

manitoba wildlands

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Manitoba Wildlands Comments

June 22, 2005

Infrastructure Canada Screening Report – Red River Floodway Expansion Project

(Gartner Lee Limited, Falk Environmental Inc.)

May 2005

Including some comments on:

Report on Public Hearings – Red River Floodway Expansion

(Manitoba Clean Environment Commission (CEC))

June 2005

Manitoba Wildlands is providing comments for the federal regulators on the Infrastructure Canada Screening Report (as required under the Canadian Environmental Assessment Act (CEAA) for the Red River Floodway Expansion project. As a point of reference, we are also including some preliminary comments on the Clean Environment Commission (CEC) Report on Public Hearings for the Red River Floodway Expansion. Our comments pertain to the federal screening report (Part I) and the CEC report (Part II) separately and we are also providing some comments that are applicable to both federal and provincial regulators about both reports (Part III). A summary and recommendations (Part IV) is also included. We are attaching six additional documents that are referred to throughout our comments below. These **Attachments** are:

Attachment A

CEC Recommendations with Reference to Public Access to Information / Technical and Monitoring Reports: Excerpts from the Clean Environment Commission (CEC) Report on Public Hearings – Red River Floodway Expansion (2005)

Attachment B

Requirements of the Manitoba Floodway Authority (MFA): Environmental Management, Protection, Monitoring, and Reporting: Excerpts from the Infrastructure Canada Screening Report – Red River Floodway Expansion Project (2005)

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Attachment C

Reports, Plans and Other Documents and Programs Recommended by the CEC in its Report on Public Hearings for the Red River Floodway Expansion: Excerpts from the CEC Report on Public Hearings – Red River Floodway Expansion (2005)

Attachment D

Copy of: Manitoba Wildlands' Comments – Red River Floodway Expansion Project EIS (2004)

Attachment E

Copy of: Manitoba Wildlands' Comments – Manitoba Floodway Authority (MFA) Proposed Floodway Expansion Project EIS Supplementary Filing (2005)

Attachment F

Copy of: Manitoba Wildlands' Closing Statement - Manitoba Clean Environment Commission (CEC) Hearings for the Red River Floodway Expansion Project (2005)

Part I: Comments – Infrastructure Canada Screening Report

Infrastructure Canada's screening report comes to the conclusion that environmental effects resulting from the Red River Floodway Expansion will not be significant, provided that the requirements as stated in the screening report are met by the Manitoba Floodway Authority (MFA). The screening report systematically summarizes the effects for each of the project/environmental components and provides conclusions of the responsible authorities (RAs) for each component. In a few instances, the conclusion is that effects will not be significant, but for the majority of project/environmental components, the conclusion is that effects will not be significant, **provided that mitigation proposed by the MFA is completed and that certain additional management actions are taken** (i.e. – there are specifications in the screening report as to how environmental plans are to be undertaken, filed, reported on etc.)

The message that environmental effects of the Floodway Expansion project will not be significant provided that certain action is taken can also be stated another way and it is important not to lose sight of this: ***the Red River Floodway Expansion project will result in significant environmental effects unless due diligence and careful environmental management on the part of the MFA occurs throughout all phases of the project.*** Therefore the ongoing public involvement and accountability by the MFA in fulfilling the

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requirements outlined by the RAs is paramount to the future operation of the Floodway in an environmentally responsible manner.

We wish to state our support for the RAs' requirements for a rigorous and thorough Environmental Management Plan (EMP), and also for requiring more from the MFA in terms of specific construction and operation phase environmental protection plans (CPEPPs and OPEPPs), as well as more monitoring and reporting requirements. We are especially pleased that Infrastructure Canada indicates that the Environmental Management Plan (EMP) will be based on consultation with stakeholders, will reflect the principles of adaptive management and best management practices, and should also include plans for consultation with RAs and other affected stakeholders during both construction and operation of the Project.

The filing of planning, monitoring and reporting documentation by the MFA will provide for increased accountability, however this accountability will be diminished unless the information is made publicly available. Unless this information is available for scrutiny, there is a risk that these sorts of reports may be shelved, that risks of effects and impacts may be overlooked, and that problems may not be addressed. It is essential for all the 'stakeholders' in the Floodway to have certainty and access to information.

All plans, reports and documentation required by federal RAs, as detailed in the Infrastructure Canada Screening Report should be placed in CEAA's federal public registry and the Manitoba Conservation public registry. Or, ideally, a single registry could be created and housed in Manitoba (see our comments in Part III).

Manitoba Wildlands also wishes to take this opportunity to formally identify ourselves as a stakeholder for this project. We expect to receive all information and be included in all subsequent review and evaluation/comment processes.

We were disappointed that the Infrastructure Canada Screening Report for the Floodway Expansion does not specifically require the MFA to address public comments on the environmental impact statement (EIS) and Supplemental Filing, despite the fact that many issues remain outstanding – including most of the issues raised in Manitoba Wildlands' submissions. We are attaching as Attachments D, E, and F our Comments on the Floodway Expansion EIS, our comments on the Supplemental Filing, and our Closing Statement at the CEC hearings (these are also available on the Manitoba Wildlands web site at <http://manitobawildlands.org/develop.htm#license>).

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The Infrastructure Canada Report refers throughout to public concerns and provides a summary table in Appendix B of its report. However, no specific issues raised by the public are noted and the report does not explicitly indicate whether or which public concerns are reflected in the RAs' requirements of the MFA. We believe it is the duty of the RAs to inform the public as to whether and how the concerns they raised were considered and are reflected in the decision to recommend proceeding with the project and the conditions that are placed on the proponent.

Part II: Comments – CEC Report on Public Hearings

The Clean Environment Commission (CEC) Report on Public Hearings for the Red River Floodway Expansion is structured differently than the Infrastructure Canada Screening Report. It focuses more on issues and concerns as expressed by the public and those raised by CEC commissioners during the hearings process.

Like the Infrastructure Canada report, the CEC report also recommends granting licenses so the Red River Floodway Expansion can proceed. The CEC makes 54 recommendations to the Manitoba Minister of Conservation, some of which pertain to licensing, and some of which are broader in their applicability and pertain to the environmental review and assessment process itself.

Manitoba Wildlands supports all of the recommendations of the CEC Report.

We wish to particularly note the 7 recommendations that do require information requested of the MFA to either be placed in the public registry or be subject to public review (please see Attachment A for a listing of these recommendations). This is a very positive step; it is a step towards greater transparency and accountability. There is however, room to go even further in this regard. We would like to see specific requirements and procedures followed for these and all public involvement processes for the construction phases, and operation of the expanded floodway. Predictable, timely, public posting of all reports and plans will be essential for valid and credible management of the most important public works project in the province. Transparency for public comments and recommendations, and monitoring will be critical so the public sees whether and how their comments were considered and acted upon.

As with the Infrastructure Canada Screening Report, we were disappointed that the CEC Report does not specifically require the MFA to address public comments on the EIS and Supplemental Filings, despite the fact that many issues remain outstanding – including

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submissions by Manitoba Wildlands. Please see our comments in Part III for details in this regard.

We were disappointed that the CEC appears to have ignored a recommendation we made in our closing statement (see page 8 of Attachment F) that “the CEC include in its deliberations the contents of the Manitoba Conservation public registry file for the Floodway Expansion project, in particular contributions from non funded public participants and comments that were not addressed by the proponents in writing prior to or through the hearing process.” The lack of cohesion and lack of inclusion of materials outside of the hearings process (but still part of the review process) by both the process under Manitoba’s Environment Act (the Clean Environment Commission hearing process) and the federal assessment under CEAA by RAs (the Infrastructure Canada report) affects credibility of the review processes, and adds risk in terms of effects assessment and basis for licensing decisions. Our organization has identified this situation and risks as a responsibility of both jurisdictions to address. We have structured this document as a response to both reports as an indicator that it is possible to actually consider material from more than one process. For the CEC to continue to hold hearings where they are able to ignore the ongoing steps of environmental assessment outside their hearings mocks the reason for holding public hearings.

We note that the CEC report (pg. 111) acknowledges that “As a Crown corporation, the Manitoba Floodway Authority (MFA) is bound by the provisions of The Sustainable Development Act.” The MFA also acknowledged this in their EIS by stating (as quoted by the CEC report, pg. 112) “the Project is assessed with regard to its compatibility with The Sustainable Development Act (Manitoba), and in particular, the Manitoba Principles and Guidelines of Sustainable Development.”

Manitoba Wildlands assumes that the Sustainable Development Act is therefore applicable in its entirety to the activities of the MFA and both provincial and federal regulators are responsible for ensuring the Act is upheld. This would include not only the Principles and Guidelines for Sustainable Developments but also for example, clause 11(1)(a) regarding the adoption of the provincial sustainable development code of practice to guide the decisions, actions and operations of provincial public sector organizations. We believe that several of the requirements stated in the Infrastructure Canada Screening report would assist in fulfilling the Manitoba Act. (We have not taken the step of identifying all the federal policies and acts that may be relevant with regards to federal permits for the Floodway. The question arises, though, whether the Canada Sustainable Development Act applies.)

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Part III: Overall Comments – Infrastructure Canada Report and CEC Report

The responsibilities of federal and provincial regulators begin with the decision to grant environmental licenses or approvals / permits and are ongoing throughout the life of the project. These responsibilities do not end once a project is constructed. A public works project of this magnitude and importance needs to be held to an extremely high standard given its function to safeguard our province's largest population centre from flood events and the fact that Manitobans living outside the floodway may suffer increased effects of flooding as a consequence.

As alluded to above in Part I and Part II, Manitoba Wildlands' comments and recommendations on both the EIS and the Supplemental Filing, and the issues raised in our Closing Statement have not been addressed. The MFA's Supplemental Filing did not respond to the majority of concerns raised in our EIS Comments, despite past precedent dictating that this should have been the procedure followed. There was no response from the MFA to our comments on the Supplemental Filing either. Past practice over the last 15 years, for developments of this Class under the Manitoba Environment Act, dictates that the proponent respond to public review comments.

Although we are supportive of the recommendations by Infrastructure Canada and the CEC in terms of conditions for licensing this project, neither of these reports acknowledges the failure of the MFA to adequately respond to formal, written comments by the public that were part of the overall review or assessment process. This means that the two reports that will inform the decisions of the federal and provincial regulators have not addressed concerns from the only conservation organization participating in these processes.

Manitoba Wildlands is not alone in this regard; the lack of response from the MFA to EIS and Supplemental Filing comments was noted by other public participants, including those that were funded under the Participant Assistance Program. This is a problem in terms of public accountability and in terms of respect for the time, energy and expertise of those publics who choose to participate in environmental assessment (EA) processes. It is the responsibility of the proponent to respond to ALL public comments and concerns; responding to only selected issues is not acceptable. It is the responsibility of the regulators to ensure that a proponent fulfills all of its obligations. We are attaching as Attachments D, E, and F our comments on the Floodway Expansion EIS, our comments on the Supplemental Filing, and our Closing Statement at the CEC hearings.

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For instance, in the area of Public Policy and Regulatory Framework, Manitoba Wildlands' EIS comments noted that the EIS lacks a comprehensive listing of federal and provincial public policies with which the Floodway Expansion project must comply. Some very relevant policy documents (such as the 2003 Water Strategy) were not even referenced in the EIS. We noted that the EIS made statements about the project being in compliance with certain polices without providing any justification or support for such statements. We also stated our concern about the quality of the report in certain areas, such as the fact that a reference to the Wuskwatim Generation project (when it was the Floodway Expansion project that was actually being referenced) appears. This indicates a deficiency in terms of professionalism and suggests that not a whole lot of thought and consideration went into this part of the EIS. None of our comments were responded to in the MFA's Supplemental Filing.

Another example of EIS comments that were ignored is our EIS review comments on protected areas. The definition of protected areas, and public policy as well, were treated in at best a cursory fashion in the EIS. The analysis was inadequate, the EIS Guidelines have not been fulfilled, and as a result the impacts of the project on existing protected areas, and on the ability to establish protected areas in the future have not been determined. It is also difficult to make any conclusions as to whether the project is in keeping with other Manitoba public policies. We also pointed out that the references, footnotes, and sources for accurate protected areas facts, methodology, assessment, designation content were absent from the EIS. We provided a list of errors of fact and content with respect to protected areas in the EIS. None of these comments were responded to in the MFA's Supplemental Filing.

Manitoba Wildlands undertook to review the EIS and the Supplemental Filing in good faith with the assumption that the time, effort, and resources directed to these tasks would be acknowledged and considered by the proponents and the regulators. We even went as far as to summarize our comments through recommendations in each issue area. The lack of response undermines the stated intent of meaningful public involvement in EA. We feel that proponents and the public need to be provided with very specific guidelines as to how public comments will be considered and responded to as part of the environmental review and licensing process. This is one of the recommendations we already made to the CEC in our closing statement for the hearings (see page 8 of Attachment F).

We feel that it is still possible for some of our concerns to be addressed by federal RAs through explicit requirements in the EMP and associated CPEPPs, OPEPPs, monitoring plans and reports. We urge the regulators to add explicit requirements in particular

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regarding protected areas and fulfilling public policy in areas of both federal and provincial responsibilities. We are available to advise as to the specifics for such requirements.

Both the Infrastructure Canada report and the CEC report include requirements for a great deal of information to be filed by the MFA as a condition of licensing / permits. The information still required / to be filed is as follows:

Federal requirements (for details, see Attachment B) –

- the Environmental Management Plan (EMP): 1 large and detailed overview document that describes all of the specific environmental protection plans, monitoring and follow-up plans and reports that will be filed along with timelines and schedule for all to be submitted, and how all commitments will be met
- 15 Construction Phase Environmental Protection Plans (CPEPPs) for various project/environment components
- 9 Operation Phase Environmental Protection Plans (OPEPPs) for various project/environment components
- 15 Monitoring and Follow-up Plans
- 19 Progress and Compliance Reports
- other reports, documents or programs

CEC Recommendations (for detail, see Attachment C) –

- 15 different plans, reviews, process documents, or programs

The fact that such a comprehensive EMP and associated CPEPPs, OPEPPs and other reports are required by the federal RAs in order to satisfy them that effects can be addressed and/or mitigated, and the fact that the CEC has also identified other information and reports that need to be filed, indicates that the MFA EIS was deficient. At the very least, there is an argument to be made that the EIS submitted by the MFA was premature. Given that these materials and reports will be part of the federal and/or provincial approvals process requirements, public access and scrutiny of all these plans and reports is necessary. The difficulty with this is the risk that public participants may not have resources for review of additional Floodway Expansion plans. We feel that this is a significant flaw in the overall co-operative EA process. Ability to access information and the ability for stakeholders to participate should be a priority of both the federal and provincial regulators. We note that the National Round Table on the Environment and the Economy clearly identifies resources for participation as essential for meaningful public involvement in decision-making.

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The amount of information that still remains to be filed and the fact that both the federal and provincial processes have different information requirements necessitates some coordination. A joint federal-provincial registry should be established for Floodway materials. This would be a “one-stop shop” for information that includes both a searchable and downloadable web-based registry as well as hard-copy registry located in Manitoba. A reminder – such an undertaking is essential, must be public, and would be ongoing for the life of the Floodway.

In closing, we encourage the proponents and the federal and provincial regulators and decision-makers to refer to our Closing Statement (Attachment F), which was presented at the end of the Clean Environment Commission hearings for the Floodway Expansion. (The transcript of our closing statements, shorter, but also with additional comments is located at page 3705, line 1 of the March 9, 2005 Floodway hearing transcript <http://www.reidreporting.com/RedRiver/MAR905.txt>) Within this document, we make reference to the critical need for and importance of public participation and input in EA and in environmental management of this public works project. We list elements essential to a credible, balanced, and fair environmental assessment/hearing.

Part IV: Summary & Recommendations – Infrastructure Canada Report and CEC Report

Manitoba Wildlands supports all the requirements and recommendations of both the Infrastructure Canada Screening Report on the Red River Floodway Expansion and the Clean Environment Commission (CEC) Report on Public Hearings for the Red River Floodway Expansion.

Manitoba Wildlands perceives the implementation of the federal recommendations and requirements that fulfill certain deficiencies of the MFA EIS as essential and non-negotiable.

The fact that so much information is being required by the federal RAs as a condition of licensing/permitting, and that additional information requirements are being recommended by the CEC indicates that the EIS submitted by the MFA was deficient, or at the very least premature.

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The increased accountability resulting from the requirements for the MFA to file planning, monitoring and reporting documentation will be diminished unless the ALL of this information is made publicly available.

Manitoba Wildlands expects a combined, accessible, ongoing public registry to be established to house all of the federal and provincial information filed to date as well as all the information that the MFA will be filing as part of the conditions for licensing, and operation of the Floodway. This registry must be both electronic (web-hosted with documents available for download) and physical (located in Manitoba). The credibility of the Infrastructure Canada Screening Report on the Red River Floodway Expansion rests on ensuring that all of the documentation required of the MFA as a condition of licensing is made public.

The lack of response from the MFA to EIS and Supplemental Filing comments and the failure of both reports to address this deficiency is a problem in terms of accountability and in terms of respect for the time, energy and expertise of those publics who choose to participate in environmental assessment (EA) processes. It is the responsibility of the proponent to respond to ALL public comments and concerns; responding to only selected issues is not acceptable. It is the responsibility of the regulators to ensure that a proponent fulfills all of its EA/EIS and licensing obligations.

We continue to be concerned about the lack of fulfillment of the Manitoba EIS Guidelines – please refer to Attachments D and E for details of our concerns and suggestions in terms of deficiencies. Manitoba Wildlands views the avoidance of the Manitoba EIS Guidelines, especially with respect to protected areas and species inventory, archeological assessment, as elements that can be fulfilled through the federal RAs' reporting and planning requirements.

Manitoba Wildlands continues to be concerned about the learning and operational standards needed for the MFA to work with the public, communities, and stakeholders over the construction period and life of the floodway. We would like to see specific requirements and procedures followed in terms of these and all public involvement processes for the construction phases, and operation of the expanded floodway. An observation would be that contracting consultants to undertake communications with the public is not good enough. It is the MFA that needs to learn and apply improved community relations. This should result in the clear understanding that the MFA works for all of us in the Red River Valley.

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Predictable, timely, public posting of all reports, and plans with public comments and transparency in terms of how public comments are incorporated and reflected in decision-making will be critical so the public sees whether and how their comments were considered and acted upon

Manitoba Wildlands regards the CEC references to Manitoba's Sustainable Development Act, and identification of the need for standards and procedures for EIS processes in Manitoba in its recommendation as an acknowledgement of the weaknesses in Manitoba's assessment and public review process. We are available to participate in the planning for improvement, as recommended by the CEC. Certainly the cooperative EA agreement between Canada and Manitoba needs both operational and technical improvements also.

One recommendation that is absent from both reports would be the need for independent third party reviews or audits of the MFA operations. That is perhaps the main lesson learned from the federal and provincial EIS review, hearings and process to date.

ATTACHMENT A

CEC Recommendations with Reference to Public Access to Information / Technical and Monitoring Reports

Excerpts from:

Report on Public Hearings – Red River Floodway Expansion

(Manitoba Clean Environment Commission (CEC))

June 2005

<http://www.cecmanitoba.ca/files/RRFEPreport.pdf>

The following are recommendations excerpted from the report above pertaining to public access to information that will be filed by the proponent and to technical and monitoring reports that will also be filed.

Note: emphasis in Recommendations below has been added

pg. 116

Recommendation 7.8

A peer review team be appointed which will review and comment on the following:

- The baseline information developed by the Manitoba Floodway Authority and the modelling carried out to date and recommend any further data collection and analysis they deem to be necessary.
- The ongoing monitoring programs proposed by the Manitoba Floodway Authority for both the construction period and over the long-term
- The health-risk assessment carried out by the Manitoba Floodway Authority.
- Design and construction measures planned to prevent increased groundwater loss to the Floodway as a result of expansion.
- Techniques to be employed by the Manitoba Floodway Authority to prevent contamination of the Birds Hill and carbonate aquifer.
- The mitigation program proposed to be put in place by the Manitoba Floodway Authority.

The peer review team shall participate in pertinent committees and public meetings organized by the Manitoba Floodway Authority as part of the ongoing public-consultation process.

Recommendation 7.9

The Manitoba Floodway Authority provide ***an annual report on water quality monitoring*** to the Minister responsible. The ***report shall be available in the public registry*** and copies distributed to interested municipalities and members of the public.

Recommendation 9.5

The Manitoba Floodway Authority provide a report within six months of the issuance of the license outlining its ***response to the Draft Discussion Paper on Expert Workshop and the status of the implementation of the key observations and advice*** contained in the report. This ***report shall be placed on the Public Registry***.

pg. 118

Recommendation 6.3

Manitoba Water Stewardship conduct *public reviews of the operating rules at least once every five years. No new rule shall be adopted without first being submitted to public review.* Except for changes made to the rules under emergency conditions, *no rules shall be revised without first being submitted to public hearings.* Any changes made to the existing rules in response to emergency conditions shall be submitted for such a public review within 12 months of the change.

pg. 119

Recommendation 6.8

Once drafted, The *Red River Floodway Act regulations be submitted to public review.*

Recommendation 6.13

The Manitoba Floodway Authority develop a *detailed plan for flood compensation downstream of the Floodway Outlet and circulate that plan for public discussion.*

Recommendation 7.11

As a condition of its wastewater licence, the City of Winnipeg regularly *monitor and report on the water quality of all City of Winnipeg outflows into the Red River Floodway Channel. These public reports shall be made on a quarterly basis.* The City shall take remedial action when provincial water quality guidelines are violated.

ATTACHMENT B

Requirements of the Manitoba Floodway Authority (MFA): Environmental Management, Protection, Monitoring, and Reporting

Excerpts from:

Infrastructure Canada Screening Report – Red River Floodway Expansion Project
(Gartner Lee Limited, Falk Environmental Inc.)

May 2005

http://www.ceaa.gc.ca/050/Viewer_e.cfm?SrchPg=1&CEAR_ID=11197

The following is a summary of the various documents (plans and reports) that Infrastructure Canada is requiring of the MFA as a condition of granting federal regulatory approval for the Red River Floodway Expansion Project. These are either in addition to or are a modification of plans and reports that the MFA has committed to providing as part of the Environmental Impact Statement.

For some project/environmental components, there may be a CPEPP plan requirement indicated below but not a OPEPP plan or a Monitoring and Follow-up Plan (and vice versa). This may be because the MFA had already made a commitment to provide one of these plans or reports, but Infrastructure Canada has determined that other plans or reports are also needed)

Environmental Management Plan (EMP)

This is the overarching, comprehensive document that is the overall action plan for preparing and submitting the other required environmental plans and documents for review and approval, including the provision of sufficient time for responsible authorities and appropriate federal authorities to review and discuss the plans with the MFA and other stakeholders as appropriate

Elements to be addressed in the EMP include:

- Construction Phase Environmental Protection Plans (CPEPP);
- Operation Phase Environmental Protection Plans (OPEPP);
- Environmental Inspection Plans;
- Monitoring and Follow-up Plans;
- Reporting Plans

The EMP also:

- will include a schedule for reporting progress, including both during construction and on operations during the 5 years following the completion of construction.
- will describe how all of the environmental commitments outlined in the screening report, EIS, Supplemental Filing and other supporting documents will be met during all phases of the project

- will be based on consultation with stakeholders, reflect the principles of adaptive management and best management practices; should also include plans for consultation with RAs and other affected stakeholders during construction and operation of the Project
- will outline the MFAs plans for and content of the environmental protection plans to be implemented during construction (CPEPP) and during operation (OPEPP)
- will outline how the environmental inspection of construction is to be undertaken, including but not limited to the roles and responsibilities of environmental inspectors, reporting requirements and relationships, auditing requirements, dispute resolution mechanisms and qualifications
- will describe how the MFA plans to report ongoing progress on the implementation of the Project and on ensuring compliance with the terms and conditions outlined in this screening report and in the EIS and Supplemental Filings
- will include the MFA's plans for monitoring and follow-up during construction and operations
- will include detailed procedures for administration of the mitigation fund
- will include plans for obtaining all other required regulatory approvals
- all environmental reports and records on the Project must be kept for audit purposes as required by the RAs
- the MFA must provide reasonable access to the Project site during the construction phase to RA staff and/or their designates for inspection purposes

Construction Phase Environmental Protection Plans (CPEPPs)

The CPEPPs will address issues related to specific project/environmental components during the construction phase of the project.

Federal authorities require CPEPPs for the following (15) project/environment components:

- Surface Water Regime
- Groundwater
- Drainage
- Climate, Air Quality and Noise
- Soils
- Surface Water Quality
- Fish and Fish Habitat (including provisions for lower trophic levels and aquatic invertebrates)
- Aquatic Species At Risk
- Vegetation
- Wildlife and Wildlife Habitat
- Species At Risk
- Resource Use
- Infrastructure and Services
- Personal, Family and Community Life
- Heritage Resources

Operation Phase Environmental Protection Plans (OPEPP)

The OPEPPs will address issues related to specific project/environmental components during the operation phase of the project.

Federal authorities require OPEPPs for the following (9) project/environment components:

- Surface Water Regime
- Groundwater
- Erosion and Sedimentation
- Drainage
- Surface Water Quality
- Fish and Fish Habitat (including provisions for lower trophic levels and aquatic invertebrates)
- Aquatic Species At Risk
- Vegetation
- Wildlife and Wildlife Habitat

Monitoring and Follow-up Plans

The Monitoring and Follow-up Plans will address issues related to how specific project/environmental components will be monitored during the operation phase of the project.

Federal authorities require Monitoring and Follow-up Plans for the following (15) project/environment components:

- Surface Water Regime
- Erosion and Sedimentation
- Drainage
- Surface Water Quality
- Fish and Fish Habitat (including provisions for lower trophic levels and aquatic invertebrates)
- Aquatic Species At Risk
- Vegetation
- Wildlife and Wildlife Habitat
- Species At Risk
- Resource Use
- Infrastructure and Services
- Personal, Family and Community Life
- Health
- Heritage Resources
- Cumulative Effects

Progress and Compliance Reports

The Progress and Compliance Reports will provide information about the on-going progress in implementing the project/environment components and in ensuring compliance with the commitments and terms and conditions in accordance with the

provisions of the EMP. Reports would be provided to RAs for information in order to verify the accuracy of the effects predictions contained in the EIS and Supplementary Filings, the ensure the effectiveness of the mitigation measures being employed and to verify the use of adaptive management if required.

Federal authorities require Progress and Compliance Reports for the following (19) project/environment components:

- Surface Water Regime
- Groundwater
- Erosion and Sedimentation
- Drainage
- Climate, Air Quality and Noise
- Soils
- Surface Water Quality
- Fish and Fish Habitat (including provisions for lower trophic levels and aquatic invertebrates)
- Aquatic Species At Risk
- Vegetation
- Wildlife and Wildlife Habitat
- Species At Risk
- Resource Use
- Infrastructure and Services
- Personal, Family and Community Life
- Health
- Heritage Resources
- Navigation
- Cumulative Effects

Note:

The following project/environmental components do not require any additional environmental protection plans, etc. beyond what has been committed to by the MFA because their effects have been deemed not likely to be significant (following mitigation measures):

- Ice Processes
- Economy

Other Plans, documentation, etc. required by the federal Responsible Authorities (9):

- Sediment and Erosion Control Plan
- establish and support a Fisheries Technical Experts Committee
- design of fish passage for Inlet Control Structure
- detailed procedures for administration of the mitigation fund, details regarding the compensation programs provided for under the Red River Floodway Act and as outlined in Rule 4.
- consultation plans aimed at promoting compliance with evacuation orders during flood events.

Attachment B: Manitoba Wildlands Comments on Federal Screening Report – Floodway Expansion

- workshop(s) with the health and emergency services sectors will be organized by the MFA
- plans for consultation with the Regional Health Authorities emergency service providers during all phases of the Project
- plans to ensure the delivery of emergency service in the RM of St. Clements while the Dunning Crossing is closed.

ATTACHMENT C

Reports, Plans and Other Documents and Programs Recommended by the CEC in its Report on Public Hearings for the Red River Floodway Expansion

Excerpts from:

Report on Public Hearings – Red River Floodway Expansion

(Manitoba Clean Environment Commission (CEC))

June 2005

<http://www.cecmanitoba.ca/files/RRFEPreport.pdf>

- *Comprehensive baseline study* (groundwater quality and quantity, groundwater elevations, major ion chemistry, compounds of concern such as pesticides, and bacteriological analysis) – **Recommendation 7.1**, pg. 115
- *Comprehensive ongoing groundwater-monitoring program* (based on the results of the baseline; specifying the monitoring of well depths and general locations) – **Recommendation 7.2**, pg. 115
- *Comprehensive Floodway related health-risk assessment* – **Recommendation 7.4**, pg. 115
- *Procedures and protocols to deal with adverse water quantity and quality effects for the construction phase* – **Recommendation 7.5**, pg. 115
- *Procedures and protocols to deal with adverse water quantity and quality effects for all phases of Floodway operation* – **Recommendation 7.6**, pg. 116
- *Annual report on water quality monitoring to the Minister responsible* – **Recommendation 7.10**, pg. 116
- *Hydrogeological/geotechnical investigation* beneath the Inlet Control Structure to determine the soundness of present foundation conditions (including the drilling of inclined bore holes) – **Recommendation 9.1**, pg. 116
- *Review of the possibility of the control gates jamming as a result of differential settlement* after the hydrogeological investigation is completed – **Recommendation 9.3**, pg. 116
- *Monitoring plan, designed to meet the requirements of the Canadian Dam Safety Association* for surveillance of the intake structure and adjacent embankments – **Recommendation 9.4**, pg. 117
- *Report outlining the MFA response to the Draft Discussion Paper on Expert Workshop* and the status of the implementation of the key observations and advice contained in the report – **Recommendation 9.5**, pg. 117
- *Project Dam Safety Review* as defined in the Canadian Dam Safety Guidelines during the final design phase of the project – **Recommendation 9.7**, pg. 117

- *Recreation and landscaping plan* – **Recommendation 10.2**, pg. 117
- *Plan for flood compensation downstream of the Floodway Outlet* – **Recommendation 6.13**, pg. 119
- *Riverbank monitoring program* (should determine whether Floodway operation has any influence on river bank stability and establish an up-to date baseline of the riverbank) – **Recommendation 8.2**, pg. 120
- *Report to the Cooks Creek Conservation District (CCCD) on the need for and cost of additional drop structures as part of the final drainage design* – **Recommendation 10.7**, pg. 120

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ATTACHMENT D

Comments – Red River Floodway Expansion Project EIS

File # 4967.00

submitted by

Manitoba Wildlands

October 14, 2004

*Manitoba Wildlands continues the work of WWF Canada and CNF for establishment of
Manitoba Protected Areas.*

Manitoba Wildlands
Comments – Red River Floodway Expansion Project
Environmental Impact Statement (EIS)

File # 4967.00

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Manitoba Wildlands

Comments – Red River Floodway Expansion Project EIS

Introduction

Manitoba Wildlands' Director has over 12 years of experience in EIS public review processes, and these comments on the Red River Floodway Expansion project EIS ('Floodway Expansion EIS') reflect this experience as well as the expertise of associates and contractors. Manitoba Wildlands' principle mandate is to monitor and participate in decision processes about Manitoba's lands and waters, including and in particular as they relate to the establishment of protected areas, with the objective of promoting decisions based on sound science and analysis and meaningful public involvement.

We are concerned that the existing Red River Floodway is not licensed under the Environment Act or its equivalent. This means that the existing Floodway has never undergone any kind of environmental effects assessment. The EIS for the proposed Floodway Expansion does not contain sufficient data and information about the existing Floodway to conduct an adequate cumulative effects assessment (CEA). In effect, the current undertaking involves both the existing floodway and the expanded or future project. This is particularly true during the period of time while we continue to operate the existing floodway, while potentially a license is in place for the expansion project. The EIS materials are not clear at all on these matters.

We are also concerned about the overall lack of clarity on the project region, which must be defined in terms of the region of potential impacts from all phases and operating conditions for the proposed Floodway Expansion project. While language in the EIS product agrees with this scope for the project region, the contents of the EIS do not.

We urge the proponent and the Government of Manitoba to seize the opportunity regarding climate change and make the commitment for the Floodway Expansion project to be a 'carbon neutral' project (*see Manitoba Wildlands comments re: Climate Change*).

We have provided comments on elements of the EIS that reflect contents of our previous work product regarding the draft EIS Guidelines, and our application for participant funding in respect to the CEC process for the proposed Floodway Expansion. Manitoba Wildlands recommends that the EIS Guidelines be substantiated with respect to the contents of this EIS document, and that identification of deficiencies be thorough in relation to both provincial and federal requirements for this expanded project.

Regretfully, as part of our comments, we must note the fact that the content in an expensive product (the Floodway Expansion EIS) is inaccurate regarding public policy, technical standards, and government methods for protected areas establishment. We note that this is the second time in a year where EIS products produced by the same firms in Winnipeg have *avoided* public policy, misstated the regulatory framework; left out accurate information, definitions, mapping, and the public interest regarding protected

areas in Manitoba. We would advise the proponent and the PAT that we expect the supplemental filings to correct this EIS content.

Public Policy and Regulatory Framework

Extensive legislation and public policy regarding water, land and resource use currently exists in Manitoba. Under the EIS Guidelines for the proposed Floodway Expansion, the proponents must indicate legislation, regulations, guidelines, policies, and agreements that are applicable to the project. (see *Section 2.3.1 Intent* and *Section 3 Regulatory Framework*) In addition, the proponents are also required to “incorporate and reflect the **Principles of Sustainable Development** as contained in “**Towards a Sustainable Development Strategy for Manitobans**” and the policies under **The Land and Water Strategy** as contained in “**Applying Manitoba’s Water Policies.**”” (EIS Guidelines pg. 4). In effect, this means that the proponents must indicate how the project is in compliance with the strategy and policies above. We maintain that this would also then include subsequent public policy based on these required policy elements. In particular, Manitoba’s Water Policies are 15 years old. More recently there is a Manitoba Water Strategy based on those policies. It is an example of a public policy relevant to this EIS. See comments below.

Missing from the EIS Guidelines is an explicit requirement for the proponent to provide an assessment of how the proposed Floodway Expansion project will comply with each element of the *overall* federal and provincial public policy and regulatory framework (not just the Strategies mentioned and the policies that fall under them). There is also no comprehensive listing of federal and provincial public policies with which the Floodway Expansion project must comply. A variety of easily identifiable federal and provincial policies are relevant with respect to this project.

Analysis and Comments – Public Policy and Regulatory Framework and the Proposed Red River Floodway Expansion EIS (August 2004 version)

Aside from *Chapter 10 Sustainability*, the discussion of public policy and regulatory framework is restricted to a brief paragraph in *Volume 1 Chapter 1 Section 1.5.4 Manitoba and Federal Legislation*, a few lines in *Volume 1 Chapter 1 Section 1.6 Effect of the Guidelines on EIS Organization and Content*, and a brief mention in the Executive Summary (pg.28).

Volume 1, Chapter 1 Introduction, Section 1.5.4 Manitoba and Federal Legislation addresses the requirement in the EIS Guidelines to describe the policy and regulatory framework by referring to the list in *Appendix 1E*.

Appendix 1E lists the federal and provincial legislation and clauses that could potentially impact the project. There is no reference to public policy in the Appendix, other than to reference some guidelines. There is no mention of policy documents. No discussion, or analysis is included in the Appendix and it does not address the issue of how the proposed project will be in compliance with the legislative clauses listed.

As a side note, it is most interesting to note that *Volume 2, Appendix 1E, Section 1.2.6 Other* (pg. 1E-31) states, "Other Acts and Regulations that are potentially relevant to the

Wuskwatim Generation Project are the . . ." (emphasis added). Clearly, the authors of the EIS engaged in wholesale 'recycling' of work product and in this instance failed to proofread and edit their work. At best this indicates a cavalier attitude towards environmental assessment and poor professional standards. At worst, the 'slip-up' is indicative of an attitude that is dismissive of the EA process, and indicates an approach of minimal compliance and the minimum in terms of actual assessment work. It also begs the question of what else? How much of this EIS is simply recycled to give the impression of careful analysis and consideration of the issues?

Volume 1, Chapter 1 Introduction, Section 1.6 Effect of the Guidelines on EIS Organization and Content states that "[t]he proposed Project is consistent with Manitoba's Water Policies regarding water quality, conservation, use and allocation, water supply, and education." There is no discussion, justification to support this statement. A similar claim is also made on page 28 of the Executive Summary.

The Executive Summary indicates that the proposed project is consistent with Manitoba's Water Policies, and also the natural lands and special places policies. This is an impossible statement, considering that the most recent policy document regarding Manitoba's water is the 2003 Manitoba Water Strategy, which has not even merited inclusion in the references section of the EIS, and is not referenced in the EIS itself. The same is true for the "natural lands and special places policies" – the most recent *Action Plan for a Network of Protected Areas* is neither discussed in the EIS, nor included in the references. It is not clear then why such statements are made in the Executive Summary. As noted elsewhere in our review comments, the Floodway Authority staff or their consultants and advisors would have benefited from an hour or two of easy access on line to acquaint themselves with protected areas policy, definitions, and mapping.

Not only are the recent and current policies regarding water and protected areas not referenced or discussed in the EIS, but the statements made in terms of the project being consistent with such policies (in Section 1.6 and in the Executive Summary) are made without any supporting argument.

Volume 1, Chapter 10 Sustainability, Section 10.3 Policies Under the Land and Water Strategy includes a discussion on pg. 7 about the ways in which the proposed project reflects the policies under the Land and Water Strategy. However, as mentioned above, many key public policy documents are simply ignored, not mentioned or referenced, and treated as if they did not exist. For instance, the *Action Plan for a Network of Special Places for Manitoba*. (January 2000 – January 2003) and its objectives are not referenced in the Floodway Expansion EIS. Yet, the Manitoba Conservation website (<http://www.gov.mb.ca/conservation/susresmb/pub/>) lists publications under the Lands and Water Strategy. Included in this list as part of the Natural Lands and Special Places strategy is *An Action Plan for a Network of Special Places for Manitoba*. (January 2000 – January 2003). *Action Plans*, over the last decade, have included the technical methodology, ecological principles, goals, and standards relevant to protected areas establishment and design. See our summary comments in the Protected Areas section. Each of these *Action Plans* is part of the policy framework for

protected areas in Manitoba. As required by the EIS Guidelines, the proponents must incorporate and reflect this policy, and its application, as it is a policy under the Lands and Water strategy. To make a statement such as the one made in Section 10.3 of Chapter 10 Sustainability “No significant adverse effects are anticipated in the context of the Natural Lands and Special Places Policies” (pg. 10-7) is irresponsible, not only because the statement is not supported with additional information or discussion, but also because it fails to adequately address the requirements of the EIS Guidelines in Section 2.3.1 Intent.

In terms of protected areas policy, there is no indication of the level of representation of enduring features that currently exists in the natural regions affected by the proposed project. (this information is easily accessible) No maps are included. There is no indication of the implications of the proposed project in terms of the ability to establish protected areas.

Similarly, with regard to water policy, the EIS ignores the existence of Manitoba’s Water Strategy (2003). It is not mentioned in the EIS or listed in the reference. This policy states that “Manitoba’s Water Strategy identifies six interrelated policy areas. These policy areas were first introduced in *Manitoba’s Water Policies* (1990)”. (<http://www.gov.mb.ca/waterstewardship/waterstrategy/pdf/index.html>). Thus, Manitoba’s Water Strategy has been derived from the water policies that originated as part of the Lands and Water Strategy. The Water Strategy 2003 policy should be considered in a process to “incorporate and reflect” the policies under that Lands and Water Strategy. The EIS is deficient in this regard.

In fact, all statements made in Chapter 10 Sustainability should be supported with data and analysis. The EIS does not consistently provide such analysis.

Recommendations - Public Policy and Regulatory Framework and the Proposed Red River Floodway Expansion EIS (August 2004 version)

1. The EIS is fundamentally inadequate in terms of adequately addressing the (bare minimum) requirements as outlined in the EIS Guidelines regarding the public policy and regulatory framework. Clearly, this must be addressed in the proponent’s supplemental filing. An analysis of federal and provincial public policy and regulatory framework with respect to the proposed Floodway Expansion project that fulfills the EIS Guidelines must be provided. At a minimum, more information and additional analysis is required to substantiate statements in EIS, and provide support for conclusions.
2. In addition, the sections of the EIS that address the public policy and regulatory framework should be rewritten to clearly indicate how the project is in compliance with each element of the overall federal and provincial public policy and regulatory framework (not just the Strategies mentioned in the EIS Guidelines and the policies that fall under them).

3. In particular, Chapter 10 Sustainability should be given priority in terms of supplemental filing by the proponent to address deficiencies.
4. Analysis and support for all statements and conclusions must be provided in the EIS. Updated policies must be included and discussed in terms of the project's compliance with these policies.
5. An updated, more detailed list of references must be included.

Biodiversity/Species

Aquatic

The EIS is deficient per the Final EIS Guidelines. For example, the Final EIS Guidelines require "... sufficient detail regarding existing primary producers ..." and "... sufficient detail regarding existing species composition and abundance of aquatic invertebrates ..." (Section 6.2.2 and 6.2.3, pg.12). Other than gross speculation, the EIS offers almost nothing on primary producers and invertebrates. For example, relative to *Potamogeton* (Volume 1, page 6-25), the EIS suggests that it is likely (not *is*, but 'likely') to be a prevalent species in the Red River, and the EIS does not confirm if the species even occurs in the Low Flow Channel.

The EIS states "It is likely that some recolonization of macrophytes in the Low Flow Channel will occur three to five years after construction." and then "... effects of construction on the aquatic habitat in the Floodway Channel are expected to be small, short-term ..." (Volume 1, page 6-25). It is difficult to envision the derivation of this conclusion given that the EIS does not confirm the status of *Potamogeton* for the Red River, and does not confirm its existence for the Low Flow Channel. This clear lack of understanding by the proponents per their EIS, and their indication "... likely that some recolonization ... will occur ..." (Volume 1, page 6-25) within three to five years (i.e., not that **some** colonization **will** occur, or that lost macrophyte populations will recover) is inconsistent with the EIS conclusion that the impact is 'short-term' (also note our comment, in Terrestrial Wildlife, respecting the proponents misapplication of the concept of 'short-term'). Finally, given the substantive alteration of the Low Flow Channel bottom to a rock substrate, even in the presence of some infiltration of fine materials, a permanent loss of aquatic macrophyte productivity must be anticipated.

We agree that the impact of the project on Low Flow Channel aquatic invertebrate communities is "primarily related to alteration of bottom substrate" (Executive Summary, page 20). However, we strongly disagree with the EIS statement that "The magnitude and nature of these effects are not predictable, but are likely to be neutral in nature." As the EIS notes, the substantive alteration to the bottom substrates of the Low Flow Channel will result in an altered invertebrate community, as species adapted to large rock substrates replace those adapted to fines (silts, clays). A crude estimate of the magnitude of the permanent shift in composition among these two 'groups' would be a decrease to approximately 27% of the pre-development population of the species adapted to fines (35 km of altered bottom substrate of 48 km of total Low Flow Channel). This hardly constitutes a 'neutral' impact for the invertebrate species in question, or for those species of fish that may specialize on such invertebrates. Similarly, the substantive change in the bottom substrates would be expected to exert a substantive impact on clams for this area. These impacts represent large, long-term (permanent), local impacts, and are therefore 'potentially significant effects' per Figure 2.3-1 of the EIS. We therefore strongly disagree with the proponent's EIS statement that "It is not likely that any long-term changes that occur as a result of the altered Low Channel substrate will be adverse." (Volume 1, page 6-34) for those species whose populations incur substantive decreases.

And conclusions that impacts on fish are ‘neutral’ are similarly incorrect (a species by species analysis is appropriate).

EIS information and conclusions are inconsistent relative to fish and clams. For example, the EIS states “Fish and clam species **diversity** and population sizes are generally linked to the available habitat. Suitable habitat differs for each species or community and is dependent on physical features such as ... substrate type, vegetation cover,... and the existing invertebrate community.” (Volume 1, page 6-38) Despite EIS acknowledgement that substrates influence clams, and that substrates, vegetation and invertebrate community influence fish, the EIS suggests essentially no impact of the major alteration of substrate and altered invertebrate community for clams and fish in the Low Flow Channel. We further note that substrates have a bearing on spawning for fish.

The observation of a fish kill (of some unknown magnitude in relation to the ‘population’) in only one winter does not represent adequate evidence to support the EIS conclusion that the Low Flow Channel represents poor habitat or a ‘sink’. In Manitoba, winter kills are not uncommon for good fisheries (e.g., trout lakes in the Duck Mountain, lakes in southwestern Manitoba, and even for the Red River).

Seasonal flooding is important and beneficial to some species of fish (e.g., northern pike). The EIS ignores the potential benefit of high flood events for such species.

The EIS ignores the potential of the greater opportunity for drainage to impact on fish.

Some of the discussion on fish considers ‘fish community dynamics’ where the information of prime interest is ‘fish communities’ (the two are quite different).

The EIS sometimes notes that ‘alternate fish habitat exists’. This conclusion is inconsistent with the concept of ‘no net loss’ (i.e., if alternate fish habitat really did exist, then there would be no need for the replacement of lost habitat).

The EIS states “Four fish species of special concern ... are not anticipated to be affected by the Project.” (Volume 1, page 6-50). The EIS provides no basis for this conclusion.

We note that the physics of water movement, as it pertains to bottom substrates and aquatic biota, is ignored. This may have some relevance to invertebrates, and to fish during high flow events (e.g., if substrates help fish to mitigate current effects during high water events, ‘stranding’ might increase, contrary to the suggestion in the EIS).

The EIS notes the recent existence of summer operations, and the possibility of future summer operations. If not already in place, ramping rates should be developed to eliminate stranding of young fish and other aquatic life forms.

Terrestrial Plants and Habitats

We note that the examination of the Floodway for rare or endangered plants and ecosystems was not comprehensive (i.e., effort focused almost entirely upon a limited area of the Floodway).

Relative to the Floodway, the Executive Summary (page 9) states “Improvements were made to the design of agricultural drainage drop structures that are being replaced so that they could accommodate enhancement of the local drainage systems.”, and further notes that drainage will be improved in the area of the West Dyke. Impacts related to this improved drainage (e.g., adjacent to the Floodway and in the vicinity of the West Dyke) are ignored by the EIS. These are potentially significant. For example, as a consequence of present drainage circumstances, within the area of influence, seasonal and other wetlands, temporarily flooded areas, and/or important natural areas (e.g., mesic to wet tall grass prairies dominated by species like cordgrass and Indian grass, riparian areas) are likely to be found. These areas might be destroyed or impacted as a consequence of improved drainage.

The general potential of the development to impact on drainage is such that the geographic scope of the EIA region may be too small.

The EIS notes that sediments that would normally settle out on the floodplain during large flood events will now be transported downstream into Netley Marsh and Lake Winnipeg. The EIS ignores any potential benefits of large flood events on ‘floodplain forests’ and other ecosystems. Periodic flooding is part of the ecology of riparian floodplain forests, ecosystem species of plants are adapted to flooding, and it has been found to be important to the ‘health’ of similar ecosystems elsewhere (e.g., via the provision of nutrients, the disturbance per se). The impact of large flood events should not be ignored (including those that would occur in the absence of the expanded floodway ... within Winnipeg).

Terrestrial Wildlife

Conclusions on impacts on terrestrial mammals and birds are often not well-founded, and lack supporting evidence. Conclusions respecting the nature (i.e., positive, negative, or neutral), duration, and magnitude of impacts are often questionable or incorrect. For example,

- The EIS suggests that burrowing mammals will recover on the Floodway within three to five years (Volume 1, page 7-22). This conclusion is almost certain to be wrong. The segmented approach to development will not provide substantive opportunity to recolonize disturbed segments. Significant recolonization will only occur if suitable utilized habitat exists peripheral to the Floodway. The EIS provides no evidence to suggest that this is true, and digital imagery within the EIS demonstrates that this will often not be the case (i.e., the presence of cultivated fields adjacent to the Floodway). The correct conclusion is that this is not a ‘short-term’ impact, but rather that there will be a long-term substantive decrease in burrowing mammals, which also has implications to those species that prey upon them (e.g., red-tailed hawk, horned owl, coyote). We note that

structured monitoring of the many species of small mammal did not occur (e.g., to determine density). Of course, in the absence of such monitoring, it is essentially impossible to demonstrate if and when populations of these species recover (i.e., document impact), and the veracity of the conclusions of the EIS.

- The preference of alfalfa by white-tailed deer is well-known. Indeed, Manitoba Conservation has often planted alfalfa as a habitat enhancement technique for the species (including converting native plant ecosystems to alfalfa). Despite this, the EIS suggests that replacement of alfalfa by native grasses on the Floodway will somehow be ‘positive’ for deer.
- The EIS frequently suggests that animals could make use of adjacent habitats (to the Floodway and West Dyke) during construction. Yet the EIS offers no evidence to demonstrate the suitability of adjacent habitats, and digital images demonstrate that adjacent habitats are often not suitable. This suggestion further ignores the fact that many species are territorial (i.e., an individual will exclude individuals of the same species from their ‘territory’).

We note that the EIS misapplies the definition of ‘short-term’ per Figure 2.3.1 of the EIS and the associated definition. For example, the EIS suggests that small burrowing mammals would recover within three to five years, and interprets this to be ‘short-term’ where the definition (Volume 1, page 2-13) is “... effects that last no more than a one-generation span of the species affected or five years for other environmental components such as water quality.”. The definition for long-term is “... more than one generation of the species affected”. Given that the generation period for these small mammals is considerably less than three to five years, the appropriate duration of impact is ‘long-term’.

We would expect that the substantively altered substrate of the Low Flow Channel would substantively influence amphibian habitat within the Channel (including leopard frog, a species of concern that would over winter in the bottom). However, this large (magnitude) long-term (duration) potential impact receives essentially no analysis or examination against literature. We note that literature to demonstrate conclusions of ‘no significant impact’ is almost non-existent for this EIS. Elimination of the ‘ponds’ will likely exert some influence on amphibians.

The EIS sometimes mixes construction and operation-inactive effects. For example, the EIS discusses the timing of clearing of willows within the Floodway (a construction-related mitigation) while addressing operation-inactive effects (Volume 1, page 7-26).

The EIS notes that loggerhead shrike make use of areas where nesting structures (shrubs and trees, including willow) occur in close proximity to grazed or mowed plant communities, and suggests the presence of only one potential nesting area (dominated by hawthorn). This suggestion appears inconsistent with plant data within the EIS. Specifically, willow, saskatoon, aspen, cottonwood, and black poplar are documented for

the Floodway (Table 7B-2 of Appendices). These shrubs and trees could provide for nesting within this mowed forb/grass mix of the Floodway

We note that observations of loggerhead shrike (Figure 7.5.1) for the general area are incomplete. We further note that surveys for endangered animals or plants were not comprehensive within the Floodway.

Riprap of the Low Flow Channel will have an impact on the primary productivity of macrophytes, and therefore those mammals associated with aquatic environments.

Riprap of the Low Flow Channel, and for the Red River to the north of the Outlet, will impact on clams, thereby having an influence on raccoons that forage on clams.

The EIS notes that certain transmission lines will be extended but does not address the impact of this development on birds.

Overall, this is a cursory treatment of terrestrial wildlife effects, lacking valuable baseline data that could have been collected (e.g., the virtual absence of data on mammals).

Recommendations – Biodiversity and Species and the Proposed Red River Floodway Expansion EIS (August 2004 version)

Monitoring is a precondition to adaptive management, and baseline monitoring is required for the EIA of the development (and follow-up monitoring should licensing occur). This monitoring will allow for documentation of impacts, testing of EIS conclusions (important given the available evidence and testimony demonstrating that EIS conclusions have often been quite wrong), and the opportunity to ‘do things better in the future’. Required baseline monitoring for this development includes determining densities for some of the smaller mammals (e.g., burrowing mammals), and monitoring for plants, invertebrates, and clams within the Low Flow Channel (e.g., to examine the impact of the riprap on invertebrates).

Given the substantive change in substrates within the Low Flow Channel, a species by species analysis of the impact is warranted for fish.

The EIS notes that “Vegetative communities, which may contain plant species at risk ... will be disrupted ...” (Volume 1, page 7-9). Given that the examination of the Floodway for rare or endangered plants and ecosystems was not comprehensive, an Environmental Monitor(s) should be in place to determine the location of any sensitive plants or communities prior to construction. These communities could then be preserved to the extent possible (e.g., via removal of the ‘sod’).

We support the EIS commitment for reconnaissance survey along the length of the Floodway for animals that fall into the group of ‘species of concern’. The survey effort to date has not been adequate. Surveys must occur with a great enough frequency to

ensure that species will not be missed (i.e., greater than one survey over the 'breeding season'). Further, given the plant data, it is necessary that all nesting structures be examined for loggerhead shrike. This species can be found in areas of low shrub or tree density.

Mitigation should be developed to counter the loss of shrubs and trees as a consequence of the development.

Further assessment should occur respecting the following.

- The impact of the development on floodplain forests.
- Documentation of the value of high flood events to biota.
- The impact of the enhanced drainage on important habitats outside of the Floodway RoW and beyond the West Dyke.
- The impact of the altered substrate and ponds in the Low Flow Channel on leopard frog.

Water Quality

Respecting cumulative effects, the EIS notes the potential of various other developments to impact water quality (e.g., impoundments, lagoons, changes to farm practices), and states “While the nature of any future initiatives on this issue are uncertain, it is likely that these activities will result in reduced nutrient loadings to the environment, precluding any cumulative effects with those of Project construction (No changes to nutrient issues as a result of the Project are anticipated after construction). Both the province of Manitoba and the state of Minnesota are implementing nutrient management plans.” (Volume 1, page 6-2).

We must disagree with the conclusion that nutrient loadings to the environment are anticipated to decrease; we question what the basis for this conclusion was, and wonder ‘where the proponent and their consultants have been over the last year or two’? Are the proponent and their consultants unaware of current nutrient challenges like eutrophication of Lake Winnipeg, predicted failure of perhaps the majority of septic fields within the Red River Valley, the expanding livestock industry, and the lack of staff in the Conservation and Water Stewardship departments? This is an example of what is often observed in an EIS - the proponent and their consultants attempting to have the reader look at the world through ‘rose-colored glasses’.

EIS baseline water quality data were from the Red River (near the inlet at St. Norbert and at the Selkirk bridge). Were there no data for the Floodway?

The EIS notes that upgrades to drainage inlets to the Floodway will enhance opportunities for drainage. Are there water quality and quantity data available for these areas of input, and what is the predicted impact of increases in drainage on water quantity and quality?

The EIS discusses the impact of leaks and spills of petroleum products during construction by noting that fuel-up would be outside the Floodway, and that spills would be cleaned up promptly. Practices to address this issue were primarily deferred to the Environmental Protection Plan. Leaks and spills from machinery will occur irrespective of the EPP, and some studies have found the amount lost from working machinery to be substantive (e.g., for the forestry industry). The proponent should explore the use of non-petroleum lubricants that are safe for the environment, as used in development projects near water in other places (e.g., British Columbia).

The EIS reports on temporal and geographic variation in nitrogen and phosphorus, and other parameters. Are the differences suggested within the text statistically significant differences (e.g., between the Selkirk and St. Norbert sampling locations)? Please provide means, standard errors, and sample sizes.

We note at least one inconsistency in the text versus the data tables on water quality. Specifically, for phosphorus, the text suggests a peak in April for St. Norbert. Per the

Table, this is correct for the 10th percentile. However, the peak for the 90th percentile is in July (see Table 6.3-1).

The reporting of statistics in the text should be consistent with the information presented in the data tables (i.e., the text should indicate if it is the 10th percentile or 90th percentile that is being reported).

Respecting Table 6.3-5 and similar tables, the proponent seems to be confused respecting median (50th percentile) as used in the 3rd column, and average as used in the 5th and 6th columns (e.g., relative to 2,4-D amine). These are two **different** measures of what is known as ‘central tendency’ in statistics.

The EIS examines impacts using a ‘worst-case scenario’ wherein all of a given potential contaminant enters the system. While the extra amount is relatively small against background amounts, it is important to recognize that these are real increases that are not unimportant (e.g., the potential for a 1.2% increase in the phosphorus flowing into Lake Winnipeg). It is important to recognize that threshold relationships are common in biological systems (this is particularly typical respecting toxicological relationships). Could this additional amount of phosphorus be that additional amount that triggers a substantive impact? Additional fertilization of Lake Winnipeg is a significant biological and resource concern, and must be controlled.

Further to this, the Floodway EIS scenario assumes the success of the revegetation plan and no flooding; revegetation plans have been known to fail and floods will happen. These sources of uncertainty should have been incorporated within the scenario exercise.

Recommendations – Water Quality and the Proposed Red River Floodway Expansion EIS (August 2004 version)

The conclusion that nutrient loading is anticipated to decrease must be justified in the EIS; the factors noted above must be considered in subsequent filing, discussion by the proponents.

Water quality data for the Floodway should be filed if available.

Water quality and quantity data for upgrades to drainage inlets to the Floodway must be filed if available.

The proponent should address the suggestion above regarding the use of non-petroleum lubricants that are safe for the environment.

Please provide information on the issue of the statistical significance of temporal and geographic variation in nitrogen and phosphorus, and other parameters as referenced above.

The proponents must reconcile the inconsistency of the text versus the data tables on water quality, and specifically for phosphorus.

The issue of 'worst-case scenarios' regarding contaminants requires additional attention by the proponent. Please see comments above.

The issue of the probability of success of the revegetation plan and the assumption of no flooding must also be addressed by the proponent. Sources of uncertainty must be incorporated into the analysis as suggested above.

Climate Change

The Environmental Impact Statement (EIS) Guidelines for the proposed Floodway Expansion project makes 2 references to requirements for the proponents to address climate change as part of the EIS. *Section 2.3.2 Scope* (pg. 4) refers to the fact that the EIS shall include an examination of “the implications of the Project with respect to climate change and Manitoba’s commitment to the Kyoto Accord”.

Climate Change is also referenced in Section 6.1.1 General (pg. 11) which states that the EIS shall describe “general climate conditions with sufficient data provided to predict the effect of the project on climate and the potential effects of climate on the Project over time”.

Climate change has become widely-accepted as a phenomenon that must be considered in the context of environmental assessment. The government of Manitoba has recognized and acknowledged the importance of climate change and taken action to reduce greenhouse gas (GHG) emissions in adopting a progressive climate change policy for the province. Nationally, Canada has made international commitments in endorsing and ratifying the Kyoto Protocol. The Russian Cabinet's decision on September 30, 2004 to send the Kyoto Protocol to parliament for ratification means the Government of Canada must immediately introduce legislation to set mandatory greenhouse gas emission targets for Canadian industry, according to a September 30, 2004 press release by the Pembina Institute. (<http://www.pembina.org/newsitem.asp?newsid=113§ion=>) Russia's ratification of the Kyoto Protocol triggers the treaty's entry into force, and Canada will be required by international law to reduce its greenhouse gas emissions.

Manitoba has an opportunity with the proposed Floodway Expansion project to demonstrate its commitment to minimizing GHG emissions and supporting projects that are ‘carbon-neutral’ (no net GHG emissions, or loss of carbon.).

Given the provincial and national commitments to actions that minimize GHG emissions, and the references in the EIS Guidelines for the proposed Floodway Expansion project, the EIS should include a discussion about carbon stocks, greenhouse gases, and other climate change issues and key indicators and then address these issues in the context of the project.

Specifically, the EIS should include:

- a. a detailed description of options for the minimization and/or elimination of GHG emissions or negative changes to carbon stocks through ‘alternatives means of carrying out the project’ and in ‘alternatives to’ the proposed project;
- b. detailed estimates of greenhouse gas (GHG) emissions and changes to carbon stocks as a result of the proposed Floodway Expansion project in relation to construction and operation stages - this information should be for the entire project region, not just the local project region. It must include and identify which actions will decrease carbon, and which will increase GHGs and how

- these will be mitigated, how these will be adapted so that impact will be reduced, etc.;
- c. details regarding compliance with the government of Manitoba stated policy on climate change as well as Canada and Manitoba's commitment under Kyoto (in particular, disclosure of carbon and GHG emissions for all stages of the project in relation to Manitoba's Kyoto requirements);
 - d. a comparative analysis of the carbon effects of the Floodway Expansion project and other large scale, earth moving and water diverting projects in other jurisdictions (with particular emphasis on best practices, and standards –both statutory/regulatory as well as voluntary); and
 - e. information that allows a comparison of the climate change impacts of the existing floodway structure, and the expanded floodway structures so that opportunities to make the entire, cumulative project carbon neutral can be identified.

The EIS should also reference the CEAA publication *Incorporating Climate Change Considerations in Environmental Assessment: General Guidance for Practitioners* http://www.ceaa-acee.gc.ca/012/014/2_e.htm and provide an explanation of the steps taken (as outlined in the publication) in following this guide in the analysis of climate change effects as they relate to the proposed Floodway Expansion project.

Analysis and Comments –

Climate Change and the Red River Floodway Expansion EIS, August 2004 Version

The Sections of the EIS that deal with climate change issues (there is one main section in Chapter 5, and some references in other sections) essentially indicate that climate change scenarios support the need for the project, and GHG emissions resulting from the project are dismissed as insignificant.

The climate change issues outlined above (a. – d.) are either entirely absent from the EIS or addressed inadequately (i.e. Manitoba's commitment to meeting and exceeding the requirements of the Kyoto Protocol is referenced in passing). However, notwithstanding this disappointment, the EIS for the proposed Floodway Expansion project does not even adequately address the requirements of the EIS guidelines.

The Executive Summary for the proposed Floodway Expansion project (pg. 17-18) states that “[t]he Project will result in greenhouse gas emissions during construction **but it is not expected to have any significant effect on global greenhouse gases.**” (emphasis added)

To begin with, this statement is pointless because almost no single project anywhere in the world will have any significant effect on **global** GHG emissions. It also misses the point and does not address the requirement of the EIS Guidelines to address the “implications of the Project with respect to climate change and **Manitoba's commitment to the Kyoto Accord**” (emphasis added).

The Section in the EIS itself that deals with the issue of climate change and GHG emissions is *Volume 1, Chapter 5 Physical Environment, Section 5.8 Climate, Air Quality and Noise* (pg. 48-51). In this section, the proponents reference the Manitoba government commitment to reducing climate change impacts. The EIS (pg. 49) states,

The Province of Manitoba (2002) has publicly stated its intention to meet and exceed Kyoto reduction targets with a goal of a reduction of greenhouse gas emissions of 18% below 1990 levels by 2010. The construction of the Project will result in emissions of greenhouse gases associated with construction equipment; however, this effect is expected to be local, of small magnitude, and of short duration and therefore, is insignificant. The construction of the Project is not expected to affect the province's ability to satisfy its commitment under the Kyoto protocol.

Unfortunately, there is no quantification or even estimate of the GHG emissions for the construction phase of the proposed Floodway Expansion project. There is no justification provided for the above statement. This is grossly inadequate.

In addition, there is no reference to the amount of vegetation, trees that will be permanently and/or temporarily removed or degraded as part of the construction phase of the project, or the implications of this activity in terms of carbon stocks. There is no quantification or calculation of the total area cleared for construction, or disturbed during construction, nor is any map of the areas impacted (permanently or temporarily) as a result of construction of the project (through establishment of temporary roads, etc.) is provided. There is no acknowledgement that the approximately 21 million cubic metres of earth that will be excavated and moved during construction will release carbon, and no discussion of how to address this.

The EIS also states (*Chapter 5, pg.50*) that “[t]he project will not cause flooding of vegetated land, which could result in greenhouse gas (GHS) emissions, which are a global concern in regard to climate change.” However, no support for this statement is provided, not even in terms of referencing other sections of the EIS (or a map contained in another section) which might address this issue¹.

However, the EIS acknowledges elsewhere (for instance in *Chapter 7 Terrestrial Environment*) that significant vegetation will be disturbed during the alternating, 5 year construction period.

The EIS does not provide any information or discussion of emissions resulting from the increased capacity of the Floodway during its operation. For example, water carrying debris, trees, sewage, etc. contributes GHG emissions.

The Executive Summary (pg. 17-18) states that “Climate change could result in decreased frequency in the amount of major spring floods, increased probability of rain-generated floods increasing the likelihood of summer operation for emergency

¹ It is the responsibility of the proponents to ensure that the EIS is readable and easy to understand (within reason). If justification for a statement made in the EIS is supported elsewhere in the document, explicit reference to this section should be made.

conditions, and more summer flooding due to localized thunderstorms. Independent studies concluded that future climate variability will not change the reliability for the Red River flood protection system.”

The main text EIS fails to adequately support these statements. There are references to studies, but no detailed explanation, or source for these conclusions is provided.

The Section in the EIS itself that deals with the issue of the impacts of climate change on the project is also *Volume 1, Chapter 5 Physical Environment, Section 5.8 Climate, Air Quality and Noise* (pg. 48-51). The EIS (pg. 50-51) states,

Warkentin (2002) concluded that climate change may result in changes in the magnitude and frequency of flooding. These effects may include decreased frequency in the amount of major prairie spring floods, increased probability of rain-generated floods increasing the likelihood of summer operation for emergency conditions, and more summer flooding due to localized thunderstorms. . . Other research suggests (St. George and Nielson, undated) that small changes in temperature and precipitation have resulted in increased duration and magnitude of flooding on the Mississippi river. . .

*Thus, under potential climate change scenarios there could be increases in the frequency and magnitude of flooding events. Siimonovic (sic) and Li (undated) used models to assess the need for enhanced flood protection in the Red River basin under different climate change scenarios. . . . **Accordingly, potential changes in climate would not change the need for the Project.** (emphasis added)*

There are several problems with the information as stated in this section:

- The data presented in the EIS consists of temperature and precipitation averages, which provides no information in terms of climate variability and extreme weather events over time, and is thus meaningless in terms of climate change.
- There is no analysis or data to support the assertion that the proposed Floodway Expansion will afford adequate protection under scenarios of more extreme changes to climate and/or increased frequency and magnitude of extreme weather events. (No data re: average flow rates over time, number of extreme climate events (storms, precipitation) etc. is provided)
- The conclusion that changes in climate would not affect the need for the project does not address requirement of EIS Guidelines to predict the effect of climate change on the project over time.
- No indication of whether the proponent applied climate change models to their assertions is provided.
- Only **five** (5) references with respect to the discussion of the climate change effects of the project and the effects of climate change on the project are cited (30-year Climate data from Env Can; Province of Manitoba (2002); Warkentin (2002); (St. George and Nielson, undated), Simonovic and Li (undated)). This is also grossly inadequate. It is also not clear whether or which of these sources are primary information.

- There is no analysis provided of uncertainty in terms of predicted climate change effects, despite the statements made in *Volume 1, Chapter 5, Physical Environment Section 5.2 Approach and Methodology*

Chapter 10 Sustainability refers to Principle 7 of the Principles of Sustainable Development which is about Global Sustainability. The EIS states that (pg. 4) “Manitobans should think globally when acting locally, recognizing that there is economic, ecological and social interdependence among provinces and nations, and working cooperatively, within Canada and internationally, to integrate economic, environmental, human health and social factors in decision-making while developing comprehensive and equitable solutions to problems.”

In addressing Principle 7, it is asserted in the EIS that “[t]he construction phase will result in short-term increases in air emissions but these are local and short-term.” However, in terms of climate change, this statement is not substantiated either in Chapter 10, or elsewhere in the EIS. In addition, Principle 7 above refers to developing solutions. This supports the idea referred to in the first section of this document to design the Floodway Expansion project in such a way as to make it a carbon-neutral project, where there are no net gains in GHG emissions.

Volume 1, Chapter 5, Physical Environment 5.2.5 Assessment of Scientific Uncertainties (pg. 1-3) discusses methods to assess and address uncertainty. It also refers to the “collection of data, analysis of past effects and trends, cumulative effects, and the use of computer models to determine effects.” Despite this explanation, there is no discussion of any analysis of uncertainty in terms of the conclusions stated in the EIS with respect to climate change (*Volume 1, Chapter 5 Physical Environment Section 5.8 Climate, Air Quality and Noise* (pg. 48-51)) Moreover, the “collection of data, analysis of past effects and trends, cumulative effects, and the use of computer models to determine effects” is not a feature of the Section that addresses climate change.

Recommendations

The EIS is fundamentally inadequate in terms of the analysis of potential climate change effects as they relate to the proposed Floodway Expansion project. The EIS fails to adequately address the (bare minimum) requirements as outlined in the EIS Guidelines. The sections of the EIS that address climate change (both impacts from the project on climate change and potential impacts of climate change on the project) should be rewritten. Manitoba Wildlands offers the following recommendations to be addressed in a supplemental filing by the proponents:

1. Provide analysis of issues and potential effects related to climate change with respect to the proposed Floodway Expansion project to fulfill the EIS Guidelines. More information and additional analysis is required to substantiate statements in EIS, and provide support for conclusions. For instance, quantification estimates of GHG emissions for each stage of project (construction, operation) is a minimum requirement. Additional support,

detailed explanations for the conclusion that the project as designed will accommodate extreme weather events, including extreme flooding events (frequency, magnitude) associated with more extreme climate change scenarios is also critical.

2. The analysis should be based on the CEAA document *Incorporating Climate Change Considerations in Environmental Assessment: General Guidance for Practitioners* http://www.ceaa-acee.gc.ca/012/014/2_e.htm and the analysis should clearly provide rationale, references, and justification and substantiation for all stated conclusions.
3. All public policy documents (Canada and Manitoba) related to the issue of climate change should be listed in the EIS, and a description of how the proposed project reflects, and is in keeping with the stated intent and provisions of these policies should be included.
4. The EIS should include a detailed description of options for the minimization and/or elimination of GHG emissions or negative changes to carbon stocks through ‘alternatives means of carrying out the project’ and in ‘alternatives to’ the proposed project.
5. The EIS should include detailed estimates of greenhouse gas (GHG) emissions and changes to carbon stocks as a result of the proposed Floodway Expansion project in relation to construction, and operation stages. An understandable baseline regarding emissions and carbon stocks in respect to the existing Floodway should be included.
6. The EIS should include details regarding compliance with the government of Manitoba stated policy on climate change as well as Canada and Manitoba’s commitment under Kyoto (in particular, disclosure of carbon and GHG emissions for all stages of the project in relation to Manitoba’s Kyoto requirements).
7. The EIS should include a comparative analysis of the carbon effects of the Floodway Expansion project and other large scale, earth moving and water diverting projects in other jurisdictions (with particular emphasis on best practices, and standards –both statutory/regulatory as well as voluntary).
8. A more detailed list of references, literature, models, studies used in the climate change analysis must be included.
9. Analysis and support for all statements and conclusions must be provided in the EIS. Any data relied upon to arrive at conclusions should be excerpted or provided as an appendix.

10. An analysis of the uncertainty associated with all conclusions in the EIS regarding climate change should be undertaken. A plan for monitoring and data collection to address uncertainty should be developed and included in the EIS.

Floodway Expansion Project Study Region Definition, Boundaries for Biophysical Effects Assessment

The Floodway Expansion EIS is unclear regarding the study region for the purposes of environmental assessment.

In Volume 1 Chapter 2 Assessment Approach (pg. 5), the EIS states that the “Flood Study Region is defined for all environmental components based on the maximum geographic extent to which the Project may be expected to have discernable biophysical effects (Figure 2.1-1).” However, the EIS also states that “[a]side from major flood events, the geographic scope for Project effects on the biophysical environments (physical, aquatic, and terrestrial) and heritage resources during construction and most years of operation are typically restricted to the site footprint area (the expanded right-of-way and any other required land acquisition areas) and certain other areas located adjacent to specific elements of the Project.” No map or additional description for this scope is offered. Moreover, no justification for this restricted scope for biophysical environmental effects is provided. However, if major flood events are included (as they are and should be), then the scope for assessment of biophysical effects should not be restricted to the “footprint area” (no map of this provided) and certain other areas.

Compounding the confusion is a statement in the Executive Summary (pg. 11-12), “An overall Flood Study Region for the Project was defined for the EIA based on the maximum geographic extent to which the Project may be expected to have discernable biophysical effects related to water regime changes under any of the above spring flood conditions (see Figure 2).” Aside from contradicting the statement made on page 5 of Chapter 2 (quoted above), this statement ignores the fact that the Flood Study Region should be defined based on the extent of potential effects not only resulting from spring flood conditions, but from the construction and operation of the project as well.

In addition, there is the issue of the reference to a Local Study Region (see Manitoba Wildlands General Comments). Although depicted in Figure 1.1-1 and referenced (inaccurately) in Figure 7.1-1, there is confusion as to whether it is simply the components of the existing Floodway (as referenced in the EIS text), or whether it is being used as the scope for certain biophysical effects. This needs to be clarified by the proponents.

Re: Executive Summary Community Scope (pg. 8 – 9)

We suggest that when the executive summary indicates that:

PIP activities have included municipal Councils, local citizen groups, environmental non-government organizations and local residents in the Flood Study Region (Figure 2), including RM's of Morris, Macdonald, Ritchot, Taché, Springfield, St. Clements, East St. Paul, St. Andrews and West St. Paul, in the Towns of Niverville and Morris, and in the Cities of Selkirk and Winnipeg. Three First Nations with a potential interest in the Project (Peguis First Nation, Brokenhead Ojibway Nation, and Roseau River First Nation) and the Manitoba

Métis Federation were invited to discuss the Floodway Expansion Project, and follow-up meetings and relevant environmental assessment activities have taken place, and will continue, with those who express an interest in being involved. To date, the Peguis First Nation and Manitoba Métis Federation have expressed such an interest

then the project scope for environmental assessment should include these communities, and the natural environment where they are located. We presume that: Rosenort, Ste. Agathe, St. Pierre, Otterbourne, Aubigny are also inside the scope, and were included in PIP activities.

Perhaps the proponent assumes that self assessment includes ability to define the region for the project in such a way that potential environmental impacts can be scoped out. The EIS materials need to have a clear written explanation of the various uses of project region and scope terminology. We would suggest that a review of all such references be conducted, including variances within the two main sets of 'project' scope references.

Finally, there is a question regarding the failure to include the 1 in 1000 year return period referenced on page 2 of the Executive Summary in the spring flood scenarios. The justification for excluding this major spring flood condition must be provided because if this scenario were to be included, it would impact the definition of the Flood Study Region. This also requires explanation and clarification.

Recommendations - Floodway Expansion Project Study Region Definition, Boundaries for Biophysical Effects Assessment

The issues raised above need to be addressed by the proponents. Clarity regarding the Flood Study Region and the scope(s) used to assess biophysical effect (and justification for all of the above) is fundamental to the EIS. The PAT should identify deficiencies in this regard when the supplemental filing contents are identified.

Definition of the Ecological Baseline

The issue of defining the ecological baseline for the purpose of environmental assessment in Manitoba has been raised as part of the environmental review of other projects. As with other projects reviewed, the current ecological conditions for the Floodway Expansion project represent a ‘disrupted environment’.

Volume 1 Chapter 2 Assessment Approach, Section 2.1 Overview of Approach (pg. 3) states, “[f]or the purpose of assessing the environmental effects of the proposed Project, the current environment with the Existing Floodway and the projected future evolution of this environment without the Project is considered as the baseline. The Existing Floodway, originally constructed in the 1960s and its subsequent operation since 1968, represents a disrupted environment throughout the site and region relevant for assessing the Floodway Expansion Project.”

That the current ecological conditions in the region of the proposed Floodway Expansion represent a disrupted environment is not being disputed. Neither is the practice of using current conditions as the ecological baseline in order to assess incremental effects on the environment as a result of the proposed project. The problem arises in the Cumulative Effects Assessment (CEA).

In *Volume 1 Chapter 2 Assessment Approach, Section 2.2.1 CEA Requirements and Overall Approach for the EIS*, Section 3.1 of the CEEA Practitioners Guide is quoted (pg. 8)

“... an assessment of a single project (which is what almost all assessments do) must determine if that project is incrementally responsible for adversely affecting a VEC [valued ecosystem component] beyond an acceptable point (by whatever definition). Therefore, although the cumulative effect on a VEC due to many actions must be identified, the CEA must also make clear to what degree the project under review is alone contributing to that total effect. Regulatory reviewers may consider both of these contributions in their deliberation on the project application”

The problem is that it is not possible to identify the cumulative effect on a VEC due to many actions, when current conditions (which have been admitted to be ‘disrupted’) are accepted as ‘baseline’ AND the effects of the other projects and/or factors contributing to the current environmental conditions have not been adequately assessed and monitored. This is the situation for the proposed Floodway Expansion project.

Essentially, by pretending that the existing environment is the ecological baseline, all potential for truly assessing cumulative effects is lost. To be true to the concept of CEA as described in the CEEA Practitioners Guide above would involve looking at the unaltered environment and making a determination about whether the proposed project would violate ecological thresholds when considered in an additive fashion to the existing disruption.

Although this may be a daunting prospect, failing to acknowledge this reality and identify thresholds will result in a CEA that is meaningless and an EA that is a farce. Given that the Winnipeg Floodway (the current structure and operation) has never been assessed and does not hold an environmental license the responsible provincial and federal authorities in the Project Administration Team (PAT) must also compel the proponents to make available all data and information about the existing Floodway and its cumulative environmental effects. If the intention of the current environmental assessment (EA) is to provide a license for both the existing floodway and the expanded floodway then the PAT should specify the steps in EA, CEA necessary to facilitate that outcome.

Recommendations – Defining the Ecological Baseline and the Proposed Red River Floodway Expansion EIS (August 2004 version)

The EIS **must** acknowledge the incomplete nature of the information available to assess cumulative effects.

The uncertainty that this introduces into the assessment **must** be acknowledged and analyzed.

It is not acceptable to continue to define the ecological baseline as the current ‘disrupted environment’ for the purposes of the cumulative effects assessment.

Given the fact that the existing Red River Floodway does not hold an environmental license, the federal and provincial authorities in the PAT **must** compel the proponents to make available all data and information about the existing Floodway and its cumulative environmental effects.

If it is intended that the existing Red River Floodway will be licensed as part of this EA process, the PAT **must** specify the steps in the EA, and the CEA necessary to facilitate that outcome.

Protected Areas

There are a variety of deficiencies in this EIS with respect to protected areas policy and regulatory regime. Protected areas, current or to be established within the project region, are relevant to this assessment in a variety of ways, as per the EIS Guidelines. Protected areas are relevant to this assessment in respect to both provincial and federal requirements.

Protected areas provide a variety of services, which may include: species habitat, water ‘treatment’ services, heritage site protection, listed species security, carbon storage, recreation options, mitigation of environmental effects, etc. They also have the potential to mitigate specific environmental effects from this project by replacing and securing lost habitat.

Impacts and environmental effects from this expanded project will affect the natural regions where the human communities affected by the project are located. The ecosystems in these natural regions are significantly impacted by development projects. However, opportunities to establish protected areas still exist – in the project region, natural regions, and eco districts impacted by this expanded project.

These natural regions currently are NOT represented by protected areas to the level of adequacy which Manitoba government policy and legislation specify.

Government responsibility to complete protected areas networks and representation of these regions continues until completion. Proponents for projects such as the Floodway Expansion benefit from cooperation with Protected Area establishment. Ecodistricts, as per the Environment Canada system, nest within Manitoba’s natural region system. The systems are compatible, reflecting the same biophysical elements and need for protected areas and representation of the landscape in order to secure habitat for species – including in the face of environmental effects from a project such as the Floodway Expansion.

The EIS filing contains a variety of errors in this area. We note that the references, footnotes, and sources for accurate protected areas facts, methodology, assessment, designation content are absent from the EIS. We would remind the proponent that protected areas protection standards, designation, etc. are public policy – and clear in Manitoba regulatory regime. Manitobans know protected areas to be in their interest. Governments have also recognized that protected areas establishment is a non-partisan, public interest program that benefits all Manitobans. In particular, all of the commentary regarding recreational use of the expanded floodway has also lacked identification of the opportunities to establish protected areas in the project region. (See above.)

The errors of fact and content with respect to protected areas, in the EIS include: (not comprehensive)

- incomplete identification of crown land designations. e.g.: Heritage Marshes missing

- no information as to which acts of the legislature, and which definitions under legislation pertain to protected areas
- no table provided in the appendices to list crown land designations, and crown land designations that are protected areas
- no identification of sites that are under review for protected status
- no information provided as to the kinds of protected areas designations used in Manitoba, with sites that pertain to the project region listed
- no correlation or mapping provided to identify habitat options within the project region which could become protected areas, with existing designations or potential designations shown
- explanation as to areas of special interest (ASIs) is incorrect; no map provided to show these (ASIs have NOT been designed for the project region as yet)
- no information as to the status of natural region representation provided, no mapping.
- no literature survey, web site review; mapping requests to government to clarify existing public policy regarding protected areas ignored, or avoided.
- insignificant awareness of the loss of bird habitat due to the project, and need to replace and provide secure habitat (this is just one example)
- insufficient understanding and statement of public policy and legislative/regulatory context for protected areas in EIS text
- terminology and definitions regarding protected areas either missing or misstated
- no identification of sites inside Manitoba that are protected areas
- map legends are incorrect and incomplete

See our comments in respect to protected areas public policy and regulatory regime, mapping, definitions, etc. in other sections of this comments document.

We respectfully request that the PAT members take the steps necessary for correction of these deficiencies in the supplemental filings from the proponent. Our office and staff are available to assist the proponent in this matter.

General Comments – Floodway Expansion EIS

EIS Structure, Format

Re: Maps in General

Maps included on the CD of the EIS are difficult to read. They have not been scanned at a resolution that allows the reader to ‘zoom in’. As a result, Legends and some text are not readable.

Our office has been suggesting that standards regarding map products in an EIS product should be stipulated by the licensing authorities, in this case both federal and provincial authorities. A comparison of maps provided on the CD of the EIS and maps in the binders may be needed. Generally the maps on the CD scroll slowly, with legends that are not readable. This is usually a consequence of simply reducing the size of a larger map. See our comments about the lack of maps to show the natural environment within the various project regions identified by the proponent.

A variety of elements in the Biophysical, Terrestrial and Aquatic EIS contents would be strengthened through map products. Instead we have an EIS that is full of engineering maps.

Floodway expansion mapping products that use an accessible scale, to show activity within the Floodway right of way are lacking in the EIS.

Re: Volume 1 Chapter 1 Introduction Figure 1.1-1 Local Study Region (pg. 2)

This figure is referred to in the text on page 1 as showing the components of the existing Floodway. However the figure as named suggests that the figure somehow represents a geographic scope used to assess environmental effects. If the text is correct, this is not the case. The title of the figure should be amended.

However, a reference to the Physical Environment Local Study Region appears again in Figure 7.1-1, even though the Local Study Region is not mentioned anywhere else in Chapters 1, 2, and 7, aside from the references in the two figures). Chapter 2, which is the logical place to discuss this, includes a description of Geographic boundaries but does not refer to any ‘Local Study Region’. This is VERY confusing and should be clarified. Boundaries, scope, and which boundaries apply to the various assessments of environmental effects should be **explicitly** defined. EIS materials must be accessible, and understandable for the general public, public participants, and affected parties.

Re: Volume 1 Chapter 7 Terrestrial Environment Figure 7.1-1

Areas of Special Designation Regional Study Area

- Legend for map is missing designations; should include all provincial crown lands designations, and then indicate which are protected

- Map uses eco districts but not natural regions; natural region boundaries should be indicated because they are the basis for Manitoba's Protected Areas Initiative, including for assessment of representation goals.
- 'Physical Environment Regional Study Area' boundary is miss-labeled as being the 'Physical Environment Local Study Area' (assuming that *Figure 2.1-1 Flood Study Region* is correct)
- 'Physical Environment Local Study Area' is therefore not shown (assuming the above is correct)
- Private lands protected by Nature Conservancy Canada within the project region should be identified.
- WMAs are shown, however the information shown should be verified to ensure that all protected and unprotected WMAs have been included and indicated as to their protected status.
- Before this kind of selective, and inaccurate mapping was included in the EIS the proponent's staff and consultants could have spent an hour on Manitoba web sites which contain updated and accurate mapping of protected areas, and crown land designations in Manitoba.

Missing Information, Information Yet to be Filed

Re: Executive Summary (pg. 10)

The Executive Summary refers to an independent study that will be forthcoming in summer 2004. Has this study been released yet? If so, proponents should make copies available to public participants. If not, what is the expected release date?

Re: Executive Summary (pg. 10)

The Executive Study states that "[a]s a result of public involvement, MFEA will develop a 3-D virtual reality floodway simulation to demonstrate the Project's benefits, assist in the public's understanding of the Project and help to prepare for flood emergencies." What is the status of this simulation? Has it been provided as part of PIP meetings? If so, will there be other opportunities to view the simulation? If not, when will this be available, and how will it be delivered to the public and public participants?

Questions Arising from Information in the EIS

Re: Executive Summary (pg. 10-11)

The Executive Summary indicates that four different major spring flood conditions were examined to reflect a range of operating conditions. Missing from the list is the 1 in 1000 year return period referenced on page 2 of the Executive Summary. What is the justification for not including this major spring flood condition? This question is of particular significance because the various scenarios for major spring flood conditions are also used to define the geographic scope of the project, in terms of the area where biophysical effects are expected to be discernable.

Re: Volume 1 Chapter 1 Introduction (pg. 7)

Chapter 1 of the EIS states “[t]he design of the Project within this scope has continued to be refined and will further evolve and improve as the results of ongoing engineering studies become available.” If the project design is not finalized, when will the final project design be made available, and how will the final design be incorporated into the EIS review? If the project design has been finalized since the EIS was filed, when will it be made available to public participants, and be reviewed for public comments?

Re: Roads Required for Construction of Floodway Expansion

How many kilometers of (temporary) roads will be required and built in the construction phase of the Floodway Expansion project? A description and maps of proposed roads should be included in the EIS. These roads and decommissioning plans are essential information. Have the temporary roads been taken into account for the EIS contents regarding terrestrial effects? Climate change effects? Habitat loss effects?

Re: Information Required – Use of Floodgates

No information is provided in the EIS regarding the pattern of use of the Floodgates from start of construction of the Floodway Expansion to its operational stage. It would be useful to have this information provided and presented in chart format, spring, summer uses etc. It would also be helpful to have the data of Floodgate use to date in a chart, showing spring and summer uses. Both charts should include the water elevation, and feet of water per second data at the time the Floodgates were first operated.

Re: Width of Expanded Floodway

The EIS materials indicate that the floodway will have an increased in width of up to 350 ft. We do not see clear information about the CEA from the existing floodway, and then specifics about potential effects that are in relation to the increase in width. We also do not see mapping to reflect the location of potential impacts from this project in relation to the existing floodway, and then in the up to 350 ft increase in width of the expanded floodway. See comments about map products above.,

Re: 21 Million Cubic Metres of Earth

There are references in the EIS to 21 million cubic metres of earth that will have to be excavated in the process of widening the Floodway Channel (Chapter 4, pg. 13). The EIS also indicates that “[p]riority will be given to placing material within the existing project right-of-way to minimize the requirement for land acquisition. The extent of land outside the right-of-way that may be required for disposal of the main channel excavation material will be defined in Work Parcel 3” (pg.16). There is no further explanation of how much excavation material may require disposal outside of the right-of-way, nor is there any indication where the earth would be deposited. Information as to where earth will be stored, or located between being excavated, and used in expansion construction should be included.

We would also suggest that the existing mapping does not adequately show activities and potential environmental effects on habitat in relation to earth moving. This information should be provided.

Re: Premise for Design/EIS

The proponent is using the ‘one in a hundred’up to ‘one in seven hundred year’ return rate for flood events in the Red River Valley as the basis for both engineering and environmental assessment of the Floodway Expansion. We respectfully request detail on these projections based on the increased in frequency of such events from 1950 forward, with variables in relation to the dramatic change in the landscape in the same period. See our Climate Change comments. Manitobans have experienced the ‘one in a hundred’ year flood event 3 times from 1950 on. In the last 25 years Manitobans have experienced the ‘one in a hundred’ flood event 2 times, including 1979. Other flood events have occurred, each measured against that ‘one in a hundred’ return rate standard, which was based on the 1950 flood.

Communities, homes, and businesses in the Red River Valley outside Winnipeg are currently flood proofed again for the ‘one in a hundred’ year return flood event. The EIS does not indicate – in any of its geographic scopes – what steps to mitigate for flood events will be taken for Manitobans outside the floodway. We are concerned that the EIS considers events like the 1997 flood rare and extreme. References of this sort in the documents give pause. Is an 18 year gap, during which other flooding events occurred, a rare and extreme time gap? Flood events in the Valley may be increasing in frequency, water levels, geographic scope, cost, and environmental impacts. Perhaps none of the individuals involved in preparing this assessment have experienced a flood, or repeat flood events in the Red River Valley.

The EIS for the Floodway Expansion needs to include enough scenarios using the frequency of flood events since 1950 to provide information to identify the potential frequency and water levels of the next ‘1 in 100 flood, 1 in 225 flood, 1 in 700 flood’. This is essential given the 29 year, and then 18 year time gaps between 1 in 100 year flood returns in the last 55 years.

Re: Risks to Water Tables

The EIS states: (Volume 1 Chapter 4, pg. 4-24)

*There is potential for a drop in the **water table elevation at the Bird’s Hill/Oakbank Aquifer** of 2.6 m (8.5 ft) tapering to 0.6 m (2 ft) at the right-of-way at Oasis Road. This would only occur if a groundwater interconnection is exposed to the Channel due to widening. Further investigation is underway and mitigation will be considered, if required, by using a subsurface cut-off wall to reduce the effect at the right-of-way (ROW) boundary to be negligible. The residual, small, adverse effect would be of long-term duration in a local area and would be considered irreversible. It is not considered to be significant.*

The proponents should be required to indicate what the assessment for continued operation and drinking water quality for all wells in the project region. Also, disclosure of the mitigation and compensation plan for the residents and businesses in the Bird's Hill/Oakbank Aquifer part of the project region, should this occur, and be difficult to mitigate should be required. We suggest that the PAT request information as to any other instances or potential instances of this kind of risk in the Floodway expansion project region.

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ATTACHMENT E

**Comments –
Manitoba Floodway Authority (MFA) Proposed Floodway
Expansion Project EIS Supplementary Filing**

File # 4967.00

submitted by

Manitoba Wildlands

January 7, 2005

*Manitoba Wildlands continues the work of WWF Canada and Nature Canada for
establishment of Manitoba Protected Areas.*

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Comments – MFA Supplemental Filing January 2005

January 7, 2005

To: Mr. Trent Hreno
Manitoba Conservation
Land Approvals

From: Gaile Whelan Enns
Director, Manitoba Wildlands

Cc: Mr. Dan McNaughton, CEAA
Cc: Public Participants, Manitoba Floodway Expansion Project
Attachment

**Re: Manitoba Wildlands Comments –
Manitoba Floodway Authority (MFA) Proposed Floodway Expansion
Project EIS Supplementary Filing (November 29, 2004)**

Manitoba Wildlands' comments on the Manitoba Floodway Authority (MFA) Proposed Floodway Expansion EIS Supplementary Filing can be divided into three categories:

- A. General Comments on the Supplementary Filing
- B. Comments Regarding Sections 1.0 – 12.0 of the Supplementary Filing
- C. Comments Regarding Sections 13.0 of the Supplementary Filing

**A. General Comments Regarding the MFA Proposed Floodway Expansion Project
EIS Supplementary Filing**

Our overarching comment on these materials is that none of the Sections of the Supplemental Filing directly or specifically address Manitoba Wildlands' EIS review comments. We have noted this in correspondence to MFA officials (and copied to provincial and federal lead Project Administration (PAT) representatives) (see attached memo of January 2, 2004) and we feel that the lack of response to our organization, and absence of specific and detailed responses to comments by other public participants and Technical Advisory Committee (TAC) representatives is a significant and serious deficiency. (For more detail on this issue – see Part C. of this document)

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This supplemental filing is an inadequate and unacceptable response on the part of the MFA and is dismissive of public (and TAC) review of the EIS and participation in the review process. Clarity as to the nature of Sections 1 – 12, as additional EIS materials, for public comment and review was lacking when filed. Also if Section 13 is the whole response from the proponent to all PAT, TAC, and public comments and requests for additional information regarding the project then the standard for assessment steps under Manitoba's Environment Act has fallen significantly.

In addition, the approach taken by the MFA ignores established procedures and format for responses to EIS review and requests for information; as per the Wuskwatim EIS review process, and other proposals under Manitoba's Environment Act. The proponents in the Wuskwatim process provided spreadsheets that systematically addressed comments made by each public participant or TAC reviewer.

Since none of Manitoba Wildlands' EIS review comments (with the exception of five comments identified by the PAT in its correspondence to the proponent of November 2, 2004 – see Part C. of this document for details) have been addressed by the proponent in this supplementary filing, we wish to formally reiterate that the EIS issues we raised are outstanding and include comments regarding:

- Public Policy and Regulatory Framework
- Biodiversity / Species
- Water Quality
- Climate Change
- The Study Region
- Ecological Baseline
- Protected Areas
- The project plan and information in General

Many of our EIS review comments were echoed by other reviewers (other public participants, and/or TAC reviewers). Manitoba Wildlands review comments are consistent with our comments on the draft EIS Guidelines, our appeal of those Guidelines, the final EIS Guidelines for the project, and our identification of elements in the Guidelines and EIS contained in our description of technical activity for our submission for participant funding.

We expect the proponents to address this “oversight” and we expect to receive notification of when detailed responses to our EIS review comments (and those of other public participants and TAC representatives) will be forthcoming. We also request

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notification of the timing for the proponent's response to this document (for January 7, 2004 deadline) and the comments within.

In addition to failing to provide detailed and specific responses to our EIS review comments, it is clear that Manitoba Wildlands' comments were not considered by the MFA in preparing the supplemental filing, even where our specific comments was relevant to a response provided to comments in PAT Table 1 or 2. All previous work product from us as mentioned above is available to the proponent, and filed in the public registry.

We question whether the proponents even examined our EIS review comments, aside from perhaps those identified in Table 2 of PAT correspondence. In many instances, the opportunity existed to incorporate a response to Manitoba Wildlands comments in a response to one of the information requests indicated in the PAT Tables. The MFA has instead reiterated statements from the Proposed Floodway Expansion EIS that Manitoba Wildlands had indicated were incomplete, unsupported, or otherwise required additional information.

As stated in our January 2, 2004 memo, no detailed Table of Contents to aid in navigation of material was provided to accompany the supplemental filing. In particular, the task of determining the contents of Section 13.0 and reviewing this Section (which should have been simple and straightforward) was an arduous task. (See January 2, 2004 memo for detailed concerns regarding Table of Contents, organization of the information).

The open disregard for public policy regarding protected areas in Manitoba contained in the EIS and continued by the proponent is surprising, and telling. We can assess and comment in an area where we are most knowledgeable. We do wonder why the Floodway Authority would be comfortable with this and other significant gaps and deficiencies in these EIS products.

B. Comments regarding Sections 1.0 – 12.0 of the MFA Proposed Floodway Expansion Project EIS Supplementary Filing

Section 13.0 TAC Table 2 #2 (pg. 15) states that Sections 1 – 12 of the Supplementary Filing are information identified for Supplementary Filing by the MFA

Field inventory charts and detail provide little analysis or assessment. There is no connection to public policy or the regulatory framework regarding species. Most

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surprising in methodology is that, given the natural region and ecosystem type for the full scope of the project area, no search for tall grass prairie species, or remnants appears to have been conducted. The proponent needs to clarify its approach regarding The Species at Risk Act, the Manitoba Endangered Species Act, and potential environmental impacts to known ranked, and at risk Manitoba species. We need to take a once done summer inventory from 2004 for what it is, especially in the most wet, and cold summer in decades. Potentially this inventory is not a strong example for an average summer.

Proponents sometimes confuse the issue as to the scope of the project impacts and the project area. That is a risk with this EIS. A sample inventory as per our comments above does not answer important questions regarding the project area, as a whole. What is the proponent's plan regarding advance and ongoing species inventory prior to construction? What is the proponent's plan when endangered and listed species present themselves during construction? What will the proponent do if class A or class B tall grass prairie remnants are located in the path of the construction of the project? We would suggest that these same questions apply to the limited archeological survey conducted by the proponent.

C. Comments Regarding Section 13.0 of the MFA Proposed Floodway Expansion Project EIS Supplementary Filing

Section 13.0 of the MFA Proposed Floodway Expansion Project EIS Supplemental Filing purports to respond to TAC and public review comments. Upon detailed review of the first part of Section 13.0 – TAC (Technical Advisory Committee), Manitoba Wildlands has determined that only those comments identified by the PAT in Tables 1 & 2 attached to its November 1, 2004 correspondence to the MFA have been responded to in the supplemental filing. Of the 22 comments in Table 1 and 47 comments in Table 2 (total: 69), only five of these specifically address issues raised by Manitoba Wildlands in our 33-page submission of review comments regarding the Proposed Floodway Expansion EIS. A similar situation exists regarding EIS review comments provided by other public participants, as well as comments and requests for information from federal and provincial TAC members.

We have written to the MFA (January 2, 2004 memo) and expressed our disappointment in this regard. We expect the MFA to address those concerns raised in our January 2, 2005 memo as well as our comments here. We expect that our comments on the EIS *AND*

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our comments on the supplementary filing will be addressed by the MFA. The same should be true for all other public participants' comments and requests for information. All future response to requests for information by TAC and PAT members must be made available, and kept public in the public process under Manitoba's Environment Act.

In general, Manitoba Wildlands the TAC Table 1 responses in Section 13.0 of the Supplemental Filing avoid, in several instances, responding to the information requests by the PAT regarding fulfillment of EIS Guidelines. Our assumption, in reviewing this material, is that the PAT would not be making the request for additional information if a deficiency of some sort had not been identified. We provide some specific comments on selected responses by the MFA below.

We have not reviewed in detail the responses to the Department of Fisheries and Oceans (DFO) or Industry Canada (IC) comments in Section 13.0, and instead chose to focus attention on the responses to TAC comments. As a result, we will not be providing specific comments on MFA responses to DFO or IC information requests.

Specific comments (in italics) on MFA responses to individual information requests in Section 13.0 are provided below. These are not comprehensive, and are intended to highlight some deficiencies in the MFA responses to information requests and identify some areas requiring additional information. This in addition to our request for the MFA to fully respond our EIS review comments.

Selected Comments on Responses to TAC Table 2

(Note – responses identified as pertaining to Manitoba Wildlands' comments are indicated by blue text)

Re: TAC Table 2 #1 – pg. 6-13

“An erratum should be provided addressing errors and discrepancies in the EIS, including those identified in public and technical comments.”

Pages in the Erratum are not numbered, but numbering in the pdf doc indicates the Erratum begins on pg. 6 and concludes on pg. 13

The Erratum does not indicate the party that identified the error/discrepancy. Impossible to determine without detailed comparison which errors/discrepancies were identified by MW.

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*The response includes a map on pg.13 (**Areas of Special Designation – Regional Study Area**) that indicates ecodistricts and “Areas of Special Designation” (Ecological Reserves, Special Conservation Areas, Wildlife Management Areas, Provincial Parks). This map does not indicate protected lands as distinct from lands within designations that are not protected from development (Titled Figure 7.2-1). There is no Area of Special Designation definition or category in Manitoba public policy or the regulatory regime regarding crown land. Manitoba does have several hundred-crown land designations, in several types. EIS Guidelines are clear, and this is deficient. Perhaps the proponents or their advisors do not know what a protected area is.*

Re: TAC Table 2 #11 – pg. 33-34

“Clarification is needed respecting flood return periods and historic floods.”

The information provided does not address the original comments by NRCan (TAC), which relate to flood magnitudes and implications of a greater than 1- 100 year, or 1~700 year flood.

Re: TAC Table 2 #14 – pg. 39

“Clarification is required concerning temporary roads for construction access.”

Detours affecting the public are not planned as part of the project, with the “possible exception of the PTH 44 bridge crossing. This crossing may require a temporary detour structure adjacent to the existing structure, and this decision will be finalized during detailed design.”

Re: temporary access for construction, no details in terms of routing are given except to state that “Any temporary construction access will be contained within the existing floodway channel right-of-way or Manitoba Transportation and Government Services right-of-way” and will be “removed and restored to original condition, including re-vegetation as required, in accordance with the re-vegetation plan that will be developed as part of the Construction Phase Environmental Protection (CPEP) Plan.”

All details are relegated to the CPEP plan.

Re: TAC Table 2 #24 – pg. 59

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“Information is required concerning the development of pre and post construction monitoring for aquatic invertebrates.”

The MFA defends its conclusions in the EIS – the sampling method yielded no predictive results, but feel that “it is highly unlikely that any invertebrate sampling effort conducted in the Low Flow Channel (which typically experiences many annual environmental extremes of low and high flows, variable oxygen levels, changing water chemistry, etc.) will yield scientifically valid results regardless of the sampling or survey effort. For this reason the EIS acknowledges this issue as an information deficiency, but recommends against attempt to resolve it.” However, no sources or expert opinions are referenced to support this conclusion.

Re: TAC Table 2 #27 – pg. 65-69

“Information on climate change is needed in the context of comments from Natural Resources Canada (reviewer #1, Section 5.8.3.3.2) and others (NRC, NRAC-18, MW).”

The response provided in the MFA Supplementary Filing does not address Manitoba Wildlands’ concerns about sources for climate change information adequately. For example, the proponent quotes the Government of Manitoba Climate Change Action Plan (which in this case is a secondary source for the information regarding climate change scenarios) instead of quoting the direct source of the information. This is contrary to basic scientific writing protocols to identify sources directly, or at the very least quote the original source with the caveat “as stated in ‘such and such’”. In addition, in Section 1.1 Use of Fossil Fuels for Vehicles the proponents use 2001 information for total yearly emissions for CO2. It would be useful to have more recent information (2003?). If unavailable, this should be stated.

It is still our opinion that the climate change literature regarding modeling and scenarios contains other studies and information relevant to the Manitoba situation that has not been examined by the proponent. (See presentation by Elizabeth May to the Clean Environment Commission Wuskwatim hearings available at <http://energymanitoba.org/presenters.htm>)

Although the proponents have conducted their analysis based on the CEAA General Guidance for Practitioners, we would also like to strongly encourage the MFA to review and provide information based on the document Incorporating

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Climate Change Considerations in Environmental Assessment: General Guidance for Practitioners prepared by The Federal-Provincial-Territorial Committee on Climate Change and Environmental Assessment (November 2003)
http://energymanitoba.org/presentations/E_May_support_doc.pdf

The MFA also does not provide any comparison (or state that one was not available) in terms of GHG emissions for other projects where large amounts of earth are moved.

The MFA has chosen to dismiss Manitoba Wildlands' recommendations related to designing the project with objective of making the project carbon neutral, and fails to explain whether and how the project is in compliance with Government of Manitoba policy on Climate Change. The proponents skirt this issue by stating that they feel that the project will not compromise Manitoba government's commitments to deal with Climate Change and Kyoto. This is a different issue from compliance.

No strategy to minimize GHG emissions is discussed (also in Manitoba Wildlands' comments). No specific Manitoba emissions and carbon data is provided with the proponents claims regarding Manitoba emissions.

Why not provide emissions for the transportation sector for a year in Manitoba, and indicate what the effect of this project's transportation emissions will be? The same could be done for earth moving and sand and gravel sector, etc. Why are we not seeing information regarding the primary greenhouse gases, and about carbon loss?

Also absent from the response in the Supplementary Filing is an analysis of the total impacts of all phases of the project in terms of climate change - i.e. quantification of GHG emissions and carbon losses or gains for all phases in comparison (including which are ongoing and which are temporary and for how long) with totals for Manitoba and some sort of justification from literature in terms of significance. The proponents also have not addressed questions regarding the loss of trees (not just vegetation). Personal communications indicate that some areas adjacent to the existing Floodway are "forested". Loss of forest is significant in emissions, and loss of carbon.

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Both Manitoba and Canada public policy with respect to climate change should be part of this assessment. TAC members are entitled to thorough answers to their comments. In particular, in the public interest, we view the Floodway Expansion project an opportunity for both Manitoba and Canada to show that such projects can be carbon neutral. When and where else do we start making significant public works carbon neutral, if not with this project?

Re: TAC Table 2 #33 – pg. 83

“Information is needed respecting fish mortality associated with each project component, including the inlet control structure, outlet structure, low flow channel, Seine River syphon, drop structures and drains.”

Refers to DFO/MFA-S-19 and DFO/MFA-S-34.

Interesting to note that on the one hand the proponent indicates that “No existing information regarding fish mortality with respect to the Inlet Control Structure, Outlet Structure, Seine River syphon, drop structures and drains was available, and the public information program did not note any observations of fish mortalities potentially associated with the above components.” This sentence directly after this states “The Inlet Control Structure, Seine River syphon and the area’s drains are not anticipated to be substantively altered by the Project; therefore no Project-related changes in fish mortality are anticipated.”

If one assumes that the Floodway Expansion is also an opportunity to improve in any way possible on the existing Floodway, it would make sense to perhaps evaluate fish mortality resulting from the operation/use of the existing components noted above. It could be argued that simply stating that fish mortality won’t change because the Floodway Expansion project is not anticipated to alter these structures is an inadequate and inappropriate approach/philosophy for an EIS. Perhaps the proponents are unaware that no permanent environmental license exists for the current Floodway. Perhaps the proponents are assuming that there are no environmental effects from the existing Floodway.

In other words, just because the existing project causes damage (and continues to do so / was never subject to an EA process), doesn’t mean it is ok for this to continue (which was essentially also the central argument in the Wuskwatim review.)

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Re: TAC Table 2 #35 – pg. 87

“Information is required respecting the effect of construction dewatering on fish habitat.”

Indicates that information is not available until final design completed – will be addressed in EPP and HADD developed in consultation with DFO. “The potential effects of site-specific dewatering on the adjacent fish communities, primarily in the Low Flow Channel, are anticipated to be manageable and fully mitigable.”

This response essentially avoids the issue. Question – when will final design be completed? Why has an EIS been submitted and licenses applied for if final design incomplete? (Manitoba Wildlands asked this question in EIS review comments). It is also of some importance to identify just how many elements of the EIS and project plan are not yet available, AND to make sure they are publicly available. We would appreciate knowing when – in advance of the Manitoba hearings – they will be available.

Re: TAC Table 2 #40 – pg. 97

“Information is needed on water quality impacts during the active operation mode of floodway operation.”

The response refers to benefits, however the original comments by the Water Quality Branch specifically asked the proponents to address the issue of negative impacts of the Floodway on water quality. This is not part of the response.

Re: TAC Table 2 #41 – pg. 99

“A rationale for conclusions on the water quality impacts of recreational use of the floodway channel is required. (WQM)”

The MFA maintains that the level of recreation activity on the Floodway is minimal and the “existing water quality impacts of existing recreation are judged to be relatively low in the EIS.”

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Issue: the MFA in its response to this issue states, “Various proposals for recreational use have been submitted to MFA. These are not included in the Project and are therefore not assessed in the EIS. No assessment of significance of recreation impact has been included in the EIS.”

If proposals for recreational use have been received, by the MFA, does this not indicate that some of these proposals are likely to go forward, and therefore, the impacts should be assessed as part of the cumulative effects assessment?

Does the proponent decide what is part of a Project? The EIS filings to date are full of assumptions that the proponent decides a variety of things, and can leave out of assessment, or out of the exchange of technical information, other things. Does the proponent, when it is a public/ government entity, assessing itself, and licensing itself - also decide whether there are environmental effects and impacts? What information should be made available? Whether to respond to review comments and requests for information?

Re: TAC Table 2 #42 – pg. 101

“Information on the rationale for conclusions on ice jamming is required. The study referenced in the Executive Summary (page 10) should be provided.”

Proponent indicates that study was completed prior to submission of EIS and a summary of results was incorporated into the EIS. However, proponent ignores request for full study to be provided.

Re: TAC Table 2 #43 – pg. 103

“Clarification is required concerning effects boundaries.”

This response does appear to better define the Flood Study Region. It doesn't however, address the contradictions noted in Manitoba Wildlands's comments on the EIS concerning the statement “Project effects on the biophysical environments (physical, aquatic, and terrestrial) and heritage resources during construction and most years of operation are typically restricted to the site footprint area (the expanded right-of-way and any other required land acquisition areas) and certain other areas located adjacent to specific elements of the Project.” The erratum provided earlier in Section 13 also does not address this and other concerns noted by Manitoba Wildlands.

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Re: TAC Table 2 #46 – pg. 111

“Information is needed regarding public policy and the regulatory framework affecting the project.”

Response states:

The regulatory framework affecting the Floodway Project is outlined in Section 1.5 and Appendix 1E of the EIS (see also TAC/MFA-S-3). In addition, public policy applicable to the Floodway Project includes but is not limited to:

- 1. Principles of Sustainable Development as outlined in "Towards a Sustainable Development Strategy for Manitobans".*
- 2. The Land and Water Strategy as contained in "Applying Manitoba's Water Policies".*
- 3. Rio Conference and International Agreements on Biodiversity.*
- 4. Government-adopted policies regarding wildlife, such as those described in "A Wildlife Policy for Canada" (Wildlife Ministers Council of Canada. 1990. A Wildlife Policy for Canada. Canadian Wildlife Service, Environment Canada). (These describe strategies for conservation of wildlife and their habitat.)*
- 5. Fisheries policies such as the "No Net Loss" policy.*
- 6. Policies listed under The Planning Act, such as those related to: general development, agriculture, water and shoreland, recreational resources, flooding and erosion, provincial highways.*

No new information has been provided in the above response to address comments provided by Manitoba Wildlands. Specifically, the proponent has not:

- indicated how the project is in compliance with the strategy and policies above*
- included the Manitoba Water Strategy and described how the project is in compliance with a reflects the principles contained within this policy*
- addressed the issue of the 'recycling' of work product noted (i.e. the appearance of the reference to the Wuskwatim Generation Project in Volume 2, Appendix 1E, Section 1.2.6 Other (pg. 1E-31)), except to correct the "error" in the erratum*
- justified the statement made in Volume 1, Chapter 1 Introduction, Section 1.6 Effect of the Guidelines on EIS Organization and Content "[t]he proposed Project is consistent with Manitoba's Water Policies*

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Manitoba Wildlands continues the work of WWF Canada and CNF for establishment of Manitoba Protected Areas.

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regarding water quality, conservation, use and allocation, water supply, and education.” as noted

- *provided justification for the statement in the Executive Summary, which indicates that the proposed project is consistent with Manitoba’s Water Policies, and also the natural lands and special places policies.*
- *addressed the absence of any discussion of the Action Plan for a Network of Special Places for Manitoba. (January 2000 – January 2003)*
- *addressed comments regarding the level of representation of enduring features that currently exists in the natural regions affected by the proposed project (including the absence of maps)*

We respectfully request that the proponents refer to the original comments (4 pages) section regarding the public policy and regulatory framework submitted by Manitoba Wildlands as part of overall comments on the Proposed Floodway Expansion EIS and provide responses to ALL comments within. The section is easily identified in the Table of Contents that accompanies Manitoba Wildlands’ EIS Comments document.

Perhaps a reminder is warranted. Manitoba’s public policy and regulatory framework for protected areas is contained within the proponents’ own identification of policies with which the EIS claims to comply.

Selected Comments on Responses to TAC Table 1 – Fulfillment of EIS Guidelines

Re: TAC Table 1 Guidelines – 2.3.1 and 2.3.2 (note this is miss-stated in the Supplementary Filing as Table 1 #47) – pg. 115-116

“The project’s purpose, need and objectives should be clearly stated. Additional information is needed regarding alternatives that were considered and opportunities for enhancing environmental benefits. (also see p. 7, section 5.2 and p. 16, and 17, sections 7 and 9) Information is needed on Kyoto Accord implication of the project.”

The proponents reference various sections of the existing EIS in response to the first four items above. However, if the PAT considered the EIS adequate in this regard, it would not have requested additional information. The MFA has not adequately responded on the subjects of purpose, need, objectives and alternatives.

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Regarding opportunities for enhancing environmental benefits and the Kyoto Accord, other parts of the Supplemental Filing are referenced.

Re: TAC Table 1 Guidelines – 6.4.3 – pg. 145-146

“A discussion is needed of domestic, commercial and recreational fisheries and the clam fishery. Commercial and recreational waterway use should also be discussed.”

Discussion is provided but (strangely) does not take place in the context of the project.

Re: TAC Table 1 Guidelines – 6.5 – pg. 147

“Archaeological sites and culturally important sites in the study area should be described. A ranking of sites should be provided.”

Ranking of three sites identified in the EIS is provided.

Interesting quote –

“The heritage resource assessment did not include all archaeological or culturally important sites in the Red River Valley that may be affected by a large flood event for two reasons:

- The number of entries would be voluminous (likely hundreds or thousands of entries).*
- Temporary inundation by floodwaters is not an adverse effect on heritage resources.”*

We request that the proponents provide further justification, sources for information in second bullet.

Re: first bullet – this is not a valid reason for not providing the information unless the second bullet is indeed a valid point supported by a credible source.

Re: TAC Table 1 Guidelines – 7.0 – pg. 149-150

“Additional information is needed regarding public health and safety.”

Proponents stand by the information provided in the EIS. Summarize this in the response. Not clear why no new information provided.

Re: TAC Table 1 Guidelines – 10.0 – pg. 161-166

- 14 -

Manitoba Wildlands continues the work of WWF Canada and CNF for establishment of Manitoba Protected Areas.

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Comments – MFA Supplemental Filing January 2005

“Additional information is required with respect to indicators and methodologies in the sustainable development assessment.”

In responding to this information request, the proponents have simply reiterated EIS content and referred to sections of the EIS. We would once again point out that perhaps this is not adequate, and suggest that the PAT in noting that more information was required actually expected that additional content and discussion would be forthcoming.

The MFA defends its assessment of sustainable development in the EIS and notes consistencies between provincial, national and CEAA approaches to sustainable development. Perhaps specifics need to be provided with relation to Manitoba’s Lands and Water Strategy, and Sustainable Development Principles and Guidelines.

Below Manitoba Wildlands has provided some examples of areas in which the response could use improvement.

Regarding its sustainable development assessment, the MFA states that “We also sought guidance from Manitoba’s Water Policies” and then references a 2001 discussion paper that preceded the current Manitoba Water Strategy, without referencing the 2003 document (giving the impression that the discussion paper represents the most recent policy document). This is not only problematic in and of itself, but it also indicates that the proponents have either ignored or failed to review repeated and specific references in Manitoba Wildlands’ comments on the EIS to the absence of any mention of the 2003 Manitoba Water Strategy.

The proponents also indicate with respect to the environmental indicator Biodiversity in Habitat Conservation that “Natural lands, protected lands, and enduring features were considered in the assessment (EIS Sections 5-8). The EIS concluded that there would be no effect on protected lands because the effects would be restricted to the project site (i.e., footprint). Supporting information is provided in Table 7C-IV and Figure 7.2-1 (Appendix 7C) of the EIS.”

Manitoba Wildlands would respectfully dispute the above statements. (No verification is provided, and other statements about crown land designations contradict.) We suggest that the proponents have not presented adequate information regarding protected areas to be able to arrive at such a conclusion.

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Comments – MFA Supplemental Filing January 2005

We would refer the MFA to our EIS comments in terms of guidance as to additional information to provide. We would also note that these comments with respect to protected areas (along with most of Manitoba Wildlands' EIS comments) have not been addressed by the proponents in this supplemental filing.

A simple statement: By Manitoba's own assessment regarding enduring features and protected areas, the natural regions where Winnipeg and the Floodway/Expanded Floodway are located do not have the completed protected areas network in place. We suggest that the proponents visit the relevant government web pages. The same mapping is available on our web site.

We also wish to raise concerns about the MFA statement "Climate change was discussed extensively in the EIS (Section 5) and also in response TAC/MFA-S-27" that addresses the environmental indicator Air Quality. Please see our comments in this document regarding TAC/MFA-S-27 and also our EIS comments regarding Climate Change.

Manitoba Wildlands provided comments in its review of the Proposed Floodway Expansion EIS. These comments have not been addressed either in the response to this particular information request, or elsewhere in the Supplemental Filing.

Re: TAC Table 1 Guidelines – 12.0 – pg. 167

"Maps needed showing zones of effects on land and water use and habitat areas."

The proponents defend their text descriptions of effects in the EIS. They also state that "Since the zone of effect is dependent on the factor in question, maps were not produced for the zone of each effect due to the fact that this would require numerous maps with overlapping zones and would confuse the message provided in the EIS."

However, the information request was not for a justification of why maps were not provided, but for the proponents to provide maps. We suggest that it may be possible to provide a map for each chapter of the EIS that indicates the (multiple) zones of effects for the various effects described in that particular chapter.

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ATTACHMENT F

Closing Statement - Manitoba Clean Environment Commission (CEC) Hearings for the Red River Floodway Expansion Project

submitted by

**G. Whelan Enns
Director, Manitoba Wildlands**

March 7, 2005

*Manitoba Wildlands continues the work of WWF Canada and Nature Canada for
establishment of Manitoba Protected Areas.*

Manitoba Clean Environment Commission (CEC)
Hearings
Floodway Expansion Project - Closing Statement

G. Whelan Enns
Director, Manitoba Wildlands

March 7, 2005

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Manitoba Clean Environment Commission (CEC)
Hearings
Floodway Expansion Project - Closing Statement

G. Whelan Enns
Director, Manitoba Wildlands

March 7, 2005

I wish to begin by quoting words of Mr. Terry Sargent, Chairman of the Clean Environment Commission, from the hearing transcript for February 15, 2005, beginning at page 194, line 7:

We also recognize that participants do not have the same access to expert advice and resources available to the proponent. And we further recognize that participants critically questioning the merits and aspects of the projects proposed are doing so for the public good.

Mr. Sargent is correct. Public participants in these hearings, as in others, are participating not because they are against a project, or dislike the proponent (for instance), but for the public good. Often that takes the form of being for certain actions, changes, or improvements to a proposal. An understanding of why we have public reviews and hearings has not been consistently apparent in the media, including in comments from the MFA, and so we commend Mr. Sargent for making his opening statement. This is where we also wish to start our comments and recommendations to the CEC as it begins the daunting process of compiling its report on the public hearings for the proposed Floodway Expansion project.

Manitoba Wildlands Floodway Expansion Review
Participation

- Manitoba Wildlands provided comments on the draft EIS guidelines
- Manitoba Wildlands made an application to the participant assistance program (PAP)
- Manitoba Wildlands provided comments on the proponents' EIS
- Manitoba Wildlands provided comments on the proponents' EIS supplemental filing
- Manitoba Wildlands has provided coverage of the EIS review and hearings for the Floodway Expansion on its web site

Environmental review content in each of our work products just noted is consistent with our identification of primary content for the EIS Guidelines. It is our assumption that the CEC will hold the Manitoba Floodway Authority firmly to fulfillment of the EIS Guidelines in its recommendations.

Manitoba Wildlands' work products regarding the Floodway Expansion EIS review and today's closing statement are available in the Manitoba Conservation public registry, and on our web site at:

<http://manitobawildlands.org/develop.htm#license>

Or go to the Economic Development part of ManitobaWildlands.org, on the Environmental Licensing page and then scroll down to the Floodway section.

Why Public Participation? – Why Public Hearings?

I would like to take the opportunity to step back and reflect as to why we are here in this public hearing and why we have a public review process; how our society approaches these decisions about activities that will have environmental effects, impacts and implications that go far beyond their physical footprints.

Why don't we simply let these decisions be made without public input; after all, there are rules and regulations that must be followed? And, as Premier Doer says, 'we know the science already.' The answer, as we all know, is that as citizens, we don't want minimum compliance to environmental standards, and we don't want a one-dimensional assessment of projects that may profoundly affect our children's future. As citizens, we are the ones who can make a difference. Our governments and corporations, the proponents, must listen to citizens because the public is the reason for the existence of governments and proponents. It could be said that the public is the reason we have a floodway, and a proposal to expand the floodway.

We have listed elements essential to a credible, balanced, and fair environmental assessment/hearing process:

** We need public/citizen wisdom; citizen wisdom is where CEAA and the Manitoba Environment Act came from!

** We need to ensure that proponents' assumptions, studies, and analysis are not the only basis for decisions; independent and outside information, questions and analysis of all aspects of a project are also needed

** We need transparent access to understandable project information

** We need to discover what has been missed, what may be corrected – to avoid risk!

** We need the participation of individuals and groups from a broad societal cross section. Citizen reviewers, independent experts and scientists work together to understand and comment on the proponent's project.

** We need to hear from citizens and communities who are already affected or who may be affected by a project

** We need these elements in order to lend credibility, maintain balance and establish accountability

** We need these elements in order to achieve both an environmental and social license.

** It will be citizens who know first and are affected first: if a project fails, an effect is greater than estimated in an EIS, or an effect occurs that was not anticipated.

For these CEC proceedings we are in luck.

The calibre and knowledge of the public participants is 'very high and very concrete' – like floodgates perhaps . . . In meetings with the regulators over the last 9 months it has been evident to me that community participants for the floodway expansion are knowledgeable, independent, and caring. It is unfortunate that Manitoba Wildlands has not been able to work with and assist the public participants.

However, certain of these elements needed for credibility regarding environmental assessment have been lacking both in the CEC process for the proposed Floodway Expansion project, and in the review under Manitoba's Environment Act. For instance:

- No environmental or conservation organization knowledgeable in these kind of proceedings and environmental reviews was enabled to participate in this CEC process for the floodway expansion. This occurred despite support from the MFA staff for participation by Manitoba Wildlands under the participant assistance program.
- The reference or terms for the CEC hearings did not acknowledge the existing project or focus on what is needed in terms of information, questions and analysis in relation to the intent to expand an existing project. When the reference is weak and the project is based on an existing project that has not been assessed or licensed, and in addition there is no requirement or capacity for the 'proponent's numbers' to be verified by outside and independent experts, then we all attract liability.
- Clarity has been lacking in terms of proponent responses to public comments and requests for information during the Environment Act review – and this in turn affects the content of these hearings.
 - The Supplemental Filing fell far short of addressing comments filed by the public on the MFA EIS. The Supplemental Filing ONLY provided information to address the few comments included by the PAT in their November 1, 2004 letter and attached Tables. This does not indicate a great deal of respect or value for the time and resources expended by unfunded, volunteer, or funded participants in providing input into this process.
 - Aside from the substantive (or lack thereof) content of the Supplemental Filing, there was also the issue of disregard for the notion of ease of accessibility in navigating the pdf and paper files. Manitoba Wildlands sent a memo to the MFA and the federal and provincial PAT representatives outlining concerns regarding the accessibility of the Supplemental Filing. This memo should never be required during review of an environmental proposal. Although we were ultimately provided a response on this issue, the Supplemental Filing Table of Contents we were sent was not provided to the other participants, which misses the point of the memo entirely – that being that all those who wish to access these materials quickly and easily should be able to do so. This is also an example of the weakened access to MFA information.

RECOMMENDATIONS -

Environment Act Public Review and CEC Hearings

- We **RECOMMEND** that the CEC petition Manitoba Conservation to adopt a policy of providing assistance to any new proponent that will ensure that previous standards for responding to comments, information requests (i.e. both content and formatting of materials filed) are adhered to.
- Given the closure on formal questions before the proponent had filed all EIS materials, and given the weak and/or absence of response by the proponent to EIS review comments, identification of deficiencies and requests for information, we **RECOMMEND** that the CEC include in its deliberations the contents of the Manitoba Conservation public registry file for the Floodway Expansion project, in particular contributions from non funded public participants and comments that were not addressed by the proponents in writing prior to or through the hearing process.
- We further **RECOMMEND** that the CEC include in its report the areas of comment and information request that MFA did not fulfill.
- We **RECOMMEND** that the CEC take action to make all information concerning a project proposal subject to a CEC proceeding available in both paper and electronic formats (on a timely basis). Cooperation with the Manitoba Conservation Environment Act review so that the information base is the same whole set of information is essential.
- We **RECOMMEND** that the CEC clearly state its standards, and methods for making its own information available while making sure that public participants, the media, general public can access the whole set of information regarding any project for which the CEC holds hearings.

RECOMMENDATIONS – International Commitments

A great deal of research, analysis, and subsequently, recommendations from the International Joint Commission are on record as a result of the flood of 1997. The linkages between the Floodway Expansion project and IJC recommendations regarding the floodway expansion option should be explicit, and public. As such, we **RECOMMEND** that the CEC review all IJC recommendations pertinent to its mandate for these hearings, and articulate which IJC recommendations are being fulfilled by MFA, which need to be fulfilled, and reflect these findings in their report.

REPEAT RECOMMENDATIONS

We raised several issues in our closing statement for the CEC hearings for Wuskwatim that we feel are important to reiterate today.

- We asked why the CEC had tolerated the level of acrimony, disrespect, pre-judgment and loss of civility in the hearing room; the level of disrespect towards independent experts was abominable and should not have been tolerated.

- We **RECOMMEND** that CEC procedures should be developed and/or enforced to ensure that respect for all perspectives, knowledge, and information is a guiding principle of CEC hearings and that language and questioning that belittles, condemns, or is in any way disrespectful is halted immediately. A reminder may be needed: In civil society identification of lack of respect rests with the participants or citizen.
- We **RECOMMEND** that the CEC provide a credible, consistent level of access to information both in the hearing room and outside the hearing room – for participants, both funded and non funded, and for the public. For instance, we recommended that a “real time” public registry on the web with all new exhibits posted regularly be established. While we appear to be repetitive here, the mandate of the CEC and our Environment Act is not fulfilled when we have several sets of information or access points for different sets of information during hearings and a review of an environmental proposal. In particular, access to documents during the CEC hearings must be fulfilled. An onsite temporary registry is needed during CEC hearings.

Environmental Effects Issues

We also wish to highlight selected environmental issues that have been inadequately addressed in the EIS, which were not addressed in the Supplemental Filing, and which remain outstanding in our opinion. Each of these is specific to the EIS Guidelines, which must be fulfilled by the proponent, in their application for environmental approvals.

Scope / Definition of Baseline / Cumulative Effects

I want to start by revisiting the issue of the mistaken scope of the hearings (I am aware that extensive discussion on this issue has taken place within the hearings. No capacity exists in our office to monitor the hearings transcripts etc.). It is the position of Manitoba Wildlands that the project scope needs to and should have included the current as well as the expanded project.

- First, I want to acknowledge the exchanges within the hearings process regarding scope and related to that, the definition of the environmental baseline, and the identification and assessment of cumulative effects (there was an exchange between Mr. Osler and Mr. Abra regarding definition of scope and definition of cumulative effects in particular on February 15, 2005).
- I don't wish to dispute Mr. Osler's contention that, based on the definition of the scope, *“we assess the incremental effect because it is the net effect of doing the project”* (February 15, 2005 transcript; pg. 412, line 10).

- I would argue, however (as Manitoba Wildlands noted in our October 2004 EIS comments, which were never responded to by the proponents) *“it is not possible to identify the cumulative effect on a VEC due to many actions, when current conditions (which have been admitted to be ‘disrupted’) are accepted as ‘baseline’ AND the effects of the other projects and/or factors contributing to the current environmental conditions have not been adequately assessed and monitored. This is the situation for the proposed Floodway Expansion project. Essentially, by pretending that the existing environment is the ecological baseline, all potential for truly assessing cumulative effects is lost.”*
- Nonetheless, it appears that the practice and tendency in scoping projects is to define the project and scope relatively narrowly – in this case to encompass only the effects of the expansion to the floodway.
- I am not going to debate that point (but will note again that we disagree), however I do think it is important to point out that issues of scope have been particularly contentious because previous Manitoba projects resulting in the so-called “disrupted environment” (defined as baseline) have not been subject to an environmental assessment.
- This is true of both of the last two projects before the CEC – the Floodway Expansion and Wuskwatim.
- This is a problem in and of itself, but it is also a problem because as a result, there are contentious and unresolved outstanding environmental effects issues that should/need to be addressed prior to this project going forward.
- It is one thing to consider a development in a ‘natural’ environment or even a ‘disrupted environment’ where due diligence has previously been done, monitoring of effects has taken place, and one can make some meaningful statements and predictions regarding thresholds.
- It is a whole other thing to plow ahead and pile impacts on other impacts without taking the time to go back and fully examine the implications of the existing projects, and not only that but to tell people who have been affected by these projects that this is not the time and place (and in effect that it is not necessary), too time consuming and too costly to do so.
- This defies all logic and fairness and increases the problem with the definition of scope and the assessment of cumulative effects for this project involving existing impacts that have not been properly assessed.

Protected Areas and Public Policy

Essentially, the point Manitoba Wildlands wishes to make with respect to the consideration of protected areas and public policy in the Floodway Expansion EIS is that these issues were treated in at best a cursory fashion, the analysis is inadequate; the EIS Guidelines have not been fulfilled, and as a result it is impossible to determine the impacts of the project on existing protected areas, and on the ability to establish protected areas in the future. It is also impossible to make any conclusions as to whether the project is in keeping with other Manitoba public policies. To illustrate our point, I will quickly note some of the deficiencies we identified in our EIS and supplementary filing comments. We also suggest that various other environmental effect issues are identified in our EIS work products.

Protected Areas Deficiencies

- References, footnotes, and sources for accurate protected areas facts, methodology, assessment, designation content are absent from the EIS.
- The proponent has not addressed the absence of any discussion of the Action Plan for a Network of Special Places for Manitoba. (January 2000 – January 2003) which is part of the Lands and Waters Strategy for Manitoba, as cited in the EIS Guidelines.
- The proponent has not addressed comments regarding the level of representation of enduring features that currently exists in the natural regions affected by the proposed project (including the absence of maps)
- Incorrect information about protected areas has not been corrected by information filed in the supplemental filing; for instance –
 - no information as to which acts of the legislature, and which definitions under legislation pertain to protected areas
 - no identification of sites that are under review for protected status
 - no information provided as to the kinds of protected areas designations used in Manitoba, with sites that pertain to the project region listed
 - no correlation or mapping provided to identify habitat options within the project region which could become protected areas, with existing designations or potential designations shown
 - explanation as to areas of special interest (ASIs) is incorrect; no map provided to show these (ASIs have NOT been designed for the project region as yet)
 - no information as to the status of natural region representation provided, no mapping.
 - no literature survey, web site review; mapping requests to government to clarify existing public policy regarding protected areas ignored, or avoided.
 - insignificant awareness of the loss of bird habitat due to the project, and need to replace and provide secure habitat (this is just one example)

- the map on pg.13 of Section 13 of the Supplemental Filing (**Areas of Special Designation – Regional Study Area**) indicates ecodistricts and “Areas of Special Designation” (Ecological Reserves, Special Conservation Areas, Wildlife Management Areas, Provincial Parks). This map does not indicate protected lands as distinct from lands within designations that are not protected from development (Titled Figure 7.2-1). There is no Area of Special Designation definition or category in Manitoba public policy or the regulatory regime regarding crown land. Manitoba does have several hundred-crown land designations, in several types. EIS Guidelines are clear, and this is deficient. Perhaps the proponents or their advisors do not know what a protected area is.

RECOMMENDATIONS - Protected Areas

The reference to the CEC makes clear direction regarding fulfillment of the Lands and Water Strategy for Manitoba. That includes Protected Areas policies and action plans. It also includes then, government commitments and programs to fulfill the Lands and Water Strategy regarding protected areas. It is essential that the CEC report direct the MFA to deal with the deficiencies and inaccuracies in their EIS regarding protected areas. Manitoba Wildlands work products detail these deficiencies. (Previous environmental proposals/ and their EIS Guidelines have also referenced the Manitoba Sustainable Development Principles and Guidelines, *and the subsequent policies*. We assume the same standard for this reference will be reflected in the CEC report (**RECOMMENDATION**))

Public Policy & Floodway Expansion

In terms of public policy, the proponents have not addressed inadequacies in terms of the (bare minimum) requirements to address the public policy and regulatory framework as outlined in the EIS Guidelines. For instance -

- *Appendix 1E* lists the federal and provincial legislation and clauses that could potentially impact the project. There is no reference to public policy in the Appendix, other than to reference some guidelines. There is no mention of policy documents. No discussion, or analysis is included in the Appendix and it does not address the issue of how the proposed project will be in compliance with the legislative clauses listed.
- *Volume 1, Chapter 1 Introduction, Section 1.6 Effect of the Guidelines on EIS Organization and Content* states that “[t]he proposed Project is consistent with Manitoba’s Water Policies regarding water quality, conservation, use and allocation, water supply, and education.”
There is no discussion, justification to support this statement. A similar claim is also made on page 28 of the Executive Summary.
- the EIS ignores the existence of Manitoba’s Water Strategy (2003). It is not mentioned in the EIS or listed in the references

- Incorrect information about public policy has not been corrected by any material filed by the proponent; for instance –
 - Manitoba Wildlands, in our October 2004 comments on the EIS, noted that *Volume 2, Appendix 1E, Section 1.2.6 Other* (pg. 1E-31) states, "Other Acts and Regulations that are potentially relevant to the *Wuskwatim Generation Project* are the . . ." (emphasis added). This appalling mistake, which indicates that the authors of the EIS engaged in wholesale 'recycling' of work product and in this instance failed to proofread and edit their work, has not been acknowledged or justified by the proponents in any way. We submit that at best this indicates a cavalier attitude towards environmental assessment and poor professional standards. At worst, the 'slip-up' is indicative of an attitude that is dismissive of the EA process, and indicates an approach of minimal compliance and the minimum in terms of actual assessment work. It is also dismissive of the issue of compliance with regulatory requirements.
 - The Executive Summary indicates that the proposed project is consistent with Manitoba's Water Policies, and also the natural lands and special places policies. This is an impossible statement, considering that the most recent policy document regarding Manitoba's water is the 2003 Manitoba Water Strategy, which has not even merited inclusion in the references section of the EIS, and is not referenced in the EIS itself. The same is true for the "natural lands and special places policies" – the most recent *Action Plan for a Network of Protected Areas* is neither discussed in the EIS, nor included in the references. Nor are any of the numerous Manitoba public policy publication/references over the last 5 years regarding protected areas.

RECOMMENDATION - Public Policy Framework

Manitoba Wildlands recommends that the CEC have independent reviewers identify all errors of fact and claims regarding the public policy framework which the floodway expansion project would need to fulfill and be in compliance with. These would be referenced above in the CEC report, with direction to the MFA to undertake public correction and posting.

RECOMMENDATION – Archeology

We recommend that the CEC clearly direct the MFA as to their responsibilities under Manitoba's Heritage Act, while making recommendations to ensure that the MFA fulfills the Heritage Act during planning, site preparation, and all construction and operation phases of the project.

Climate Change

In our comments regarding the EIS and our comments on the supplementary filing, we criticized the proponents' treatment of the issue of climate change. We still believe that this issue is not receiving the attention and analysis demanded in response to the EIS Guidelines, and its importance to Manitoba. I am just going to mention some examples of areas in which the EIS needs improvement.

- It is still our opinion that the climate change literature regarding modeling and scenarios contains other studies and information relevant to the Manitoba situation that has not been referenced and therefore we must assume not examined by the proponent in putting together the EIS
- In the supplemental filing, the MFA chose to dismiss Manitoba Wildlands' recommendations related to designing the project with objective of making the project carbon neutral, and failed to explain whether and how the project is in compliance with Government of Manitoba policy on Climate Change. The proponents skirted this issue by stating that they feel that the project will not compromise Manitoba government's commitments to deal with Climate Change and Kyoto. This is a different issue.
- No strategy to minimize GHG emissions has been discussed
- There has been no response to our suggestion on the supplemental filing to provide emissions data for the **transportation** sector for a year in Manitoba, and indicate what the effect of this project's **transportation** emissions will be. The same could be done for earth moving and sand and gravel sector, etc. Our suggestion to provide information regarding the primary greenhouse gases, and about carbon loss as an effect of the project has also been ignored.
- The proponent has not provided an analysis of the total impacts of all phases of the project in terms of climate change - i.e. quantification of GHG emissions and carbon losses or gains for all phases in comparison (including which are ongoing and which are temporary and for how long) with totals for Manitoba and some sort of justification from literature in terms of significance. The proponents also have not addressed questions regarding the loss of trees (not just vegetation). Personal communications indicate that some areas adjacent to the existing Floodway are "forested". Loss of forest is significant in emissions, and loss of carbon.
- As far as we know, the MFA does not have, or at the very least has not stated its position on climate change. In the age of Kyoto, this is unacceptable for any major developer, let alone a public sector developer.

RECOMMENDATIONS - Climate Change

We **RECOMMEND** that the CEC direct the proponent to conduct a more thorough search of the climate change literature, address deficiencies previously noted in our sets of comments, assess its climate change assumptions, and make public all updated information.

We **RECOMMEND** that the CEC direct the proponent to develop a plan that will be publicly reviewed through an accessible, transparent process to arrive at a strategy, including methods and mechanisms for implementation, monitoring and public reporting, that will result in the expansion of the floodway being a carbon-neutral project, and that this should be undertaken jointly with the appropriate Manitoba Government departments. In particular, full emissions data for the project activities should be public and transparent, combined with no net gain emissions targets.

We **RECOMMEND** that the CEC direct the proponent to develop, through a process that includes public review, a comprehensive policy on climate change.

Joint/Cooperative EA and EIS Guidelines

It is clear from these closing statements that we are concerned about fulfillment of the EIS Guidelines, as developed by the Project Administration Team for the Floodway Expansion project, under the Cooperative Environmental Assessment Agreement between Canada and Manitoba. Failure to respect and address the contents of the EIS Guidelines could be taken as a breach of the Cooperative EA Agreement. The EIS Guideline elements which Manitoba Wildlands successfully commented on, saw added to the Guidelines, and continues to identify, must be fulfilled. The adequacy of response to the EIS Guidelines is not something to be assessed by the proponent, especially for a huge public works project such as this.

Manitoba Wildlands has made requests for a joint federal-provincial environmental panel to review the Wuskwatim projects. We are of the opinion today, that approach would have been better for all parties. The multiple federal responsibilities regarding both the current and an expanded floodway project make this a deficiency in the current hearings. The expertise and thoroughness brought by a joint panel would have helped address many environmental effects questions that may still be outstanding when the CEC hearings end.

LIVING ON THE FLOOD PLAIN: MYTHS AND REALITIES

Mr. Gilroy made some odd comments in his opening statement to these hearings on February 15, 2005. They can be found beginning on page 219 at line 25 of the hearing transcript.

Over the course of the next three weeks, the Commission will hear a number of issues that will be raised by special interest groups and some municipalities. Most of these issues, however, although clearly of importance to these groups, are not directly linked to the floodway expansion and should not be mistaken as relating to our project. So in issues regarding dredging, ice jamming, outstanding financial claims from the 1997 flood, or the interim summer emergency operations of the floodway are raised, we need to keep in mind that these issues are not directly related to the expansion project. In all of these cases, in some instances historic grievances that were not impacted by the floodway expansion -- in other words, whether the floodway has expanded or not, these issues will remain. The rightful place for those discussions is with the appropriate federal and provincial departments, most of which relate to policy and budgetary matters.

His references to special interest groups are unfortunate, and the notion that the MFA does not have responsibilities related to any “grievances”, whether “historic” or pertaining to the operation of the future floodway gates may show some confusion as to his responsibilities.

Political parties and governments, industry or developers often use the term 'special interest group' when they do not wish to listen to *public* interest groups. Essentially this is a derogatory term, and has no place in these hearings. (Perhaps Mr. Gilroy does not realize that many of things he takes for granted in his personal and occupational life are the result of public interest groups' work on behalf of citizens.)

Most Manitobans live in the floodway plain. The entire Manitoba economy can be affected by a significant flood, and the Red River Valley, south of Manitoba, is one of the highest revenue/lowest program investment regions for government in our country. (This statement does not include flood compensation and flood proofing investments.)

So we are all in this together, and Mr. Gilroy needs to understand that he and his staff and consultants work for all of us. There simply is no 'us & them' dynamic here – unless the proponent sees advantage to trying to create such a dynamic. To my knowledge - and I attended several floodway public participant's meetings in spring and summer 2004 - none of the public participants are against the expansion of the floodway.

RECOMMENDATION: Living on the Flood Plain Together

The CEC, in its report, state clearly that we are all in the flood plain together, that all Manitobans experience both risks and benefits from flood events – and the floodway projects. Perhaps it would be prudent for the CEC to acknowledge the advice the Honourable Steve Ashton provides to Manitobans with respect to decision making regarding our rivers, lakes, and water use. He points out that Manitobans can't 'play the blame game' while we are making decisions. Certainly it is important for the MFA to understand this advice.

The other worrisome content in Mr. Gilroy's remarks rests in his comments where he is attempting to say the urban environment is more valuable and more important than the natural environment – in the context of these proceedings and the assessment of the floodway expansion. This approach is simply not material to environmental licensing, and is conducive to more 'us & them' thinking. Mr. Gilroy, stated (quote from February 15, 2005 hearing transcript, page 2112, beginning on line 7):

But this Floodway Expansion Project is more than about saving our economy and emergency preparedness, it's also about protecting our environment. If a one in 700 year flood were to hit in the next three to four years, two-thirds of Winnipeg would be flooded as a result of overland and basement flooding, including many police and fire stations, hospitals, schools, and industrial operations. The longer term damage caused by mold would be horrific, and the environmental damage to the Red River and Lake Winnipeg would last for generations.

The fact is, floodway expansion protects the public from this looming environmental disaster. In this context, Commissioners, this hearing is not typical of most environmental hearings that pit economic development against environmental protection.

Floodway expansion by its merits is itself an environmental protection project. In fact, floodway expansion is one of the largest environmental protection investments in Canada.

He also seems to have it backwards: the source of the economy for Manitoba and Winnipeg is outside Winnipeg. Our natural world is the basis of our economy. We would recommend some reading of Canada's own Jane Jacobs.

It has been my experience over the last 12 years that Manitobans know their natural environment well, and hold it close to both their hearts and minds. This means that Manitobans, for instance, have consistently for 15 years led other jurisdictions across Canada, in their polling responses in support of conservation and protection of our environment. Manitobans have a unique ability to see both the value or public interest reasons and the pragmatic reasons why we need to protect our environment.

In short Manitobans are fairly smart about our natural world, and understand what may already be impacted, what risks are being taken – and whether the information about risks or impacts is adequate. They also have vision, and patience - as evidenced by the building of the original floodway.

As a transplanted Manitoban, who comes from the 'flat society' to our west, I can say that it is this Manitoban trait of understanding and respect for our natural world that motivates me in my environmental public interest work.

Living in the Valley – One River Lot

Specific to the fact that I have lived on the same river lot on the Red River for thirty years, an inclination exists to identify some of the 'urban myths' and weak foundation to the floodway expansion discussion. **RECOMMENDATION:** Each identified weakness or myth below needs to be addressed by the CEC in its research and recommendations. This list is not comprehensive, but rather a set of examples.

MYTH #1) - The current Winnipeg Floodway has only benefits. The Expanded Winnipeg Floodway will have only benefits.

Engineering studies and analysis are theoretical, as is much of the contents of an EIS. Only public cumulative effects assessment, *after a project has been in operation*, and analysis, *after* a disaster, can tell us what is real. The existing Winnipeg Floodway does not have an environmental license and has never been assessed for its environmental effects, with respect to environmental licensing standards both provincial and federal. It is simply high risk behaviour to only talk about the benefits of any project, without clear identification of the losses or risks. And any human activity that affects the environment has losses or impacts.

MYTH #2) - The current environment (of the existing floodway) is the natural environment baseline for the expansion project.

Had we been funded to undertake research and participate in these hearings, as is evidenced in our materials regarding the Floodway Expansion EIS, this myth would have been carefully exposed. If this is so, then these hearings and the CEC report need to tell us what the baseline will be after the expansion is constructed.

We **RECOMMEND** that the CEC set exactly how the baseline data will be collected immediately after completion of the expansion to the floodway, and how public information as to monitoring impacts and biophysical conditions will be undertaken / provided throughout the life of the expanded floodway.

MYTH #3) - We all agree that the one hundred year rate of return flood is an adequate and valid basis for floodproofing, environmental assessment, floodway expansion planning and projection of flood levels. Actually we don't all agree on this. Now that we are in the twenty first century it is time to project and assess risk based on models that do not simply rely on past events. Trends are as or much more important, especially regarding projects or phenomena which may have climate change causative elements. Some would even say that the 100 year rate of return assumptions have added risk, and increased environmental effects from flood events by limiting our thinking and flood disaster preparation.

Put in simple terms, the 100 year flood level or rate of return is established by adding 2 feet to the crest level of flood waters at any given location in the Valley, from the most recent/highest flood event. This is the standard used for flood proofing activity then. (I will not be speaking about north of Winnipeg, as I do not live there, and have not experienced flooding there.) The description above is consistent with my numerous conversations with highways engineers, hydro engineers, floodproofing contractors, municipal official, MEMO staff, floodproofing inspectors etc.

I live in a house midway along the Red River between Morris and Ste Agathe on a Métis Red River lot. The ground floor (kitchen and living room floor boards) has been at the 100 year flood level, since reconstruction in 1974, and therefore before the 1979 flood. Before that the house was substantially lower, the house ground level was at the 1950 – flood level. The house had no damage in 1950 or 1979.

Construction and flood proofing earth works were undertaken in the 1980s based on the 100 year flood level, keeping the same ground floor level. After all that we were at and above the 100 year level! In 1993 our grid road was finally raised to the 100 year flood level, based on recommendations for lack of exit routes in the 1979 flood. We were now in great shape!

We were flood proofed to the 100 year level, and then had 40 feet of water (this is measured from the level of river ice) in 1997. Manitoba authorities have never agreed as to what amount of water above the 100 year level covered PTH 246 in 1997, at River Lot 480.

It becomes quite obvious that the 100 year rate of return is simply the number arrived at after each 'flood of the century'. The new number is the crest or peak level plus freeboard. Our home was flood proofed 3 times in 25 years for the 100 year level / rate of return. What I have just described is what residents of the Valley know and understand. Winnipeggers who know the Valley, and grew up on the river also know these things to be true.

When I was a member of the International Flood Mitigation Initiative (IFMI) for Manitoba after the 1997 flood my American colleagues always kept asking 'yes, but what is the basis for the 100 year rate of return, other than the level of the most recent flood disaster?' Good question. Much of what I have detailed above was also confirmed by presenters to the IFMI meetings.

So we seem to be getting ready to expand the Winnipeg Floodway due to the 1997 flood of the century. There is a singular lack of acknowledgement of how many 100 year rate of return floods or close calls we have had in the last 55 years. We are also not admitting how many 100 year levels of flood proofing have been applied to decisions in the Valley in the 50 years between the 1950 flood and post 1997 flood proofing actions.

We **RECOMMEND** that the CEC give the MFA an undertaking to provide – based on the pattern of floods since 1950 – detailed information regarding scenarios that are floods of increased magnitude every 15 years between 1997 and 2050, and then every 20 years between 1997 and 2077. These scenarios will need to be designed both with the floodway expansion and without, looking at the full geographic scope of the floodway regions. They should each be able to be described or charted on one piece of paper, with maps.

MYTH # 4) - Everyone in the Red River Valley south of Winnipeg is flood proofed now, for at least the 100 year flood return event.

It may be this was taken as hopefully true after the 1997 flood, and up to 2003 or so. The problem the CEC has to contend with is that we have a Valley full of flood proofing undertaken before recent Manitoba legislation, and before the design of the expansion of the floodway. A question needs to be asked: How will we know if the flood proofing undertaken right after the 1997 flood will in fact protect for future floods? Do these homes, businesses, towns, and farms need to be further flood proofed due to the design of the expanded floodway? Why does government persist in ignoring the homes, businesses, and farms, residences outside the diked communities, as if they are not there? We **RECOMMEND** the CEC clarify for the government of Manitoba the number of sites in the Valley and north of Winnipeg that will require material, sand bagging, etc should a flood similar to 1997 occur, with the expanded floodway in place.

We **RECOMMEND** that the CEC address the effects of the expansion of the floodway in relation to the flood proofing undertaken after the 1997 flood and make recommendations.

MYTH #5) - The Floodway is a ditch, and making a bigger ditch does not change much. This is an example of determinism, and avoidance of ecological thinking where everything is connected and patterns are paramount. Matters of scale, speed of water flow, increase in fps, impacts on banks, and all infrastructure currently in place in the Valley simply are not being fully dealt with by the MFA. All systems, including a floodway, have thresholds, beyond which change to the whole system or operation sets in rapidly.

Failure of the MFA to take questions on this matter seriously means that the CEC will have to determine where those thresholds are, and whether for instance, we are going to have significant riverbank and floodway bank erosion due to the expanded floodway. (This is therefore also a **RECOMMENDATION**.)

MYTH #6) - Expanding the Floodway has nothing much to do with climate change. Well, they are sure going to laugh at us in 25 years if this is the 'wisdom' and attitude for decisions regarding the expansion of the floodway. We **RECOMMEND**, given the failure of the MFA to take the EIS Guidelines seriously, that the CEC seek input from an ecological economist and a climate change expert, regarding large infrastructure and earth moving projects and how to mitigate climate change effects.

The opportunity and time is now for Manitoba, Winnipeg and Canada to step forward together and make this huge infrastructure project the first carbon neutral project of its kind in Canada. We **RECOMMEND** that the CEC make as a condition of any potential license for the expansion of the floodway that the MFA file a public climate change mitigation and adaptation strategy with the goal of making the floodway expansion a carbon neutral project; that this strategy be public and transparent at every stage of its implementation; and that the MFA work with Energy Science Technology Manitoba staff, Manitoba Water Stewardship, and the contracted industry sectors involved in expanding the floodway to arrive at such a strategy; including training, awareness, and public education aspects.

MYTH #7) - The water in the expanded floodway will be in motion at all times. Therefore public participants concerns about stagnant water are irrelevant. We were struck by the comments in the media, and during these hearings from MFA staff. The floodway does not stop being the floodway between floods, or after a big rain, or after the floodgates return to rest. Over 30 years all I can say, in my knowledge there is often water in the floodway that is stagnant. If this is going to reverse with the expansion of the floodway, clear information to that effect must be filed by the MFA. More likely, a wider channel will mean more stagnant water. Otherwise the MFA must address concerns about stagnant water, especially in mosquito season in the months after flood season.

MYTH #8) - If government is building it, everything will be fine. After all this is a public sector project that is in the public's interest. This kind of thinking takes us back to my opening comments. We have public reviews and public hearings so that public knowledge, independent analysis, and information which might be ignored or missed otherwise is part of an assessment. It is particularly important when government is building, self assessing, holding its own hearings, and licensing itself that the public interest and concerns be fully voiced, and accepted as valid. No other developer gets to license themselves! It is precisely these projects everyone assumes will be built, which must have the most scrupulous environmental review.

MYTH #9) - Everything needed for compensation for next time is in place. Anyone who thinks this, should pause and consider having water on the upper levels of the new MTS Centre on Portage Avenue. (A reflection of 1997 flood water levels without the floodway, or if the floodgates had not held.) Or think about aquifer damage and ruptures where intensive livestock operations are without safe water. As I am sure the panel has heard during these hearings, the small recommended fund for compensation is a joke and an insult to anyone who knows about the Red River, and its ways. We **RECOMMEND** that the CEC place an undertaking for the MFA to provide a full set of figures as to the cost of the next flood of 1997 levels in Manitoba. There are many kinds of mitigation and compensation costs that will continue - including closing the 4th side of many dykes. We further **RECOMMEND** that the CEC investigate the status of negotiations between Canada and Manitoba regarding disaster assistance, especially for the next 'flood of the century' and make this information a part of their report.

MYTH #10) - Besides, it is Winnipeg we need to protect, that is where the economy is.

About 20 years ago I coined the term 'perimeter syndrome'. Most Manitobans know what it means, whether they work and live inside or outside the Perimeter highway that surrounds Winnipeg. Perhaps today we need a new term – floodway syndrome! We are truly all in this together, ecologically, and economically. Any misguided assumption that you should protect one part of the environment or economy versus the other carries risks of short sighted thinking and planning, and therefore potential risks when expanding our floodway.

Hearing Procedures – Lessons Learned?

As an individual who has participated in several sets of CEC hearings, and many more reviews of environmental proposals under Manitoba's environment act, I wish to bring attention to the CEC commissioned report that is posted again on the CEC web site. Each of these recommendations needs to be formally adopted and implemented by the CEC, in our opinion (that is also our **RECOMMENDATION**). All parties to these hearings should consider which of the contents in this report have been acted on, which are outstanding.

The CEC should encourage broader participation in its hearings . . . As noted time and again by the research participants, the CEC should try to hear from as many key publics as possible to ensure the best information is available before its recommendations are made.

(Diduck, Fitzpatrick and Sinclair¹; pg. i)

The CEC should engage in pre-hearings activities, including holding community meetings regarding both the scope of consideration for hearings and central questions to be considered in detail within that scope.

(Diduck, Fitzpatrick and Sinclair; pg. ii)

- *the Commission should provide guidelines about the form and content of all submissions to the public registry;*
- *in addition to hard copies, all submissions to the Commission should be provided electronically, in a pre-determined format (the caveat to this statement is that for participants unable to submit information electronically, the Commission should provide the service of transferring material to the appropriate electronic format);*
- *the public registry should be available at the hearings, housed in a separate room from the proceedings and with staff available to assist users;*
- *all exhibits submitted during the hearings should be included on the public registry;*
- *CEC hearing reports should be available in electronic format; and,*
- *the findings of the Commission and the licence should be posted in the public registry together.*

(Diduck, Fitzpatrick and Sinclair; pg. 41)

. . . there is a need, in some instances, for objective, balanced, peer-reviewed study of issues raised at CEC hearings.

(Diduck, Fitzpatrick and Sinclair; pg. 45)

CONCLUDING REMARKS

The Manitoba Floodway Authority may end up with a recommendation for an environmental license from the CEC and considerable loss in terms of its social license to operate. That outcome can still be avoided. We will see what the MFA has to say in its closing statement. So far MFA staff, consultants and management appear not to be conscious of who they work for.

When a project has the significant and variety of federal responsibilities that this project does, then public participants are justified in expecting that those federal responsibilities will be fulfilled and acted on. We will see what the federal Responsible Agencies determine regarding the deficiencies in answering their information requests, and fulfilling the EIS Guidelines, and CEAA.

¹ Diduck, A., Fitzpatrick, P., and Sinclair, J. 2001. *Improving the Hearing Process: A Report to the Manitoba Clean Environment Commission*. Winnipeg: Natural Resources Institute.

Lack of support for conservation and environmental organizations to participate in these proceedings is a sign that the CEC may be mistaking its role. While the participant assistance program under Manitoba's Environment Act is only recently being used, I have had otherwise knowledgeable Manitobans inform me that the CEC is supposed to decide who gets to participate in a hearing. That is simply wrong, and we RECOMMEND that the CEC clarify their open hearings policy in their report.

Those Manitobans and Winnipeggers who have stopped me in the street, in elevators, or meetings about other subjects to ask why our office was not working through the Floodway Expansion hearing process – their comments were appreciated, and confirm my faith in Manitobans' inherent ecological understanding, and expectation of a standard of fairness.

Public policy fulfillment must be a given in this kind of proceeding. Any commission or regulators' body that lets a proponent off the hook regarding accuracy and responsibility on something as basic and simple as protected areas policy is simply not doing a credible job.

It is also important to remember that all our decisions regarding water management, water conservation, and water projects need to be discussed together, in a holistic fashion. An ongoing sequence of 'one-of' decisions will not strengthen our civil or natural ecosystems operation.

Another reminder: there are 3 essential parts to the environmental review of the Floodway Expansion Project; Review under the Manitoba Environment Act, CEC hearings and their report, and federal assessment under CEAA.

And, finally, the opportunity still exists to make the Manitoba Floodway Expansion Project a carbon neutral undertaking, demonstrating to the rest of Canada that Manitoba truly is Kyoto friendly, carbon savvy and emissions wise.

Thank you for the opportunity to speak today.