

Regulation of Lake Winnipeg

Reviews, Licences and Hearings



Section 1 - Regulation of Lake Winnipeg

- Lake Winnipeg has been regulated for water levels since 1970
- The lake is a reservoir for Hydro system in Manitoba, north of lake
- Manitoba Hydro holds the permit to regulate water level to send Lake Winnipeg water through dams in the north, starting at Jen Peg
- Maximum level of water in the lake was exceeded in the 2011 flood
- Manitoba Hydro provides its 'averaged' water level for the lake overall, assumes this is ok under its permit
- Manitoba Hydro permits to regulate the lake have been interim since 1972
- Manitoba Hydro can adjust water flows from Lake Winnipeg when it sees a reason for power production
- There is no oversight or independent monitoring of Lake Winnipeg water level decisions
- No environmental licence exists for regulation of Lake Winnipeg
- No survey of the shorelines was done in 1972, and nothing to provide shoreline information is public
- No consultation about regulation of the Lake has ever occurred
- The results of regulation of Lake Winnipeg have never been studied in an open and public manner
- The regulation of the Lake has never been reviewed, assessed, or audited.

Section 2 - Licences and Regulatory System - Who Decides ?

- Manitoba Conservation and Water Stewardship is responsible for Water Power Licences in Manitoba, including for Lake Winnipeg Regulation and dams in the Hydro system.
- Manitoba Conservation and Water Stewardship is responsible for Clean Environment Commission (hearings), and for the Water Power Act.
- The same department is responsible for the Aboriginal Consultations regarding regulation of Lake Winnipeg

- Lake Winnipeg is one of few lakes still listed federally, so the Canadian Environmental Assessment Agency should participate in the reviews, and hearings
- Many other permits and licences are issued by Manitoba regarding the islands, wetlands, and shorelines, including for: crown land designations, fishery permits, tourism permits, townsites, cottage subdivisions, drainage, bridges, roads, etc
- Many of these decisions are done without notice, are not public, with no public registry
- Municipalities on the Lake have development plans, which are approved by the Manitoba government.
- The Manitoba Conservation and Water Stewardship also issues quotas for the fishery on the lake, both basins
- Permanent water power licences have to be back dated to the time they were first issued, then issued for 50 years. So Manitoba will be doing this all over again in about 10 years.

Section 3 - The Lands and Waters

- Many rivers flow into the Lake, are only studied for 'nutrients' that add to algae on the lake (nitrogen and phosphorus produce most pollution)
- The Lake Stewardship Board issued a report with many recommendations - not all acted on, no report back by government
- The City of Winnipeg has still not acted on the Environment Canada ordered upgrades to waste water systems to keep pollution out of the Lake
- Little assessment of environmental impacts and risks has been done since early 1980s.
- Wetlands around the lake have steadily disappeared
- Habitat for important species also steadily disappearing
- Water quality including for the fish declining
- Tourism affected by poor water quality
- Studies after 2011 flood did not include Lake Winnipeg

- Flooding around the Lake not studied
- Extreme weather events around the Lake not studied

Section 4 - Premier's Promises for full public hearings – January 2011 & July 2011

- Manitoba Hydro has been seeking permanent licences for Lake Winnipeg Regulation, each dam, and Churchill River diversion for several years
- Premier Selinger promised in January 2011 there would be full public hearings about regulation of Lake Winnipeg before any permanent licence or permits were approved
- So far no hearings, and they appear to be pushed back to 2015, as of September 4, 2014.

Section 5 - Manitoba Hydro System – Reviews

- Minister Mackintosh ordered a full regional cumulative effects assessment (RCEA) of the entire Nelson water basin with Bipole II licence
- To date no public review, no public input for terms of reference, and Manitoba Hydro with Manitoba government have negotiated so Manitoba Hydro assesses its own system.
- First Nations involved in Keeyask hearings have called for independent, transparent, transparent RCEA instead.
- The Bipole III and Keeyask dam licences have many more conditions on them, and have environmental licences. Wuskwatim licence is not thorough.
- Minister Mackintosh has called for Manitoba Hydro to move to reconciliation with Manitoba First Nations affected by the hydro system.
- Manitoba Hydro files their environmental statements YEARS after they have made decisions, entered into business agreements.
- The first review of the Need For and Alternatives To Manitoba Hydro's development plan was done by the Public Utility Board in 2014.
- The PUB report has tough new recommendations, including not to build Conawapa, and after objecting to Keeyask says to go ahead.
- No response from Manitoba government to PUB recommendations yet.

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Section 6 - Churchill River Diversion (CRD)

- The CRD also only has water power licence, is also only interim. Manitoba Hydro is seeking a permanent licence for the CRD too.
- The CRD review is separate from the Lake Winnipeg regulation reviews.
- There is no intention at this time for hearings about the CRD.
- Water power licences for dams on the CRD are separate from the CRD licence.
- Permanent licence for the CRD is the same as for Lake Winnipeg regulation - it is back dated, and has to be done again in 10 years.
- Some of the dams have their permanent licence now despite CRD not done, Lake Winnipeg regulation not done.
- Steps for far have been limited to NFA First Nations
- No open houses or information in Winnipeg about CRD situation.
- Flooding in the north is increasing in frequency, and the CRD licence does not anticipate this. 2005 and 2011 are examples. Manitoba Hydro can increase water flows on the Nelson River when they want to make more power for sale. Nothing about impacts from these high waters in the north is included in CRD licence
- No environmental assessment ever done on the CRD. No environmental licence in place.

Section 7 - Clean Environment Commission (CEC) Hearings

- The CEC holds public hearings, with funds for participation, for significant environmental licences under the Environment Act
- Bipole III and Keeyask are most recent hearings
- The Minister makes a formal request for hearings, and provides terms of reference
- The Minister has directed the CEC conduct hearings for Lake Winnipeg Regulation, terms of reference posted in 2012
- No CRD hearings request to date. CRD not part of Lake Winnipeg hearings terms of reference

- CEC hearings regarding Lake Winnipeg Regulation based on Water Power licence and act, environment act.
- CEC posts all exhibits, has full transcript, and funds legal counsel, research and independent experts to come into hearings
- Funding approved for CEC Lake Winnipeg hearings is 1/4 of Keeyask hearings funding.
- As of September 4, 2014 CEC hearings for Lake Winnipeg regulation have been pushed back to 2015.
- Manitoba Hydro filed its information package about Lake Winnipeg regulation end of July 2014.
- There is no public review or assessment of Manitoba Hydro Lake Winnipeg regulation package.

Section 8 - First Nations Affected - North and South Basins, and Downstream

- As many as 35 First Nations affected by regulation of Lake Winnipeg, including northern flood agreement First Nations
- 2011 Channel from Lake St. Martin now to be made permanent, Manitoba government indicates the aboriginal consultations and environmental licensing needed
- But Channel left out of CEC terms of reference, Channel First Nations scoped out
- Jenpeg is part of permanent licence decision, but not part of CEC terms of reference
- Grand Rapids dam is not part of licence decision, CEC terms of reference OR aboriginal consultations terms of reference
- Little confirmation or acknowledgement of Aboriginal rights in terms of reference for CEC
- First Nation fishers heavily impacted by changes in Lake Winnipeg
- Nothing in water power licences about Aboriginal rights

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- No traditional knowledge acknowledgement in any terms of reference
- CRD effects on rights left out of all Lake Winnipeg reviews, terms of reference

Section 9 - Aboriginal Consultations about Lake Winnipeg - Section 35

- Aboriginal and northern Affairs staff assigned regions north of Lake Winnipeg, and around the Lake to facilitate community consultations about regulation of Lake Winnipeg
- Water Stewardship staff in Manitoba Conservation and Water Stewardship responsible for community consultation projects once approved
- Steering committee inside government decides which communities will be funded
- Premier Selinger's aboriginal consultation fund started in mid 2010 has 5 year time line, needs renewal
- The Crown cannot use lack of funds, time, or resources as an excuse to limit or deny aboriginal consultations (Supreme Court)
- Manitoba government aboriginal consultations guidelines is from 2009, not updated, no joint terms or sign off by Manitoba First Nations
- Manitoba Justice legal counsel claim that Manitoba is abiding by all Supreme Court decisions regarding consultations
- Several proposals for Lake Winnipeg regulation aboriginal consultation projects sitting since April 2014 with NO response
- LIST of affected First Nations they are using is old, and combines Northern Affairs communities with First Nations, includes about half of affected communities
- Checklist to determine if a community is affected, and how much, used in secret by government staff