

Comments on Environment Act Consultation

By

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I preface my comments with the following general comments:

- In April 2014, I provided comments on a Discussion Paper issued by the Manitoba Law Reform Commission. I am re-attaching that document. All of my responses in that document are relevant to this discussion. I have provided some additional comments to specific questions posed by The Environment Act Consultation document below.
- I urge Conservation and Water Stewardship to undertake proper consultation prior to revising *The Environment Act*. One three-hour breakfast session is not sufficient. Key Aboriginal organizations, NGOs and interested parties should be invited to comment. Further, a list of interested parties could be obtained from MEIA's breakfast session that discussed the Law Reform Commission process.
- With the CEAA, 2012 reducing the scope of review, if The Environment Act is to qualify for a substitution, it will have to be more prescriptive, and require a higher standard of assessment of environmental effects.
- Changes to the Act are long over-due. I commend the Province for initiating this process and hope it will result in changes that are practical, progressive and effective.

1. [How can the EIS Guidelines be improved to facilitate thorough environmental assessment of proposed developments?](#)

The guidelines should be improved to reflect modern standards for environmental assessment practice. In particular, the guidelines should include guidance on public consultation and Aboriginal engagement as opposed to just asking proponents to report on it.

2. [How should the content of the existing guidelines be enhanced in ways that provide a clear environmental protection benefit?](#)

- Provide guidance on how to address the three pillars of sustainability (environmental, social and economic).
- Provide guidance on approach to public and Aboriginal engagement – making references to best practice principles and relevant international standards.
- For complex projects, guidelines should be developed as a scoping document, subject to TAC and public review and input.

3. [What should be included in the roles and responsibilities of the TAC?](#)

- The role of TAC should be clarified in the legislation.
- TAC should provide input into the guidelines for a project
- TAC should serve as a technical sounding board for public input.

- TAC should be involved earlier in the process.
- TAC should provide input in a more consistent manner. All members of the TAC should be provided guidance on how to respond to an application – the current approach is very adhoc. While some members provide one-line responses, others provide detailed information on matters that may or may not be relevant to the proposal.

4. Are there any other agencies that should be included as representatives on the TAC?

Aboriginal organizations should be included.

5. Should we maintain the current Classes of Development? If not, what other system should be considered?

No. The current Classes of Development do not offer much in terms of level of effort required for each assessment. The scope of the assessment should be clarified through guidance documents.

6. Should there be flexibility as to how developments are categorized to allow for the inclusion of new developments that are the result of emerging technological advancements? If yes, how can this be accomplished?

7. Which activities should be included in the licensing process?

The following activities should be included in the licensing process:

- Mineral exploration and advanced exploration;
- Cottage and residential subdivisions;
- Transformer stations (less than 115kV); and
- Oil drilling and exploration

8. Under which circumstances should a license be reviewed, renewed or altered? Should the circumstances be related to time, changing conditions or other factors?

Licenses should be reviewed and renewed every 5 years, or sooner if:

- There is a change in the status of a protected species and the habitat overlaps with the project area;
- New species are added to the protection list and the habitat overlaps with the project area; and
- There are changes in other pieces of legislation/regulation (water quality monitoring standards etc.) that may affect project operations.

The renewal period can be 5 years at the onset of a project and then revised to be later upon subsequent renewals. This will allow proponent to have a good handle on operations, will provide conservation with the confidence that mitigation measures are being implemented effectively and are working as expected. Knowing that a renewal is

mandatory, proponents will adhere to better monitoring standards and will be able to plan financially for any anticipated changes in license conditions.

Current activities that are still operating under Clean Environment Commission orders prior to introduction of *The Environment Act* should be reviewed under current legislation.

9. How do we ensure that the appeals process remains effective for the greater benefit of society?

There should be a framework for the appeal process that clarifies the role of TAC, proponent, and the regulators should a license be appealed. The process should be transparent.

10. How can Manitoba more effectively enforce the provisions of The Environment Act?

Some ideas are:

- Add additional enforcement officers and inspectors;
- Put a framework in place for these officers, clarifying their responsibilities, expertise, and scope of work; and
- Tie in inspections with license conditions so proponents are prepared for regular inspections. This will enhance accountability.

11. What do you think about the expansion of penalty provisions in the act? Please explain

No comment

12. Are current forms of communication (e.g. local newspaper advertisements and public registry) effective at conveying information to the majority of Manitobans? Are there any other effective forms of communication?

Use social media (Facebook, Twitter, etc.)

13. Are there any other ways to enhance public engagement? Please explain.

Please refer to comments provided on Chapter 5: Public Participation in my response to 'Comments on Discussion Paper: Manitoba's Environmental Assessment and Licensing Regime'