two hours, this allows for time for questioning of participant experts by the panel, proponent and, other participants. The Secretary will be reaching out to participants to get estimates on the length of time they feel they will need for presentations and likely questions.
- Clarification on deadline for closing submissions?
 - There was some confusion regarding this particular question. Section 3.23 of the Procedures Manual states that at the conclusion of the hearing, the record will be closed unless the panel directs otherwise. Once the record is closed, no additional evidence will be accepted. It is confirmed that the record will remain open for one week after closing arguments (March 24th) to receive written materials in support of them.
- Materials to be submitted as part of closing arguments (are they submitted in writing or orally)?
 - Closing statements are generally delivered orally, with written materials following. It is up to each party whether they wish to follow-up their oral closing with written materials.
- Clarification on the general steps of the hearing?
 - General steps raised in the question would occur in the following order; proponent presentation, participant questions of proponent, CEC questions of proponent, CEC expert presentation, proponent questions of CEC experts, participants questions of CEC experts, participant presentations, proponent questions of participants, CEC questions of participant, participant questions of other participant (only if position is adverse to them).
- Completion of Information Requests
 - The IR process has not been concluded. If it is felt that areas have not been adequately addressed, those areas can be brought to the attention of the CEC, but the CEC does not have the means to compel a proponent to answer a question in a specific way.
- Confirmation of submission deadlines for expert reports
 - As per process guideline 3.17.4 and as stated by the chair of the panel and the secretary expert reports must be submitted fourteen (14) days before the hearing date.

- When will the proponents revised extraction plan be submitted?
 - Proponent confirmed it would be in the following week.

5. Process Guidelines on Website

- The issue of the version of the process guidelines was raised.
 - Upon review it was confirmed that the version of the process guidelines that was linked off the program website was out of date. The current version (2022) is now linked as of January 27th. It is worth noting that the current version (2022) is what was shared with hearing participants in September 2022.