

**Presentation to Legislative Committee on Bill 46: Save Lake Winnipeg Act
Gaile Whelan Enns, Director Manitoba Willdands, June 13, 2011**

Thank you, and if I may, I'm not able to speak as quickly as the previous speaker, particularly at this time of the evening, but I'll do my best. I also wanted to make sure that we had in the record what these backgrounders are.

So there's a 2006 backgrounder regarding the Lake Winnipeg Implementation Committee and then a set of three of the reality checks for 2011, as a momentous year in Manitoba, that Manitoba Wildlands has been producing. One of them, then, RC-13 is: Does Manitoba have a Lake Winnipeg action plan? RC-09 is: Are Manitoba heritage marshes protected? And RC-06: Are Manitoba waterways, rivers and lakes protected? So that's what's being handed out.

I'm going to try to do two main things in the time and energy available. I think people are doing really well to still be at it at this point in the day.

I want to go through the act, and various members of the committee have heard me run through an act as quickly as I can before. I have some positive things to say, for sure, about the act, and also some concerns. I'm working from handwritten notes and flags on pages so, again, we'll move as fast as we can.

Two speakers back, there was a reference to the PLUPs. So we are three years later where the land use policies for *The Planning Act* are still stuck, and that's a difficulty, in terms of just understanding what public policy is, okay? And members of this committee have heard me say in the past in response to new bills that we have been spending a great deal of public funds in Manitoba over the last decade or so to expand waste-water systems, to improve a certainty on quality of water, without any water conservation standards.

So one of the first things I was looking for in this act and did not find is that there would be required water conservation standards, for instance, in these waste-water management plans in a variety of things that the City is going to need to do and the municipalities and the Capital Region municipalities are going to do. So, so far, still, no water conservation written in.

A facetious question would be: If one is amending five acts, how many more are going to need to be amended? And I would suggest to you that there's easily another four, five or six acts that are probably going to need to be amended if we're going to save Lake Winnipeg.

So, again, you've heard me say in the past in relation to new bills, the definitions are missing. They aren't any definitions here. And even if you're used to reading new bills, there's some things here that are very different and very unique because it's two main

ministers. It's more than one department. It's very, very clear that there's—that this is going to be different in terms of how it will be administered but it's not so clear how it's going to be administered.

So I believe that the bill could be stronger and clearer in that regard, and I wanted to follow up on the comment about what's a lake, what's a large lake, what's a medium lake, and indicate somewhat specifically that I had—our office had a very good response from the Water Stewardship Department this winter when we asked for some help in terms of what we were doing in GIS with lakes and rivers in the province. The response was immediate; it was good, except the database was highly flawed, okay? So this is the database of rivers and lakes in Manitoba, and it's alpha and it doesn't take you very long to know that there's lakes and rivers missing from it. So we're available to assist with that but I'm not pointing fingers. I'm basically saying if we're going to save the lake, we need a lot of things lined up and working very well together between the departments, between these five acts and probably more pieces of legislation.

Okay, trying to turn quickly. So, The Crown Lands Act needs a lot of amendments, but in 7.1.1(1), the thing that was really intriguing to me is you're missing (c), because (c) has to be about protecting wetlands. So if your press release, your backgrounder, if what you say in Hansard, you're saying in the House, about what you're going to protect, if that language is there, then this bill has got to be stronger on protection and protection standards. So I looked for (c) and it isn't there, so I wrote it in. And the reality of it is that the protection standards, public policy in this province, the regulatory framework is very clear. You've got all kinds of tools. It's there, easy to use.

It's interesting; this government's told me pretty consistently that you can't use The Crown Lands Act for this kind of stuff when it comes to community pastures. So I'm really, really interested in how this is going to work but you've got to basically expand and amend and get more specific in terms of your wetlands.

7.1.1(2): of course, has the reference to whatever a large Manitoba lake is, and then in 7.1.1(2), I looked for (e) and did not find it, and it is in your press release, it's in your public statements, it's probably in Hansard and so on, and that is carbon stocks. So if you're going to talk about wetlands and protecting and maintaining and how important the boreal carbon is in this province, you've got to basically put it in as a main consideration, I would think.

I sort of had the same thing happen in 7.1.1(3) because there's a specific reference here to the powers and duties of the minister responsible for The Water Rights Act, I think you need (d) and you need to cross-reference that in terms of the powers and duties of the minister responsible for The Environment Act. You know, it's two departments, five acts, going to be more, a whole set of arrangements and responsibilities including licensing and permitting. Then, again, (d) should be there and should be cross-referenced to the second minister.

Now, I am here as the director of Manitoba Wildlands this evening, but I'm also a private citizen and I also live in the Red River Valley. So I thought I'd tell you all that 40.2(1) is already gone. The saying is the horse is out of the barn. It isn't going to be good enough to not spread manure on land between November the 10th and April the 10th, and this year proves it. So anybody who was out there on frozen land before all the flooding, spreading manure after the 10th of April—legally—it's all in our waterways.

We have a thing we do in the kitchen at home. We have a calendar and we mark our hog days, so we have a sort of an internalized ranking in terms of how bad the odours are. We have nothing in our ward, in our municipality, nothing. This is all coming from the east and it's, you know, 8, 10 kilometres away. They have lots and lots of willow trees, though, but what they do is they move the slurry when they think people are asleep at night and they're spreading it on that land right now. And we're having all these heavy rains, so it's the new normal. This isn't just a short-term wet cycle we're in. This is the new normal, and it's going to be dramatic changes, a whole range of ways in how we do business, how our communities function, and what we're going to do about the environment and the water in Manitoba. And I just thought I'd say, 40.2(1), that's already past. It's gone. It's got to be stronger than that.

I also thought I probably should put on the record what I said in the past in terms of speaking to bills here, and that is I was involved in all of the public policy work and political policy work to arrive at *The Environment Act* we have in Manitoba, and that was part of my job. This act is old. We're band-aiding it. It's early—it's late-1970s, early-1980s thinking, and we're basically dropping more amendments in it because that's one way to get things done. I would strongly recommend really thorough, open-handed, open-eyed review. We do not have an environmental assessment regulation; we do not have a clear regulation on access to information in the public registry—all kinds of things that basically add risk.

Okay. It's a little hard to know what a disposal field is in this act. That's just one example. It's like, what's a large lake? You really need some definitions, which, of course, if it's all going into all different acts is a little complicated. I get that.

I would agree with the previous speakers. I don't know why you have a two-year moratorium in here in terms of peat. Clearly, obviously, it can be continued. I get the language. Why you're going for two years, I don't understand. Anybody who's been on a small plane that's taken off from St. Andrews at any time on a clear day, any time in the last five years—I mean, this isn't just about wetlands. This is about the mess we have from peat mining in this province where there's no restoration requirement at all. And you fly over dozens of them if you're going to the east side of the lake, if you're going to Norway House; no matter where you're going, it is a mess.

So, 128.1(1)–I'm very glad to see this moratorium, albeit it's short, but you need (d) and (e). You have to have something here about what happens at the end of the permit. And (e) is restoration. And both of these changes would be consistent with your stated intent in terms of the act.

I am not going to say much about The Planning Act other than where is the PLUPs, and we really do need, when you get into 51(1.1), there needs to be more than what's here in (a) and (b). Sorry. Okay. I'm having a trouble–I was having the problem of finding it and then it's on the following page.

So I started to write notes about the fact that there weren't clear standards or formats in terms of the expectations for these plans, and then I turned the page and got to 62.2(3) and it's not enough. And there's already a problem in the province in terms of municipalities having clarity on what's supposed to be in a development plan. We've got planning district boards running around in a whole lot of different kinds of circles in terms of the kinds of product they're coming up with. There needs to be much more support and clarity in terms of what needs to be in these plans. So I'm making references to other kinds of plans but it's the same problem–

I have some cautions and the cautions are closing comments that are meant to be in support of saving the lake, protecting marshes, though, again, you got all the tools you could possibly need. You've had them for 20 years in terms of marshes, and you haven't been protecting them, so let's get on with it. And that includes wetlands.

A government takes on risk when you fail to bring forward your own policies, your own previous investigations, research and commitments. So the fact that you're hived off everything before about Lake Winnipeg is unfortunate. The implementation committee, the work that was joint, federal and provincial, in the middle of the decade, it's got all kinds of strong stuff in it. I think the lake needs a charter, and the lake needs an independent commissioner agency, and I'm hoping the thinking goes there. You have a real high risk of a tremendous amount of confusion in terms of how many acts, how many departments, who's in charge, who does what, and so on.

So, otherwise, the only other thing I wanted to say is that it's 2011, and maybe it's a 300-year event; maybe it's just the beginning of how wet we're going to be. But the levels of water in Lake Winnipeg, mentioned earlier this evening–as of July the 8th is the current projection–are going to be at the maximum allowable under the regulation for the lake, and Manitoba Hydro's ads are in every Saturday paper and the number is changing, if you compare them. So this is huge. This is about liability. This is about the regulatory regime that's been in place for 35 years. This is about what are we going to do. And all of the business owners, cottagers, communities, First Nations, everybody affected around that lake, after 717, it's a public liability.

The same thing is true on the other side of Jenpeg. Now, I'm not an engineer—and there are good engineers in the room. I'm not an engineer, but the same caution applies. We are either at or going to be past the legal level of water under the Northern Flood Agreement, and it's a treaty. It's Canada and Manitoba and the utility, and that is the reality that we're looking at in terms of the lake and the water levels right now. And that is primary.

So what's the liability going to be? What's the compensation going to be? What's the government going to do about these water levels, not just on the west side, not just in the Red valley, not just in the Assiniboine corridor. This is something that really needs to be in the record.

I'd also wanted to basically say it's unclear how this is all going to be paid for because it's going to cost a lot of money to fix the lakes, plural, and that's why I'm repeating myself about how many ministers, how many departments and where's the responsibility going to fall.

A lot of people, not just environmentalists, have been waiting for the Premier of Manitoba (Mr. Selinger) to take the next step since his New Year's commitment to have hearings regarding the lake. So it's got to happen. Follow through on that January commitment and some clarity. It could have come at the same time as this plan, press release and this bill. But it's urgent and, again, I appreciate the extra time. Thank you.