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**Green Action Centre comments on the**  
**Environment Act Consultation discussion paper**

Thank you for the opportunity to comment on the proposal to update Manitoba's Environment Act.

Green Action Centre is in the business of discovering and promoting "practical green solutions" for individuals and society and we take advantage of available opportunities to pursue that task. Most of our intervener experience over the past decade has been at Manitoba Hydro rate hearings before the Public Utilities Board to promote policies, programs and rates that support energy conservation, fairness and justice, while advancing a sustainable economy in Manitoba. And we intervened in both the Wuskwatim hearing and the recently concluded NFAT process on Hydro's development plans from the same perspective.

**Housekeeping**

Green Action Centre certainly appreciates the importance of the environmental licensing and enforcement processes to protect land, air, water and human health in the pursuit of economic activities, but, as a division of labour, we generally leave it to groups that monitor these elements to defend them.

Thus our first general recommendation is to insure that other ENGOs, such as CPAWS, the Wilderness Committee, Manitoba Wildlands and Lake Winnipeg Foundation, for example; Public Interest Law Centre; and other citizen and Aboriginal groups who have expressed public concerns or participated in environmental reviews are adequately consulted before moving forward. If necessary, the deadline should be extended and special efforts made to reach them.

Much of the discussion paper seems to be concerned with formalizing procedures that already occur (e.g. provision of general EIS guidelines, an interdisciplinary Technical Advisory Committee, and an online registry). Parties with more recent experience with the EA process would be in a better position than we to comment on housekeeping matters, but it makes sense to formalize practices that have been found beneficial and clarify the process to all potential applicants and participants.

It also makes sense to add to the repertoire of compliance tools and include provisions for periodic review of and updating (or revoking) licenses (including older grandfathered developments that have never been subject to the current assessment and licensing process). The current exemption of the oil and mining industries is an unacceptable anomaly that should be corrected and provisions should be made for the inclusion of emergent industries that have a potential environmental or health impacts.

We also note that little context or detail about existing Manitoba practices or best practices from other jurisdictions is provided in the discussion document. There is presumed to be a familiarity with both. On the other hand we are fortunate to have a much more detailed review in the well-researched [Manitoba Law Reform Commission discussion document](#)<sup>1</sup>. Thus a further recommendation is to add to the discussion the issues and alternatives from that document and interview its primary author, Cathy Skinner.

### **Becoming one of the most sustainable places to live on earth**

*TomorrowNow* sets a primary goal for Manitoba “to be one of the most sustainable places to live on earth” (6). The current review should ask: How can the Environment Act be enhanced to better achieve this goal? We believe there are a number of proposals worthy of deep investigation and discussion in a further phase of this consultation to make the Environment Act commensurate with the *TomorrowNow* aspiration. We list several here.

#### **1. Sustainability assessment.**

Robert Gibson is a prominent Canadian proponent of [sustainability assessment](#). The objective is “to reform decision making on all significant undertakings – laws, policies, plans, programmes, technologies, projects – so that each one is designed to help reverse the prevailing trends and to make a positive contribution to a desirable and durable future.” This criterion, and the methods designed to implement it, would seem a perfect fit with the goal of *TomorrowNow*. Indeed it is now frequent practice for EIS guidelines to include the principles and guidelines from the Sustainable Development Act, so this could be interpreted as a specification or refinement and possible extension of current practice.

Drs. Kyrke Gaudreau and Robert Gibson prepared [a framework for a sustainability assessment](#) for the recent NFAT review of Manitoba Hydro’s development plan.

A sustainability assessment would have the more comprehensive scope discussed on p. 4 of the consultation document, including climate change, cumulative assessments and the weighing of alternatives.

#### **2. Strategic environmental assessment.**

[According to the U.S. Environmental Protection Agency](#), “Strategic Environmental Assessment (SEA) is the process by which environmental considerations are required to be fully integrated into the preparation of Plans and Programmes and prior to their final adoption.” In other words, the principles and process of environmental assessment (or sustainability assessment) should be applied to all significant decisions, not just particular projects.

#### **3. Environmental bill of rights.**

Through a series of [books](#) and [papers](#), environmental lawyer David R. Boyd has shown that over a hundred countries around the world have included a right to a healthy environment, with corresponding responsibilities, as a higher order or constitutional principle in the legal system with great positive effect on their societies. Canada lacks such a right and Boyd strategizes for its achievement. David Suzuki’s current [“Blue Dot” campaign](#) plans to bring

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<sup>1</sup> Note that documentation for our points is provided through the embedded links.

that about from the bottom up by inspiring Canadians to challenge their municipalities to make declarations and then provinces to pass environmental bills of rights laying the foundation for amendment of the Canadian constitution. If the Province of Manitoba aspires to sustainability leadership, we should examine the forms and functions of environmental rights on the occasion of updating the Environment Act and debate the merits of their inclusion.

#### 4. Early public consultation in the planning phases.

In June 2000, the new NDP provincial government released [a strategy paper](#) that adopted the [COSDI Report](#) produced by a citizens' Consultation on Sustainable Development Implementation (COSDI). Of many progressive measures we here single out the section on public participation. Whereas the Environment Act discussion document focuses on better participation at the assessment stage, emphasizing online tools, COSDI recommends that "[t]here be opportunity for effective/meaningful public participation and consultation processes at all levels of planning, significant resource allocation and effects assessment and review...."

The recent Manitoba Hydro NFAT review demonstrated the importance of this principle in at least two ways. The early involvement of the Keeyask partners was a great strength of Hydro's proposal, but the failure to get citizens' input to the alternatives for analysis created a mad scramble in the course of the hearing when it became apparent that Hydro's case for Conawapa was shaky and that intervener proposed alternatives that gave a higher priority to the DSM resource were superior. As a consequence, Hydro had to redo many of its calculations. Changed evidence from Hydro and new analyses from the Independent Experts were still coming in after the PUB's report had been written. This unacceptable practice was a consequence of the PUB's rigid adherence to the June 20 due date for its report without allowance for the mid-hearing changes in Hydro's evidence, which might have been mitigated if interveners had helped shape the alternatives beforehand.

Manitoba Hydro is now committed to inclusion of stakeholders in its Integrated Resource Planning and rate-making processes prior to a public hearing as a matter of due diligence.

Again thank you for the opportunity to share our observations on Environment Act reform.

Sincerely,



Lisa Quinn  
Policy Committee Chair  
Green Action Centre