



Corporate Services Department • Services généraux

Legal Services Division • Division des services juridiques

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Terry Duguid
Chairperson
Clean Environment Commission

The City of Winnipeg has had an opportunity to review and consider the instruction of the Clean Environment Commission (the “CEC”) date January 28, 2003 which included the requirement that the City prepare an Environmental Impact Statement (EIS). Though the City is in the process of endeavouring to comply with the instruction, I have been asked to write the CEC and put on record a number of concerns the City has with the CEC’s instruction and process.

Throughout this process, the City has made every effort to cooperate with both the CEC and the Province of Manitoba in the undertaking of these hearings and to provide the public with sufficient information so that they could participate in these hearings in a meaningful fashion.

It is of great concern to the City that the manner and tone of the instruction has left the clear suggestion that the City has not provided either Manitoba or the CEC with information which is helpful to the CEC or has made no effort to provide its information in a manner which is clear and understandable to the CEC, other intervenors, and the public. This was not the case.

Though the CEC is of the belief that an EIS is now necessary, the City must go on record stating that the CEC’s request of the City has been made in a manner which failed to take into consideration the effect of preparing an EIS will have on the City’s resources, other commitments of the City, in particular in the Water and Waste Department. There will be additional cost to the City both in additional consultant costs and the reallocation of the City’s resources.

In the City's view, it is unfortunate that the CEC did not take the opportunity of discussing its concerns with the City prior to making its instruction. If the City had been given that opportunity by the CEC, the following information would have been presented:

1. That at no time prior to the hearing being called or on the Minister requesting a hearing by the CEC was the City requested to prepare an EIS. At the hearings, the CEC was aware that the Director of Environmental Approvals had not requested an EIS and had indicated that the studies prepared and information submitted by the City provided the Director with sufficient information to license the City's facilities. It remains the City's view that requiring an EIS at this late date in the process is not consistent with the outcome of the 1991/92 CEC hearings. In fact we were told that an EIS would not be required for this process.
2. In the context of the hearings that took place in the 1990's and the documentation available in that regard, the documentation filed on the registry as a result of the calling of these hearings, the summaries of the City's evidence filed as exhibits and the evidence lead by the City, the CEC has all the necessary information to make its recommendations to the Minister.
3. As the CEC is aware, the province had envisaged hearings to be scheduled later in 2003. However, because of the September incident at the North End Water Pollution Control Centre, the CEC's hearings were accelerated. Upon the announcement by the Minister in October of 2002 that a CEC hearing would be required, the City made its preparations for the hearings a number one priority. This was done with the clear belief that the material prepared and submitted by the City was sufficient for the purpose to enable the hearings to conclude at the end of January. The City complied with the accelerated process and attended the hearings in January. The City held public open houses in both Winnipeg and Selkirk in advance of the CEC hearings. This compliance included the submission of all required documents and preparation and delivery of 7 hours of testimony in the form of presentations. In addition, the City fully answered every question by the Commission and the public.
4. The repackaging of the material into an EIS form consistent with the CEC's instructions will be just that – repackaging. There will be no new information added to the years of research. At no time during the preparation for these hearings was a request or instruction made that an EIS was required.
5. One of the significant purposes for the EIS suggested by the Chairman is to somehow convince Environment Canada to participate and provide an opinion on water quality issues such as nutrients.. The opinion of Environment Canada is not a prerequisite to recommendations by the CEC or the Director's licensing of the City's facilities. There is no evidence that Environment Canada will comment on the EIS once submitted.

6. The CEC should be aware that as a result of its instruction, the City has put major projects on hold which will result in a loss of momentum and additional restart costs. For example, the City is working on a biosolids project and plan for public consultation on those options. This is one example of work that will be delayed for months and perhaps by as much as a year if the public consultation window is missed. This is unacceptable to the City. Other projects affected will be improvements at the North End Water Pollution Centre to address recommendations for improvements, the disinfection project, the ammonia reduction project (centrate treatment), and progress on water treatment where senior staff is required.

7. Further, the cost to assign the necessary consulting and staff resources to this work over the next month and to prepare for and attend the resumption of hearings in April and the impact of this unscheduled work on other projects could easily reach \$300,000. This money could and should be utilized for improvements required at the North End Water Pollution Control Centre including the disinfection facility where tangible and real benefits could be realized.

Again, it is unfortunate that the City was not given an opportunity to address the CEC's concerns with regard to both the City's materials and the need for an EIS. Though the manner in which the CEC made its instruction left no room for discussion or request that the CEC reconsider its position, it is certainly hopeful that in the future the City will be permitted input when a decision of the CEC has such significant impact on the City.

Yours truly,

URSULA B. GOERES
 City Solicitor/Manager of Legal Services
 Per:

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 Senior Counsel
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copies to: Mr. Steve Ashton, Minister of Transportation
 Mr. Norm Brandson, Deputy Minister of Conservation
 Mr. Serge Scrafield, ADM
 Mr. Larry Strachan, Director of Environmental Approvals
 Mr. John Angus, Chair of Standing Policy Committee on Public Works
 Mr. Jae Eadie, Intergovernmental Affairs
 Ms. Gail Stephens
 Mr. Barry MacBride