

**Manitoba Clean Environment Commission (CEC)**  
**Hearings**

***Floodway Expansion Project - Closing Statement***

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

*March 7, 2005*

<http://ManitobaWildlands.org>

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

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**Director, Manitoba Wildlands**

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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 Agreements**

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 citizens.
- 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 where the so-called “disrupted environment” (defined as baseline) have not been subject to an environmental assessment and do not have environmental licenses.
- 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 or standard of fairness and increases the problem with the definition of scope and the assessment of cumulative effects for this project as these involve 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 eco-districts 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, under several Acts. 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.



## **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 the 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 recommend the proponent 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 recommend the proponent 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.

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 the 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 flood plain. The entire Winnipeg 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 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 212, 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 – and support for protected areas.

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 behavior 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 recommend 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 flood-proofing, 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. Put in simple terms, the 100-year flood level or rate of return is established by adding 2 feet to the crest level of floodwaters 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, flood-proofing contractors, municipal official, PFRA experts, MEMO staff, flood-proofing 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 rates 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 infrastructures 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 effects to the whole system or operation set 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 recommend, 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, stakeholders, 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 are part of an assessment. It is particularly important when government is designing, 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 4<sup>th</sup> 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 shortsighted thinking and planning, and therefore potential risks when expanding our floodway.

See Transcript for Myth # 11 – We Can Ignore Weather, Ignore Overland Water!

***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 Sinclair<sup>1</sup>; 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)

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

- *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. 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.

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.

See Transcript for Reminder: there are three parts of this environmental review: review under Manitoba's Environment Act, the Clean Environment Commission hearings, and the federal assessment under CEAA.

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.